TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL MEETING HELD ON TUESDAY, NOVEMBER 9, 2010

I. CALL TO ORDER AND ROLL CALL

The regular Town Council meeting was called to order on Tuesday, November 09, 2010, at 9:30 a.m., in the Town Council Chambers. On roll call, all of the elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Town Clerk Cunningham gave the invocation. President Rosow led the Pledge of Allegiance.

III. PRESENTATIONS

There were none.

IV. COMMENTS OF MAYOR JACK McDONALD

There were none.

V. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

Council Member Diamond requested that Publix appear before the Town Council regarding the construction schedule and provide a progress report at the next meeting.

Council President Pro Tem Coniglio congratulated Recreation Commission Chair Danielle Hickox-Moore regarding the thorough study of privatization of recreation services. She added that two prime Town assets, the docks and the Par 3 Golf Course, were recommended to remain within control of the Town. She also thanked Recreation Director Jay Boodheshwar for his leadership and once again, identifying cost savings.

VI. COMMUNICATIONS FROM CITIZENS- 3 MINUTE LIMIT PLEASE

(Another opportunity for communications from citizens will be offered immediately after the lunch break.)

George Youssef, 3450 S. Ocean Blvd., spoke regarding hedge height and submitted his letter into the record. Town Attorney Randolph addressed the issue and indicated that he should speak to Planning, Zoning and Building staff.

Donald Singer, 2295 S. Ocean Blvd., spoke regarding the pensions of employees and the departure of Town Clerk Cunningham. He personally wished her the best of luck and stated that she would be missed. He urged the Town Council to find the proper balance between the morale of the employees, the proper budget and the proper taxation.

Maxine Pierson, 10452 Green Trail Drive N., Boynton Beach, spoke about the statewide initiative, "Communities of a Lifetime". She submitted information into the record.

Michael Cleveland, West Palm Beach, asked to be placed on the February Town Council Agenda to discuss "Stix".

Steve Hoffrichter, 235 Sunrise Ave, spoke regarding fisherman and hooks being left on the beach and he wanted "no fishing" signs placed. Council President Pro Tem Coniglio responded that ORS reviewed the same issue. Town Manager Elwell indicated that it was a code enforcement issue. He indicated he would follow up with Police Chief Kirk Blouin. The ORS Committee will review the topic again.

VII. APPROVAL OF AGENDA

Council President Rosow announced that Council President Pro Tem Coniglio needed to leave at 10:30 a.m. to accept an honor award from Palm Beach Atlantic University for her community involvement on both sides of the bridge. He requested that the two agenda items regarding shore protection and recreation be delayed until her return.

Motion to approve the Agenda as Amended was made by Council Member Diamond, seconded by Council president Pro Tem Coniglio. On roll call, the motion carried unanimously.

VIII. CONSENT AGENDA

A. MINUTES: OCTOBER 12, 2010
APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

B. MINUTES: OCTOBER 13, 2010
APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

C. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL COMMISSION AT ITS MEETING ON OCTOBER 27, 2010.

D. RESOLUTIONS

1. <u>RESOLUTION NO. 119-10</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Purchase of One D6K LGP Caterpillar Track Dozer in the Amount of $152,500. [H. Paul Brazil, Director of Public Works]

2. <u>RESOLUTION NO. 120-10</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Town of Palm Beach Police Department Edward Byrne Memorial Justice Assistance Grant (JAG) Program-Florida JAG Direct Application to the Florida Department of Law Enforcement and Authorizing the Mayor to Execute the Same on Behalf of the Town. [Kirk W. Blouin, Police Chief]

3. <u>RESOLUTION NO. 121-10</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract for $25,389.60 to C3TS Consultants for the "E" Station Study, Establishing a Total Study Phase Budget of $28,000 for Said Services, and Authorizing the Town Manager to Take Actions Necessary to Complete Said Services.[H. Paul Brazil, Director of Public Works]

4. <u>RESOLUTION NO. 122-10</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to Batallan Enterprises, Inc., DBA Propertyworks in the Amount of $26,360 for Mowing of Town Medians and Parks for the Town of Palm Beach, Sealed Bid Number 2011-02. [H. Paul Brazil, Director of Public Works]

5. <u>RESOLUTION NO. 123-10</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Granting an Easement Across Town Property to Florida Power & Light Company for an Electrical Transformer and Wires to Provide Service to the D-9 Storm Water Pump Station. [H. Paul Brazil, Director of Public Works]

