TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL MEETING HELD ON WEDNESDAY, SEPTEMBER 15, 2010

I. CALL TO ORDER AND ROLL CALL

The regular Town Council meeting was called to order on Wednesday, September 15, 2010, at 9:35 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. COMMENTS OF MAYOR JACK McDONALD

There were none.

IV. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

Council Member Kleid indicated that the Board of County Commissioners (BCC) set a millage rate increasing the County taxes. There was a large group of speakers in opposition to any increases in the taxes. He noted that he and Mayor McDonald attended the 6:00 p.m. meeting the previous night, and were called upon to speak at 8:00 p.m. He noted that the Mayor had to leave before that time and he spoke on behalf of the Town. He said that he pointed out that the Town recently unanimously voted to hold the line on the millage rate, despite the fact that assessment values had been decreasing and investment portfolios had gone down. He also told them that in July the Town Manager came to the Town Council with a budget requiring a higher millage rate, and he was directed to return with a budget that did not change the millage rate for FY2011 over FY2010. The Town Manager did exactly that and in two meetings the Town Council passed a non increased budget. He commented to the BCC that if the Town of Palm Beach and other

V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

Harry Horwich, S. Ocean Blvd., commented on tennis parking rates and procedures.

Discussion occurred among the Town Council regarding the tennis parking spaces and fees. President Rosow noted that the Recreation Advisory Commission could be of assistance regarding this.

Phil Smith, 300 ½ Buckingham Road, West Palm Beach, commented regarding the $5.00 tennis parking rate.

Leslie Evans, 135 Seminole Ave., proposed that the Town Council set up a Committee of property owners and tenants regarding increasing businesses and rentals in town.

Jeff Rembaum, Palm Beach Hotel Condominium Association, commented regarding that the parking situation was not on today's agenda.

Responding to Mr. Rembaum, President Rosow assured him that it would be on the agenda as soon as staff has completed their background research.

President Dick Spilberg of the Palm Beach Hotel Condominium Association commented regarding an issue with the Fire Department relative to a valve going from the sewer into their building. He added that if the road is paved now, it will have to be done twice.

President Rosow directed Mr. Spilberg to speak with Public Works Director Paul Brazil regarding this issue, as he was present at the meeting today.

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

VI. APPROVAL OF AGENDA

The following changes were made to the Agenda:

WITHDRAWN: Item VIII.C.2.e., Variance #17-2010

Motion made by Council Member Diamond, seconded by Council Member Kleid, to approve the Agenda as amended. On roll call, the motion carried unanimously.

VII. ORDINANCES

A. Second Reading

1. ORDINANCE NO. 23-10 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, at Section 134-36 to Change the Use of the Term Building Official to Director of Planning, Zoning and Building and to Add a Provision Which Allows the Town Council to Waive Certain Zoning Provisions in Chapter 134 Regulating the Use of Public Rights-of-Way to Allow Town Sponsored Events Provided Certain Conditions are Met; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.

Town Attorney Randolph read Ordinance No. 23-10 by title, as printed above.

Motion made by Council Member Diamond, seconded by President Pro Tem Coniglio, to adopt Ordinance No. 23-10. On roll call, the motion carried unanimously.

B. First Reading

None

VIII. DEVELOPMENT REVIEWS

A. Appeals

None

B. Time Extensions & Waivers

1. Request for Waiver of Section 42-199, Hours of Construction Work, at 265, 255, 235 and 231 Sunset Avenue and 240 Sunrise Avenue (Publix Supermarket) (Per Letter Dated August 28, 2010, From Maura Ziska). (See VIII.D.1.b.)

Clerk's Note: This item was addressed as Item VIII.D.1.b.

C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business - Less than 15 Minutes

None

2. New Business - Less than 15 Minutes

Town Clerk Cunningham administered the oath to all those who would be providing testimony.

a. SITE PLAN REVIEW #5-2010 WITH SPECIAL EXCEPTION AND VARIANCE The application of HOJO Partners, LLC; relative to property commonly known as 2880 South Ocean Blvd.; described as 23/24-44-43, SLY 150 Ft of ELY 256.9 Ft of filled land Lyg W of SR A1A & N of Lake Ave being Pt of Gov Lot 1 SEC, of the Public Records of Palm Beach County, Florida; located in the C-TS Zoning District. The applicant is requesting a Site Plan Review for Phase I of a two phase project. Phase I consists of the demolition of an existing 3,833 square foot restaurant building and the construction of a new 4,000 square foot office building. The request includes providing the required parking spaces, and trash receptacle area and associated sidewalks. The exact nature and details of Phase II of the project will be determined at a future date. The applicant requests Special Exception approval to allow a business to occupy 4,000 sq. ft. which is more than the 2,000 sq. ft allowed by the Town Code and a Variance is required to allow for an office use on the ground floor in the C-TS Zoning District. [Attorney: Robert Deziel]

