# TOWN OF PALM BEACH

Town Clerk's Office

**MINUTES OF THE SPECIAL TOWN COUNCIL MEETING HELD ON MONDAY, NOVEMBER 5, 2007**

I. CALL TO ORDER AND ROLL CALL

The Special Town Council Meeting was called to order by President Kleid on Monday, November 5, 2007, in the Town Council Chambers. On roll call, the following elected officials were found to be present:

Mayor Jack McDonald
President Richard Kleid
President Pro Tem Denis Coleman
Council Member William Brooks
Council Member Gail Coniglio
Council Member Susan Markin

Also present were:

Town Manager Peter Elwell
Deputy Town Manager Thomas Bradford
Town Attorney John Randolph
Public Works Director Paul Brazil
Assistant Public Works Director Eric Brown
Town Engineer Jim Bowser
Finance Director Jane Struder
Town Clerk Susan Eichhorn

## II. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by President Kleid.

## III. APPROVAL OF AGENDA

Town Manager Elwell noted that an item would be added to the agenda, between Items V. and VI. on the agenda:

**The Agenda was approved as amended through motion of Council Member Brooks, seconded by Council Member Coniglio. On roll call, the motion carried unanimously.**

## IV. ROAD PAVING AND RESURFACING BID AWARD

[H. Paul Brazil, Director of Public Works]

1. <u>RESOLUTION NO. 66-07</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Town Manager to Approve a Purchase Order Requisition to Ranger Construction Industries, Inc. and Florida Highway Products, Inc. for Roadway Paving and Resurfacing.

Director of Public Works Paul Brazil reported that Resolution No. 66-07 would authorize the expenditure of funds from the Capital Improvement Program for road paving this year, to Florida Highway Products, Inc. in the amount of $182,924.82 and Ranger Construction (for the milling and resurfacing) in the amount of $297,222.50.

Town Attorney John Randolph read Resolution No. 66-07 by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE TOWN MANAGER TO APPROVE A PURCHASE ORDER REQUISITION TO RANGER CONSTRUCTION INDUSTRIES, INC. AND FLORIDA HIGHWAY PRODUCTS, INC. FOR ROADWAY PAVING AND RESURFACING.

**Council Member Brooks moved approval of Resolution No. 66-07. The motion was seconded by Council Member Coniglio. On roll call, the motion carried unanimously.**

Mr. Brazil responded to questions from the Town Council.

V. A. ROYAL POINCIANA AREA PLANNING STUDY STEERING COMMITTEE
[Veronica B. Close, Director of Planning, Zoning, and Building]

Town Manager Elwell reported that the list of individuals identified by the Mayor and Town Council to form the Royal Poinciana Area Planning Study Steering Committee was presented in the back-up material.

Council Member Brooks noted that a representative from the Royal Poinciana Way Association was not included on the list, and he suggested that there be a designee from the Royal Poinciana Way Association.

It was the consensus of the Town Council to allow the Committee to choose its own chairperson.

**Council Member Brooks moved that a designee from the Royal Poinciana Way Association be added to the list of individuals that would form the Royal Poinciana Area Planning Study Steering Committee. The motion was seconded by President Pro Tem Coleman. On roll call, the motion carried unanimously.**

B. CONSIDERATION OF SPECIAL TOWN COUNCIL MEETING TO BE HELD ON TUESDAY, NOVEMBER 6, 2007

Town Manager Elwell recommended that a Special Town Council Meeting be held on Tuesday, November 6, 2007, to consider matters related to the Reach 8 Beach Restoration Project. He explained that there would be a meeting of staff with the Federal agencies regarding the permitting for the project, and it was hopeful that good news would result.

There would be at least one significant decision to be made related to the State permit requirements, as to whether to continue to address that with the State, or to accept the State's terms, and there may also be issues that came out of the meeting with the Federal agencies that would need to be addressed at that time as well.

**Council Member Brooks approved setting a Special Town Council Meeting at 1:30 p.m., Tuesday, November 6, 2007. The motion was seconded by Council Member Markin. On roll call, the motion carried unanimously.**

VI. STATUS REPORT REGARDING BURIAL OF OVERHEAD UTILITY LINES [Thomas G. Bradford, Deputy Town Manager]

A. Review of R.W. Beck Updated Cost Estimate.

B. RESOLUTION NO. 67-07 A Resolution of the Town Council of the Town of Palm Beach, Florida, Providing for the Issuance of General Obligation Bonds for the Purpose of Financing All or a Portion of the Costs of Burying Overhead Utility Lines Located Within the Town of Palm Beach, Florida in the Principal Amount of Not Exceeding Eighty-nine Million Four Hundred Fifty Thousand Dollars ($89,450,000), Calling for a Bond Referendum of the Qualified Electors of the Town of Palm Beach to Be Held on January 29, 2008, as to Whether General Obligation Bonds for Such Underground Utility Project Should Be Issued; and Providing an Effective Date.