6. <u>RESOLUTION NO. 125-10</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a One Year Renewal to the Contract to All Florida Tree and Landscape, Inc., in the Amount of $39,675 for Trimming of Town Coconut Palms for the Town of Palm Beach. [H. Paul Brazil, Director of Public Works]

E. OTHER

1. Acceptance of a Donation of Approximately $44,000 from Jack Annan via the Palm Beach Police Foundation for the Purchase of Specialized Equipment for the Crime Scene and Evidence Unit. [Kirk W. Blouin, Police Chief]

2. Approval to Waive Construction Hours Regulations for the Lake Worth Inlet Dredging Project. [H. Paul Brazil, Director of Public Works]

3. Re-establishment of the "Hybrid Committee" for Review of Worth Avenue Commercial

District Design Changes. [Thomas G. Bradford, Deputy Town Manager]

4. Authorization for Greenburg Traurig to Provide Federal Lobbying Services for FY11 at a Cost Not to Exceed $33,000. [Peter B. Elwell, Town Manager]

5. Acceptance of a Donation of a Holiday Tree for Worth Avenue from Mr. and Mrs. Rush Limbaugh. [H. Paul Brazil, Director of Public Works]

6. Authorization to Immediately Begin Recruitment for a New Town Clerk. [Jane Struder, Director of Finance]

Motion to approve the Consent Agenda was made by Council Member Kleid, seconded by Council Member Wildrick. On roll call, the motion carried unanimously.

IX. BOARD/COMMISSION ANNUAL REPORT

A. Planning and Zoning Commission. [Alan Golboro, Chair and John S. Page, Director of Planning, Zoning, and Building]

Alan Golboro, Chairman, presented the annual report of the Planning and Zoning Commission.

Council Member Kleid asked Mr. Golboro the position of the Planning and Zoning Commission with regard to the Royal Poinciana Overlay. Chair Golboro responded that the Commission was split. Council Member Kleid also asked about closing the mid block area of Royal Poinciana Way. Council President Pro Tem Coniglio stated that, if closed, additional parking spaces would be added.

Motion to accept the Planning and Zoning Commission Annual Report was made by Council President Pro Tem Coniglio, seconded by Council Member Kleid. On roll call, the motion carried unanimously.

X. REGULAR AGENDA

A. Old Business

1. Request for Town Code Waiver to Allow Display of Centennial Banners. [Ned Barnes, Executive Director, Palm Beach Civic Association]

Motion to grant a Town Code Waiver was made by Council President Pro Tem Coniglio, seconded by Council Member Wildrick. On roll call, the motion carried unanimously.

2. Beach Cleanup Clarification. [Peter B. Elwell, Town Manager]

Town Manager Elwell presented the item and referenced page 137 of the back-up for the two options of organizing beach clean-ups. After discussion, Council Member Diamond said he was looking into the "adopt a beach" aspect and the Civic Association was also willing to assist the Town.

Council Member Diamond noted that he liked the way Council President Pro Tem Coniglio and Council Member Kleid were conducting the clean-ups. Council President Pro Tem Coniglio thanked the Civic Association, and stated that the Town needs to be involved with the coordination and scheduling. She added that there was already a volunteer pool.

Council Member Wildrick suggested using high school students who are required to perform community service hours as well as the juvenile county court system. The Sheriff's department has probation requirements to perform community service.

Council Member Kleid concurred with having staff supervision and he was pleased with the number of volunteers from the Rotary Club, the Citizens' Association and the Day School. He liked Council Member Wildrick's ideas.

Town Manager Elwell noted that the volunteer program is handled within the Human Resources department. Council Member Wildrick also suggested writing letters of recognition as a nice gesture.

The consensus of the Town Council was to proceed with the volunteer effort on the public beach areas of the Town. They would rely on the advice received from a future meeting regarding the "Adopt a Beach" program.

****_The next item heard was Item X.B.2_****

B. <u>New Business</u>

1. <u>County Budget Task Force Request for Town and Task Force to Become a Coalition Partner with the Taxpayer Action Board (TAB). [Fred Schiebl, Palm Beach County Taxpayer Action Board]</u>

   TIME CERTAIN: 10:30 A.M.

****_This item was heard after Item X.B.6_****

Fred Schiebl, Palm Beach County Taxpayer Action Board, presented a Power Point to the Town Council. He stated that the largest part of the County budget is the Palm Beach County Sheriff's office, followed by the pensions.