Ex-parte communication was declared by:

- Council Member Diamond spoke with Attorney Robert Deziel.
- Council Member Kleid spoke with Attorney Deziel and he advocated the position of his client.
- President Rosow spoke with Attorney Deziel and he advocated the position of his client.
- President Pro Tem Coniglio spoke with the applicant briefly.
- Council Member Wildrick spoke with Attorney Deziel.

Attorney Robert Deziel, on behalf of HOJO Partners, LLC, presented the request.

Architect Eugene Lawrence presented the site plan review drawings.

Staff comments:

Zoning Administrator Paul Castro made several of the following comments:

- The applicant provided a traffic concurrency report for the Town's consultant to review.
- Staff was comfortable that the project could move forward at this time subject to meeting some of the concerns raised by the traffic consultant.
- Palm Beach County had traffic concerns regarding the median at the intersection, which could not be resolved by the Town.
- Staff has no other concerns and that the office use is an acceptable use in this area.

Discussion occurred among the Town Council, Town Attorney Randolph, regarding the following:

- Resolution of the median at the intersection, which was not a requirement for approval of the request.
- The Town needed this type of commercial development.
- There were concerns regarding the appearance at a major entranceway to the Town.
- The construction timeline.
- Suggestion to request the applicant to submit an economic plan that would reflect the benefits to the Town, although it would not be part of the criteria in granting the request.
- Town serving was addressed.

Zoning Administrator Castro noted that staff recommended that the parking lot be repaved and restriped, as a condition of approval.

Motion made by President Pro Tem Coniglio that the Special Exception of Site Plan Review #5-2010 With Special Exception And Variance shall be granted based upon the finding that such grant would not adversely affect the public interest and that the applicable criteria set forth in Section 134-229 of the Town Code had been met; subject to staff's conditions of the submittal of traffic concurrency; the repaving and restriping of the parking lot; town-serving documentation be submitted after one full year of operation. Council Member Diamond seconded the motion. On roll call, the motion carried unanimously.

Council Member Kleid stated, for the record, that his wife is a real estate agent. Town Attorney Randolph noted that it would not be a conflict of interest.

Motion made by President Pro Tem Coniglio that the Variance Site Plan Review #5-2010 With Special Exception And Variance, be granted and found, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201(a), items 1 through 7 had been met; with the condition that the conflict with the dumpster would be resolved. Council Member Diamond seconded the motion. On roll call, the motion carried unanimously.

Clerk's Note: Immediately following this item the Publix matters were addressed. Please see Item VIII.B.1. Request for Waiver.

b. <u>SITE PLAN REVIEW #6-2010 WITH VARIANCES The application of Rita Schneider; relative to property commonly known as 130 Sunrise Avenue, PH 9; described as Sun & Surf One Hundred Thirty Condominium Unit PH-9, according to the Declaration as recorded in Official Records Book 2818, Page 1 of the Public Records of Palm Beach County, Florida; located in the R-C Zoning District. The applicant is requesting a Site Plan modification with variances to allow one (1) retractable awning totaling 142.38 square feet over the terrace on the seventh floor of a seven story condominium building. Variances are requested to allow the awning at a height of 61.5 feet in lieu of the 23.5 feet maximum height allowed; to allow the awning on the existing seventh floor penthouse of a seven story</u>

building in lieu of the two story building maximum allowed; to allow the awning with a rear yard setback of 38.58 feet in lieu of the 123 feet minimum required for multi-family use. [Attorney: Maura A. Ziska][ARCOM Recommendation: Approval of the variances will not cause negative impacts. Carried 7-0.]

Ex-parte communication was declared by:

- Council Member Diamond spoke with Attorney Ziska and she advocated her position.

- President Rosow spoke with Attorney Ziska and she advocated the position of her client.

Motion made by Council Member Diamond, that Variance #6-2010 of Site Plan Review #6-2010 With Variances, be granted and found, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201(a), items 1 through 7 had been met. Council Member Kleid seconded the motion.