C. Request for Additional Funding for Referenda Public Information Program. [Thomas G. Bradford, Deputy Town Manager]

Deputy Town Manager Bradford extended thanks to the people that helped him to produce the report on underground wiring: Anthony Hansen - R.W. Beck, Michael Hole - Citigroup, Rick Miller - Bond Counsel, Jane Struder - Director of Finance. He explained that there were three things that he would present for review and comment of the Town Council:

- To review and comment on the updated cost estimate.
- To review and adopt the general obligation bond referendum resolution.
- To provide additional funding for the underground education program.

The deadline for the ballot language for the referendum on January 29, 2008, was Friday, December 16, 2007 at noon, which meant that the resolution would need to be adopted by the November 13, 2007 Town Council Meeting.

Mr. Bradford reviewed the information presented in his memorandum dated November 1, 2007, to the Mayor and Town Council, included in the back-up material for this meeting.

Mr. Bradford addressed the additional funding request of $18,000 for the Underground Educational Program, should the Town Council decide to move forward with the referendum.

President Kleid expressed concern about some of the general assumptions that had occurred in the R.W. Beck report (page 36 of back-up):

- The report was founded on high level cost analyses and was not intended to be used for budgetary purposes.
- The report is based on only two field observations, and meetings with staff at FPL, Comcast, AT & T, along with R.W. Beck's prior experience.
- Statement that the internal company overhead allocation will vary greatly and could significantly reduce the cost.

Mr. Bradford explained that the numbers were not intended to be used for budgetary purposes because of legal ramifications, because there was not a detailed design available, and because certain assumptions had been based upon the expertise of R.W. Beck as they related to AT & T and Comcast.

Anthony Hansen, R. W. Beck, responded that most of the utilities were not willing to share their data, and brief visits had been made to their facilities to determine the costs. FPL had been forthcoming with their information about their typical standards. It would take significant funding to determine a budget number that would be accurate for construction purposes.

Mayor McDonald noted that a 3% cap on property taxes was being used, and given what is taking place in the Florida Legislature, that may not be a good figure to use for long term planning.

Council Member Brooks commented that both AT & T and Comcast fall under the regulations of the Federal Communications Commission (FCC). Although he understood the reluctance of AT & T and Comcast, he pointed out that once they get a schematic, the Town should be able to get the information. In addition, in February 2009, Comcast would switch from analog to digital, which would require additional boxes to be compatible with the digital signal.

President Kleid commented that the underground wiring of the entire Town was a very complex project, and would be the largest undergrounding project in the State. FPL had not dealt with something of this magnitude. Although he was totally committed to undergrounding, he suggested that more precise figures were needed. Therefore, it was his opinion that the referendum should be postponed to sometime between December 15, 2008 and April 2009. In the interim, FPL, AT&T, and Comcast should be requested to provide the Town with detailed working drawings for the entire system, along with a binding estimate for the first part of the project, and a good faith estimate as to the rest of the project. At that time, the Town's technical people could review the drawings, and a business consultant could start negotiations to try to firm the price. He also suggested that there were many citizens in the community with a great deal of knowledge, and those resources should be tapped.

President Pro Tem Coleman commented that inflation was a fact, and that he was in favor of going ahead with the scheduled referendum.

Council Member Brooks commented that if the referendum was postponed for a year he would like to see a double track – to continue the good work that had been done by staff and consultants; then get the schematics and use the experience of citizens who had experience in negotiating multi-million dollar contracts, such as Lllyd Ecclestone and Alec Flamm.

Mayor McDonald commented that although he was in favor of undergrounding, he had some grave concerns dealing with long term issues of beach renourishment and water. Until there was a determination as to what those costs were, the referendum should be delayed.

Council Member Coniglio commented that she was absolutely committed to undergrounding, however, she had tremendous concerns that the design was not in hand prior to asking the taxpayer for those dollars. She suggested putting the referendum on hold.

Council Member Markin commented that she was in favor of postponement of the referendum, based on many of the assumptions that had been used for the report. She discussed her concerns:

- The immensity of the project would heavily involve the Public Works Department staff.
- Costs to the Town that were not necessarily included in the report.
- The majority of the costs of the project (according to Exhibit B on page 99 of the back-up) would be paid by the people who owned a $1,000,000 property and higher.
- Many of the 20% of the people who were paying for the bulk of the project (Exhibit B) were in the minority, and had already paid to bury their utility lines around their homes.
- The increase of property values and property taxes.
- The water and drainage issues.
- The possibility of investigating specifically north/south undergrounding.