After discussion, the Town Council decided against partnering with TAB, but indicated that the Town Budget Task force may join, if they desired. Several members thanked Mr. Schiebel for coming.

The next item heard was Item X.B.7

2. Florida Public Utilities Request for Relief from Seasonal Construction Hours Restrictions. [H. Paul Brazil, Director of Public Works]

******* This item was heard after Item X.A.2*******

Public Works Director Paul Brazil presented the item.

FPU was requesting to replace an aging gas main and requested a waiver of construction hours between December 1-29th. Their second request was to continue with a replacement program. No action was necessary today on the second request.

There was discussion among the Town Council Members regarding the timing, the necessity, life-safety issues, and failure to follow the Town Ordinances.

Motion to approve relief to Florida Public Utilities from seasonal construction hours made for the first phase only by Council President Pro Tem Coniglio, seconded by Council Member Diamond. On roll call, the motion carried unanimously.

3. Worth Avenue Commercial District Maintenance Program; RFP No. 2011-03. [Thomas G. Bradford, Deputy Town Manager]

> RESOLUTION NO. 129-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Lopez Group, Inc as the Highest Ranked Firm Responding to RFP No. 2011-03 for the Worth Avenue Commercial District Maintenance Program Based Upon Their Proposal Totaling $144,573 and the Selection Committee's Recommendation Pertaining Thereto; Authorizing Staff Negotiations with Lopez Group, Inc. and Other Firms Responding to the RFP in the Order of Their Ranking Should Negotiations Be Unsuccessful with the Lopez Group, Inc., and Authorizing the Town Manager to Execute a Negotiated Contract on Behalf of the Town for the Worth Avenue Commercial District Maintenance Program Subject to the Town's Adopted Budget for Said Program and the Town Attorney's Approval of the Negotiated Contract for Legal Form and Sufficiency. [Thomas G. Bradford, Deputy Town Manager]

Town Attorney Randolph read Resolution No.129-10 by title, as printed above.

Motion to approve Resolution No. 129-10 was made by Council President Pro Tem Coniglio, seconded by Council Member Kleid. On roll call, the motion carried unanimously.

*******The next item heard was X.B.6*******

4. Recreation Advisory Commission Recommendations Regarding Golf and Marina. [Jay Boodheshwar, Director of Recreation]

******* This item was heard after Item X.B.8******

Recreation Director Jay Boodheshwar presented the item. He noted that Recreation Commission Chair Danielle Hickox Moore conducted the meetings and study of privatization. He recommended approving the Recreation Advisory Commission recommendations.

Council Member Wildrick stated that he initially had a harsh conversation with Ms. Moore and listened to each meeting. She was very professional in all the meetings and he admired her and thanked her.
Alexander Ives, Co-Director of the Preservation Foundation, spoke in opposition to privatization of the golf and recreation services.

Council President Rosow stated that he had brought the topic up and did not feel the process was fair and had been stacked. No outside agencies were given opportunity to review the programs. According to Council President Rosow, residents have informed him that they did not want to subsidize the recreation services.

Ms. Danielle Hickox-Moore, 277 Pendleton Ave., disagreed with Council President Rosow and noted that Billy Caspar Golf had been contacted and was not interested since there was not a club house. She added that the tennis center was already privatized for the most part. What was to be considered today was only the golf course and the docks. She stated that the Town just spent $4.5 million on the golf course renovations, and now wanted to get rid of managing it. She said they would lose revenue in the future.

There was discussion between recreation Director Boodheshwar and the Town Council regarding the percentages of resident vs. non-resident use of the various programs and facilities.

Motion made by Council Member Kleid to accept the Recreation Advisory Commission recommendations regarding the golf course and the docks and directed staff to expedite the hiring of a dockmaster, golf manager, and golf pro.

Council President Rosow stated that it was a disservice to approve the motion.

Town Manager Elwell said the item today was to not privatize the golf course and docks, but also to hire a golf manager and dockmaster positions since they need to be staffed. Council President Pro Tem Coniglio stated that she respected Mr. Rosow's opinion, but if he was so opposed to the study, she asked why he did not ask for an RFP two months ago. Council President Rosow accepted her criticism but added that you cannot cross cut your way to prosperity. He wanted the study groups to find out what is out in real world, and he did not feel that the groups did that.

The motion was seconded by Council President Pro Tem Coniglio. On roll call, the motion carried 4-1 with Council President Rosow dissenting.