President Pro Tem Coniglio expressed concern that since the awnings have been approved each separately, that it would result in a carnival appearance.

Attorney Ziska responded that ARCOM has approved it.

Upon roll call, the motion carried unanimously.

Motion made by Council Member Diamond that Site Plan Review #6-2010 With Variances be approved based upon the finding that the approval of the site plan would not adversely affect the public interest and that the Council certifies that the specific zoning requirements governing the individual use had been met and that satisfactory provision and arrangement have been made concerning section 134-329 Items 1-11. President Pro Tem Coniglio seconded the motion. On roll call, the motion carried unanimously.

c. SITE PLAN REVIEW #8-2010 WITH VARIANCES The application of Jeraldine Meltzer; relative to property commonly known as 130 Sunrise Avenue, PH3; described as Sun & Surf One Hundred Thirty Condominium Unit PH-3, according to the Declaration as recorded in Official Records Book 2818, Page 1 of the Public Records of Palm Beach County, Florida; located in the R-C Zoning District. The applicant is requesting Site Plan Modification with Variances to allow one (1) permanent awning totaling 460 square feet over the terrace on the seventh floor of a seven story condominium building. Variances are requested to allow the awning at a height of 61.5 feet in lieu of the 23.5 feet maximum height allowed; to allow the awning on the existing seventh floor penthouse of a seven story building in lieu of the two story building maximum allowed; to allow the awning with a front yard setback of 71.25 feet in lieu of the 123 feet minimum required for multi-family use; to allow the awning with a side yard setback of 49.5 feet in lieu if the 61.5 feet minimum required for multi-family use in the R-C Zoning District. [Attorney: Maura A. Ziska][ARCOM Recommendation: Approval of the variance will not cause negative architectural impacts. Carried 7-0.]

Ex-parte communication was declared by:

- Council Member Diamond spoke with Attorney Ziska and she advocated her position.

- President Rosow talked with Attorney Ziska on the phone, and she advocated for her client.

Motion made by Council Member Diamond that the Site Plan Review of the Site Plan Review #8-2010 With Variances be approved based upon the finding that the approval of the site plan would not adversely affect the public interest and that the Council certifies that the specific zoning requirements governing the individual use had been met and that satisfactory provision and arrangement have been made concerning section 134-329 Items 1-11. Council Member Kleid seconded the motion. On roll call, the motion carried unanimously.

Motion made by Council Member Diamond that the Variance of Site Plan Review #8-2010 with Variances, be granted and found, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201(a), items 1 through 7 had been met. Council Member Kleid seconded the motion. On roll call, the motion carried unanimously.

d. VARIANCE #16-2010 The application of Cathleen McFarlane Estate; relative to property commonly known as 456 Worth Avenue; described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a variance to allow the redesign of the existing entrance with a new forty two square foot second story addition. The overall cubic content ratio will remain the same at 4.11 in lieu of the 3.91 maximum allowed. A variance is also being requested for a side yard setback of 12.7 feet in lieu of the 15 foot minimum required. [Attorney: L. Frank Chopin][Landmarks Preservation Commission Recommendation: The implementation of the variances will not cause a negative architectural impact on the subject property. Carried 7-0.]

Ex-parte communication was not declared by any members of the Town Council.

Attorney L. Frank Chopin, on behalf of Cathleen McFarlane Estate, provided an overview of the request. He noted that Landmarks Preservation Commission approved the variances.

Staff comments:

Zoning Administrator Castro asked that the hardship be demonstrated.

Attorney Chopin stated that the hardship was that the property was split, the setbacks were what was required when built, and the cubic content ratio met the requirements when it was built; it was a landmarked building.

Motion made by Council Member Diamond that Variance #6-2010, be granted and found, in support thereof, that all of the criteria applicable to this application as set forth in

Section 134-201(a), items 1 through 7 had been met. President Pro Tem Coniglio seconded the motion. On roll call, the motion carried unanimously.

e. VARIANCE #17-2010 The application of Richard C. Bauer, DMD; relative to property commonly known as 241 Bradley Place; described as Lots 5, 6 and 7 of ORANGE GROVE PARK, an addition to the Town of Palm Beach, Florida, according to the Plat thereof, recorded in Plat Book 5, Page 97, Public Records of Palm Beach County, Florida, LESS that part of Lot 5 condemned for public street purposes; located in the C-TS Zoning District. The applicant is requesting a variance to allow an office use on the first floor which does not meet all of the conditions of subsection (18). The variance is to allow a first floor office use which does not meet the requirement that more than 50% of the existing first floor tenant spaces within 300 feet in the same zoning district are required to be office uses, although it does meet the requirement that at least 50% of the existing uses on all floors of the same building are offices. [Attorney: Maura A. Ziska]Request for Withdrawal Per Letter Dated September 8, 2010, from Maura A. Ziska.