In response to President Pro Tem Coleman, Town Attorney Randolph advised that if two citizens were appointed to negotiate with the utilities, they would be required to operate in the Sunshine. If a consultant was hired, and was strictly a consultant, who was gathering information and reporting back, that would not entail the Sunshine Law.

Mayor McDonald pointed out that there were some areas that could be pursued relative to the water contract: reverse osmosis, quality issues, and the supply of water. He noted that this would be an item on an upcoming Town Council agenda.

**Council Member Brooks moved that the January 29, 2008, referendum be postponed to a date after December 15, 2008. The motion was seconded by Council Member Coniglio. On roll call, the motion carried 4/1:**

| | |
|---|---|
| **Council Member Brooks:** | **Yes** |
| **Council Member Coniglio:** | **Yes** |
| **Council Member Markin:** | **Yes** |
| **President Pro Tem Coleman:** | **No** |
| **President Kleid:** | **Yes** |

**President Kleid passed the gavel, and moved to direct staff to request working drawings and binding estimates from FPL, AT & T, and Comcast for the**

**first part of the project (north end and south end corridor along A-1-A up to Sloan's Curve), and good faith estimates with respect to undergrounding the entire Town within ten years. The timetable would be left up to staff. The motion was seconded by Council Member Brooks. On roll call, the motion carried unanimously.**

Discussion took place regarding undergrounding north/south routes only.

Town Manager Elwell clarified that staff would need to prepare a time table calendar, and bring forth quotations from the utility companies and other information at a future Town Council meeting.

Discussion took place regarding the engagement of a business negotiator.

Alec Flamm, 2000 South Ocean Blvd., addressed the Town Council, stating that he did not see the need for a formal relationship between staff and citizens with expertise with negotiations, and that staff could be allowed to take advantage of the expertise of citizens.

Discussion continued, and Anthony Hansen, of R. W. Beck, responded to statistical questions posed by Mr. Flamm. Mr. Flamm suggested that the Town Council authorize staff to go back to consultant Schef Wright to start pushing for a change in the expiration date of the 25% credit. He noted that Senator Atwater had agreed to contact the PSC chair to gather information in that regard.

Town Manager Elwell advised that staff recognized and appreciated the expertise of citizens within the community. The policy decision of the Town Council had been to encourage staff to be open and available to provide information to anyone interested in the project, as well as to receive information from them. Staff would continue in that mode, unless directed differently by the Town Council today.

It was the consensus of the Town Council to affirm the existing policy.

Llwyd Ecclestone, 190 South Ocean Blvd., addressed the Town Council, and discussed the details of the costs for the undergrounding project. He noted that it would take FPL well over a year to provide estimates for the entire Town, however, they could more easily provide an estimate for only Phase I of the project. He explained that the Town would need to hire a surveyor so that FPL would know where the lines would go, and then be able to give a proper design and estimate. The Town engineering staff would need to determine what lines are in the right-of-ways, so that information could be given to FPL.

President Kleid thanked Mr. Flamm and Mr. Ecclestone for their input.

Deputy Town Manager Bradford clarified that he would leave undergrounding on the website, and simply state that the referendum would be in the 2008-2009 season. He pointed out that the FPL binding estimate was adopted by tariff, and would cost $248,000 for the entire Town. For Phase I only, costs would be approximately $57,500. Contract negotiations with all of the utilities would probably begin after the engineering/design drawings were completed. He noted that there would still be some cost questions.

In response to Council Member Markin, Town Manager Elwell advised that it would take substantial staff time to provide the information as to what lines were currently underground. There would be an interactive process going on with staff and the utility companies.

Deputy Town Manager Bradford explained that staff would need to verify where the lines would go; then FPL and the other utilities would provide the design based on that. He also noted that he had provided a report to the Town Zoning Administrator as to the options available to solve property use issues relative to the utility lines. The Planning & Zoning Commission would review that report.

President Pro Tem Coleman suggested that staff proactively do everything it could to mitigate the uncertainties with property owners.

## VII. ANY OTHER MATTERS

There were none.

VIII. ADJOURNMENT

There being no further business, the Special Town Council Meeting of November 5, 2007, was adjourned at 11:55 a.m.

Richard M. Kleid
Town Council President

ATTEST:

Susan A. Eichhorn
Town Clerk