5. <u>Coastal Protection Matters.</u>

a. Current Condition of Beaches. [Rob Weber, Coastal Coordinator]

Coastal Coordinator Rob Weber presented the Power Point to the Town Council.

Council Member Diamond stated that he was with a resident on the beach who had several questions. He thanked Mr. Weber for educating them and going out to meet with the resident. Council Member Diamond asked if it was possible to inform residents more. He was told that there will be a website with projects, budgets and timelines available on the Town website soon.

b. Dune Restoration Project in Reaches 4, 7, and 8.

i. RESOLUTION NO. 128-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract for $4,995,000 to Rio-Bak Corporation, for the Construction of the 2010-2011 Dune Restoration Project, Establishing a Total Construction Phase Budget of $5,245,000 for Said Project, and Authorizing the Town Manager to Take Actions Necessary to Complete Said Services. [H. Paul Brazil, Director of Public Works]

Town Manager Elwell informed the public that the vast majority of the costs would be reimbursed by the Federal Government. There was discussion about the reimbursement, auditing of the project and public information being provided. Council Member Kleid stated that the sand being used was an inland sand source, the highest quality sand that money can buy.

Town Attorney Randolph read Resolution No. 128-10 by title, as printed above.

Motion to approve Resolution No. 128-10, contingent upon receipt of all necessary environmental permits, was made by Council Member Kleid, seconded by Council President Pro Tem Coniglio. On roll call, the motion carried unanimously.

ii. RESOLUTION NO. 127-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract for $155,864.44 to Applied Technology and Management for Construction Management Services in Connection with the 2010-2011 Dune Restoration Project, Establishing a Total Construction Management Services Budget of $171,200 for Said Project, and Authorizing the Town Manager to Take Actions Necessary to Complete Said Services. [H. Paul Brazil, Director of Public Works]

Town Attorney Randolph read Resolution No. 127-10 by title, as printed above.

Council President Pro Tem Coniglio asked Mike Jenkins from Applied Technology and Management about his experience. Mr. Jenkins responded that he had conducted dune projects before, and would perform this one as required by State standards.

Motion to approve Resolution No. 127-10 was made by Council Member Diamond, seconded by Council Member Kleid. On roll call, the motion carried unanimously.

c. RESOLUTION NO. 124-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract for $403,623 to Applied Technology & Management, Inc., to Perform an Offshore Sand Search Investigation and Borrow Area Development at the Southern End of Palm Beach, Establishing a Total Budget of $444,000 for Said Project, and Authorizing the Town Manager to Take Actions Necessary to Complete Said Services. [H. Paul Brazil, Director of Public Works]

Town Attorney Randolph read Resolution No. 124-10 by title, as printed above.

Motion to approve Resolution No. 124-10 was made by Council Member Diamond, seconded by Council Member Kleid. On roll call, the motion carried unanimously.

******* The next item heard was Item X.B.9*******

6. Scope and Funding for Internal Audit Services for FY11. [Robert N. Wildrick, Town Council Member]

******* This item was heard after Item X.B.3******

******Clerk's note: Council President Pro Tem Coniglio left the dais at the beginning of this item and returned later in the meeting.******

Council Member Wildrick presented the item.

Mr. Phil Stalcup, Senior Manager at Crowe Horwath, explained the scope of the audit and answered questions from the Town Council Members.

Council Member Diamond asked about quantifying the cost savings while Council Member Kleid was concerned with the cost of the project. Council Member Kleid agreed that the project should go forward, but felt the focus should be on financial matters. The Town Council Members went through the segments and decided which ones to pursue further.

Council President Rosow suggested removing Item 1, Planning Zoning and Building, and perhaps cut network security. Council Member Kleid agreed with Council President Rosow.

Motion to approve the revised scope and funding of the Internal Audit Services removing Items 1 and 2 of the Planning Zoning and Building objectives, and by completely eliminate network security, all at a cost not to exceed $130,000, with funding coming from this General Fund Contingency made by Council Member Wildrick, seconded by Council Member Kleid. On roll call, the motion carried unanimously 4-0, with Council President Pro Tem Coniglio absent.

******The next item heard was the 10:30 a.m. Time Certain Item X.B.1******

7. Annual Report on Unpaid Assessments, Fines and Authorization to Write off Certain

Monies Deemed Uncollectible. [Jane Struder, Director of Finance]

******* This item was heard after Item X.B.1*******

Finance Director Jane Struder presented the item.