This item, VIII.C.2.e., Variance #17-2010 was withdrawn.

3. Old Business - More than 15 Minutes

a. MODIFIED SITE PLAN REVIEW #4-2010 WITH SPECIAL EXCEPTION AND VARIANCE (See VIII.D.1.a.)

4. New Business - More than 15 Minutes

None

D. Other

1. Publix Matters:

TIME CERTAIN: 10:00 AM

a. MODIFIED SITE PLAN REVIEW #4-2010 WITH SPECIAL EXCEPTION AND VARIANCE The application of Publix Super Markets, Inc. and Sunset Avenue Corp.; relative to property commonly known as 265, 255, 235, 231 Sunset Avenue and 240 Sunrise Avenue; described as lengthy legal description on file; located in the C-TS Zoning District. The applicant is requesting Site Plan Review and Special Exception to construct a 53,272 (44,018 gross leasable) square foot one story grocery store on 4.36 acres. The new store will provide 219 off-street parking spaces that will be at 90 degrees. There is proposed to be an outdoor ATM and the grocery cart storage will be within the building. All of the proposed mechanical equipment will be contained within portions of the building and will not be seen as equipment on the roof. Part of the proposed design is to have two generators located on the southeast corner of the proposed store that will contain a 100 KW standby generator and a 500 KW main generator. There is proposed to be two loading areas within the loading dock on the east side of the building that will be screened. The proposed store will have a pharmacy, deli, bakery and a larger selection of food items and other products. A variance is being requested to allow the individual ingress and egress drives on the south side of the property extending across the public sidewalks and curbs and connecting to the off-street parking spaces to the public street areas to be 43'7" and 51'3" in lieu of the 30 foot maximum allowed. [Attorney: Maura A. Ziska]

b. Request for Waiver of Section 42-199, Hours of Construction Work, at 265, 255, 235 and 231 Sunset Avenue and 240 Sunrise Avenue (Publix Supermarket) (Per Letter Dated August 28, 2010, From Maura Ziska).

Ex-parte communication was declared by:

- Council Member Diamond spoke with Attorney Maura Ziska, who advocated the position of her client.

- Council Member Kleid spoke with Attorney Ziska on numerous previous occasions, but not this month; she advocated ably the position of her client.

- President Rosow spoke with Attorney Ziska on the four requests and she advocated the position of her client.

- President Pro Tem Coniglio spoke with Publix manager Nick Abiusi and Hank Porcher, who also advocated the position of Publix.

- Council Member Wildrick spoke to Attorney Ziska and a couple of the Publix executives who advocated the position of Publix.

Attorney Ziska provided an overview of the request. The request for an extension of hours was from 5:00 a.m. to 9:00 p.m., starting the day after Easter of next year and running through December 29, 2010.

Staff comments:

Planning, Zoning and Building Director John Page expressed concern with the initial request starting at 5:00 a.m. to 9:00 p.m., as it was extreme. Staff recommended that the extended work hours would begin April 25, 2010, through December 19, 2010, and be restricted from 7:00 a.m. to 8:00 p.m. He said that staff concurred with working 24 hours a day, once the entire shell is completed and doing interior work.

Jeff Rembaum, representing the Palm Beach Hotel Condominium Association, commented that the Association would like that no noise be generated beyond code provision and no construction prior to 8:00 a.m. He indicated that the Association recommended 8:00 a.m., hard start, and 7:00 a.m., to meet at the site, but not generate any noise and work until 8:00 a.m.

Dick Spilberg, president of the Palm Beach Hotel Condominium Association, commented that there is commercial renting in the building, and requested that the Town Council keep in mind that starting construction at 7:00 a.m. would affect the renting of the apartments in the building.

Leslie Evans, 214 Brazilian Avenue, asked that the construction hours be the same as the hours allowed on the Worth Avenue construction project.

President Rosow related that regarding the Worth Avenue project, in the Worth Avenue 100 block residential area, construction was not allowed to start until June beginning at 5:00 a.m., for six days a week and no Sundays.

Discussion occurred among the Town Council, staff, and Attorney Ziska. Mr. Castro explained the specifics of the Construction Management Agreement, which protected the residents. Several of the following issues were addressed:

- During construction, neighbor objections would be taken into consideration.
- There were two religious institutions within 200 feet of the project, with services held on Saturday mornings from 9:00 a.m. to 12:00 p.m. If noise is so great that the services could not be conducted, accommodations would be made.
- Staff was requested to address the fines, if the construction management policies were not followed, that would be adhered to strictly.
- Noise could not be made before 8:00 a.m., but construction work could go until 9:00 p.m., there should be no work on Sundays and Saturday mornings for the synagogues.
- Meetings need to be held with residents to ameliorate future problems from occurring.
- In the summer months the construction hours could be more liberal.

At Council Member Wildrick's request, Mr. Castro provided the fines and details of the Construction Management Agreement, in order that the public would understand that their way of life would be protected during the construction.

Discussion continued regarding the type of work relative to the hours of operation.

Motion made by Council Member Wildrick, seconded by Council Member Diamond, to approve Request for Waiver of Section 42-199, Hours of Construction Work, at 265, 255, 235 and 231 Sunset Avenue and 240 Sunrise Avenue (Publix Supermarket) subject to the following conditions:

- **noise generating work will be allowed for six days a week from April 25, 2011 to June 1, 2011 between 7:30 a.m. to 8:30 p.m.;**
- **noise generating work will be allowed for six days a week from June 1st to the completion of the shell, between 7:00 a.m. and 9:00 p.m.;**
- **thereafter, all outside work will be done during normal construction hours of the Town;**

- **interior work upon completion of the shell will be 24 hours a day, seven days a week, as long as complaints of noise are resolved.**

On roll call, the motion carried unanimously.

c. Consideration of Proposed Declaration of Use Agreement for Publix Supermarket; 265, 255, 235 and 231 Sunset Avenue and 240 Sunrise Avenue. [John S. Page, Director of Planning, Zoning and Building]

Attorney Ziska commented that last month the Site Plan Review was discussed in detail, but there was one modification to the parking changing it from angled to 90 degree parking. The site plan review was not voted on at that time. Attorney Ziska provided an overview of the request.

Zoning Administrator Castro listed several of the following staff's concerns:

- The variance was necessary for the drive aisle entry widths, as the requirement to pull the larger trucks off the road on the south side of the project, and maneuver back into the loading zone.

- The amount of striping was necessary, as a median could not be placed on the southeast drive aisle next to the loading dock.

- He related several of staff's concerns regarding the Site Plan approval were with the operational aspects of Publix, which were outlined in the Declaration of Use agreement. He noted the delivery hours, the generators, trash compactors, certificate of compliance, and delivery location.

Leslie Evans expressed concern that the increased store size would reduce the level of service of traffic concurrency and that, as the economy improves, the decreased level of service would affect the redevelopment of Royal Poinciana Way's business district.

Alexander Ives, president of the Preservation Foundation of Palm Beach, commented that it had been a concern of the entire community that best efforts would be made for a temporary store.

Attorney Ziska noted that the temporary store was in the agreement.

Discussion of the Declaration of Use Agreement occurred among the Town Council, Attorney Ziska, staff, Publix representatives, Dick Spilberg, Hank Porcher, Nick Abiusi, and Woody Rayburn. The Publix representatives requested that the trucks be staggered in order to alleviate unloading two or three semi-trucks in a three hour window. President Rosow offered a compromise that the Town Council would allow proposed truck delivery schedule upon the store opening in December of 2011. At the April 2012 Town Council meeting, complaints or concerns regarding the delivery schedule could be heard, which could be amended, if necessary, subsequent to that meeting. Currently there is a three day-a-week delivery at 6:00 a.m., and there have been no complaints. The delivery schedule in the Declaration of Use Agreement is only valid until the April 2012 Town Council meeting, which could be amended at that meeting.

Publix also requested that the hours of operation, which were currently 6:30 a.m., to 10:00 p.m., would be from 6:30 a.m. to 10:30 p.m.;

Motion made by Council Member Diamond, seconded by Council Member Kleid, to approve with conditions the proposed delivery schedule, and have it return to the April 2012 Town Council Meeting in order to hear any concerns/complaints that may have occurred. On roll call, the motion carried 4-1, with President Pro Tem Coniglio dissenting.