Council President Rosow asked about the fine owed from Mr. Gilbertson and was informed that the home has a lien on it, but the property was homesteaded and could not be foreclosed.

Mayor McDonald described the legalities and suggested getting a judgment on the personal property.

Council Member Diamond asked Director Struder how recent the list was and learned it was from Mid-October.

Next, there was discussion of the home at 110 Angler. Council Member Wildrick stated that he was unaware that the Town obtained any property and asked if the Town had taken possession of the property. Town Attorney Randolph had indicated they had matched the lien amount of $1300. Town Manager Elwell informed the Town Council that he would brief them on the property use. Regarding the homesteading and the Town's source of information, the Town Council was informed that the property appraiser had provided that information. Mayor McDonald asked to have it in writing. Staff was directed to get a professional opinion from the property appraisers' office.

Council President Rosow said the amount of uncollected funds was $1.7 million. He directed the Town Attorney to go after personal property in order to get people to comply. Council Member Diamond suggested to publicly advertise the names in the hopes of collecting some of the due funds.

Raychel Houston, Code Enforcement Manager, said when the ad was published last year setting forth names they collected $60,000 and a lot are still on the list today. She said there are liens in place with expectation that if sold, the Town would get their money. She was directed to send a notice to all and then publish their names if the money has not been received within thirty days.

Motion to accept the annual report and authorization to write off certain monies deemed uncollectible made by Council Member Diamond, seconded by Council Member Kleid. On roll call, the motion carried 4-0, with Council President Pro Tem Coniglio absent.

8. Conceptual Consideration of Closing the Mid-Block Gap in the Royal Poinciana Way Median to Provide More Green Space and Parking. [John S. Page, Director of Planning, Zoning, and Building]

Director of Planning Zoning and Building, John Page, presented the item.

Council Member Diamond asked what the Royal Poinciana Association opinion was. Town Manager Elwell noted that the idea was put forth by a business owner from that corridor.

Council President Rosow felt a traffic study was worthwhile.

Ed Cooney, 139 North Lake Way, stated that there would be a lot of disruption and construction going to be done at the same time and urged them to proceed cautiously. The intersection was very dangerous. He urged the Town Council to consider the FDOT bridge construction, and the landmarked area of the Town.

Council Member Wildrick was also in favor of a traffic study, and then consult Landmarks.

Jere Zenko, 232 Tangier, suggested placing yellow horses to preclude the traffic from making the illegal turns. There were culinary establishments that have parking behind the buildings and the additional spaces would not be needed if that parking area was utilized.

Motion to conduct a traffic study not to exceed $6,000 with funding coming from the General Fund Contingency made by Council Member Kleid, seconded by Council Member Diamond. On roll call, the motion carried 3-1 with Council President Pro Tem Coniglio absent.

Council President Rosow	**Yes**
Council President Pro Tem Coniglio	**Absent**
Council Member Diamond	**Yes**
Council Member Kleid	**Yes**
Council Member Wildrick	**No**

****Clerk's note: President Pro Tem Coniglio returned to the dais at 11:40 a.m. ****

******The next item heard was Item X.B.4******

9. <u>Request from Former Town Council Member George Matthews for "Grandfather" Status in the Town's Health Insurance Program. [Danielle Olson, Director of Human Resources]</u>

******* This item was heard after Item X.B.5.c******

Motion to deny the request was made by Council Member Diamond, seconded by Council Member Wildrick. On roll call, the motion carried unanimously.

XI. ORDINANCES

A. Second Reading

1. ORDINANCE NO. 30-10 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Providing for an Amendment to the Town's Budgets Adopted for the Fiscal Year Commencing October 1, 2009, Providing an Effective Date. [Jane Struder, Director of Finance]

Town Attorney Randolph read Ordinance No. 30-10 by title, as printed above.

Motion made by Council Member Diamond, seconded by Council Member Kleid, to adopt Ordinance No. 30-10. On roll call, the motion carried unanimously.

B. First Reading

None

XII. ANY OTHER MATTERS

There were none.

XIII. ADJOURNMENT

There being no further business, the November 9, 2010, Town Council Meeting was adjourned at 12:50 p.m.

APPROVED:

David A. Rosow
Town Council President

ATTEST:

Cheryl Somers
Acting Town Clerk

November 9, 2010 BackUp Docs
Palm Beach County Taxpayer Action Board - PowerPoint
Shoreline Ground Photography - PowerPoint