Discussion occurred among the Town Council, Mr. Castro, and Attorney Ziska regarding the generator and the trash compactor. Attorney Ziska commented that whatever the Town wanted was acceptable to Publix. Mr. Castro indicated that mid-week and mid-morning was favorable. The Town Council determined that the generator would be tested on Wednesdays at 10:30 a.m. Mr. Castro noted that the trash compactor would be operated every day. The Town Council determined that the compactor would remain on the current schedule and at the April 2012 Town Council Meeting, any concerns/complaints could be addressed.

Motion made by President Pro Tem Coniglio, seconded by Council Member Diamond, to approve the Declaration of Use Agreement as amended, and Council Member Kleid's list of scriveners errors. On roll call, the motion carried unanimously.

Planning, Zoning and Building Director Page requested that, as there were several unresolved landscaping issues that had not been resolved by the Architectural Commission (ARCOM), the motion would be subject to completion of the landscaping as approved by ARCOM.

President Rosow called for a motion to approve the Site Plan Review.

Motion made by President Pro Tem Coniglio that the Special Exception of Modified Site Plan Review #4-2010 with Special Exception and Variance shall be granted based upon the finding that such grant would not adversely affect the public interest and that the applicable criteria set forth in Section 134-229 of the Town Code had been met, subject to final approval by the Architectural Commission on the remaining conditions. Council Member Wildrick seconded the motion. On roll call, the motion carried unanimously.

d. <u>Consideration of Construction Management Agreement for Publix Supermarket; 265, 255, 235 and 231 Sunset Avenue and 240 Sunrise Avenue. [John S. Page, Director of Planning, Zoning and Building]</u>

In the Construction Management Agreement, Attorney Ziska addressed the wording in the Agreement of the removal of debris on an every other day basis. She requested that it be changed to every day if possible, by adding the words "at least every other day", which had been discussed with staff and could be found in paragraph 2a, of the Agreement.

Attorney Ziska requested that the workers park onsite, as their tools were in their trucks and it would speed up the construction process. She added that a paved parking lot would be available for the employees. Ms. Ziska also requested that the fines for violations on the last page of the Agreement in paragraph 2, be eliminated.

Council Member Wildrick indicated that the work site should be maintained in a neat and orderly manner.

Responding to President Pro Tem Coniglio, Zoning Administrator Castro noted that there were no requirements relative to employees parking on the job site, only the number of vehicles that were allowed on the construction site on the public right-of-way.

President Rosow suggested that the Agreement be amended that parking be allowed onsite but the lot must be paved (a finish coat was not required), with an 8' high fence.

Zoning Administrator Castro noted that the fines for violations were specifically added by the Town Council for large projects in order to ensure compliance of the conditions of the property owner.

Motion made by Council Member Diamond, seconded by President Pro Tem Coniglio, to accept the Construction Management Agreement subject to the following conditions: that any employee parking onsite must be contained to the hard surface area; parking must be orderly; an 8' privacy fence must screen the site, the fines will remain unchanged, and the removal of debris wording changed to "at least every other day". On roll call, the motion carried unanimously.

Motion made by President Pro Tem Coniglio that the Variance of the Modified Site Plan Review #4-2010 With Special Exception And Variance , be granted and found, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201(a), items 1 through 7 had been met. Council Member Diamond seconded the motion. On roll call, the motion carried unanimously.

IX. ANY OTHER MATTERS

Public Works Director Brazil noted that staff was approached by the Federal Department of Transportation (FDOT) and their consultants concerning the Flagler Memorial Bridge. They requested a conceptual consideration of extended work hours by the Town Council for certain elements of bridge construction. It would be in keeping with what was done with Royal Park Bridge, Publix, the City of West Palm Beach and the Town subaqueous crossings during construction. He noted that a conceptual consideration by Town Council right now may help staff in negotiating certain scheduled items and aesthetic improvements, as well.

If the Town Council is conceptually comfortable with it, as they bid this, the contractors and FDOT would have an idea that there may be some flexibility when they put together their schedules and costs to the FDOT.

It was the consensus of the Town Council to conceptually consider extended work hours, with the condition that if it becomes intolerable the Town Council has the ability to go back and have a discussion to not be tied into anything that would be unacceptable.

Responding to Mr. Brazil, President Rosow indicated to relate to FDOT that subject to the specifics, the Town Council conceptually understands the problem.

X. ADJOURNMENT

There being no further business, the September 15, 2010, Town Council meeting was adjourned at 12:10 p.m.

APPROVED:

David A. Rosow
Town Council President

ATTEST:

Joanna Cunningham
Town Clerk