

TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE SPECIAL TOWN COUNCIL MEETING HELD ON AUGUST 26, 2008 AT 7:30 P.M.

1 I. CALL TO ORDER AND ROLL CALL

2

3 The Special Town Council meeting was called to order at 7:30 p.m., on Tuesday, August
4 26, 2008, in the Town Council Chambers. On roll call, the following elected officials were
5 found to be present: Mayor Jack McDonald, President Richard M. Kleid, President Pro Tem
6 Gail Coniglio, Council Member Susan Markin, and Council Member David A. Rosow. Council
7 Member Coleman was absent. Also present were Town Manager Peter B. Elwell, Attorney
8 Reginald Bouthillier, and Town Clerk Susan Eichhorn.

9

10

11 II. APPROVAL OF AGENDA

12

13 Motion made by Council Member Rosow, seconded by President Pro Tem Coniglio,
14 to approve the Agenda as printed. On roll call, the motion carried 4/0, as Council Member
15 Coleman was absent.

16

17

18 III. SURFRIDER FOUNDATION, INC., SNOOK FOUNDATION, INC., CAPTAIN
19 DANNY BARROW, TOM WARNKE AND HERBERT TERRY GIBSON,
20 PETITIONERS, VS TOWN OF PALM BEACH, DEPARTMENT OF
21 ENVIRONMENTAL PROTECTION, AND BOARD OF TRUSTEES OF THE
22 INTERNAL IMPROVEMENT TRUST FUND, RESPONDENTS, STATE OF
23 FLORIDA DIVISION OF ADMINISTRATIVE HEARINGS, DOAH CASE
24 NO. 08-1511

25

26 F.S. 286.011(8) Allows the Mayor, Town Council, and the Town Manager to Meet in a
27 Closed-Door Attorney/Client Session for the Purpose of Discussing Strategy Related to
28 Litigation.

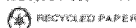
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8-26-08 STC (Closed Door - Surfrider)

Post Office Box 2029 • 360 South County Road • Palm Beach, Florida 33480

Telephone (561) 838-5416 • Facsimile (561) 838-5417

E-mail: townclerk@townofpalmbeach.com • Website: www.townofpalmbeach.com



01/29/2010

MINUTES OF THE SPECIAL TOWN COUNCIL MEETING HELD ON AUGUST 26, 2008 AT 7:30 P.M.

1 The Town Council President Announced:

2 a.) The Attorney/Client Closed-Door Session

3 b.) The estimated time is thirty minutes

4 c.) The names of the persons attending:

5 Jack McDonald, Mayor

6 Richard M. Kleid, Town Council President

7 Gail Coniglio, Town Council President Pro Tem

8 Susan Markin, Town Council Member

9 David A. Rosow, Town Council Member

10 Reginald Bouthillier, Attorney

11 Peter B. Elwell, Town Manager

12 Ley and Marsaa, Court Reporters

13
14 President Kleid announced that, at this time, the attorneys for the Petitioners would be
15 allowed to present the settlement offer.

16
17 Attorney Jane West, Collins & West, P.A., noted that her partner, Attorney Martha
18 Collins was present. She provided, on behalf of the Petitioners, a brief presentation to provide an
19 overview of the settlement offer. She advised that Collins & West, P.A. had orders from their
20 clients to pursue every point of entry on this particular case. She explained that when the Army
21 Corps of Engineering permitting came up, it would be challenged; and if the administrative
22 hearing was lost, it would be brought up on appeal, which meant that the project could not take
23 place this calendar year.

24
25 Attorney West introduced the following Petitioners:

26
27 Brett Fitzgerald, SE Florida Associate Director of the Snook Foundation, an organization
28 that was dedicated to preserving Snook habitats in Florida.

29
30 Ericka D'Avanzo, Florida Regional Manager of the Surfrider Foundation, provided a
31 brief presentation related to their concerns and goals.

32
33 President Kleid responded to Attorney Martha Collins that copies of the settlement offer
34 had been received.

35
36 Attorney Collins stated that the Petitioners were before them today in good faith, and
37 introduced one of their top experts, Dr. Harold Wanless, to discuss the logistics of the settlement
38 offer.

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1 Dr. Harold R. Wanless, Professor and Chairman of the Department of Geological
2 Sciences, University of Miami, Coral Gables, Florida, displayed presentation boards to review
3 the logistics of the settlement offer.

4
5 Town Manager Elwell responded to the questions and concerns of Council Member
6 Markin related to the sand used from the state approved borrow area. He advised that the sources
7 of sand that the Town used for their projects, including what was used for Reach 8, were only
8 from areas allowed by the state and federal government, after they had conducted exhaustive
9 review.

10
11 In response to Council Member Rosow, Attorney Reginald Bouthillier reviewed the
12 events that led up to the written settlement offer received Friday afternoon, August 22, 2008. He
13 noted that he had not approached Surfrider or any other entity/person to suggest a settlement, and
14 that he had not extended any offer or implied that the Town would write a check to Surfrider for
15 \$500,000.

16
17 Attorney West, responding to Council Member Rosow, explained that during her phone
18 conversation with Attorney Bouthillier on Friday, August 22, 2008, he had put the figure of
19 \$500,000 on the table.

20
21 Attorney Collins clarified that the primary goal of the settlement offer was to reduce the
22 fill and ensure sand compatibility.

23
24 President Kleid commented that it was understood that the request being made was for
25 the Town to renourish only a portion of what was intended to be renourished using inland sand
26 that would be trucked in for that very limited area.

27
28 Discussion took place regarding the following:

- 29
30 - The authors of the settlement;
31 - The bias of the consultants hired by the Town;
32 - The settlement offer as it related to future beach projects;
33 - The cost related to the request, in the settlement offer, that was being made
34 regarding the 250,000 to 260,000 cubic yards of fill material;
35 - The planting of vegetation on the dunes by Surfrider volunteers;
36 - The restoration of the Sand Transfer Plant by Surfrider volunteers;
37 - The lobbying efforts of the Surfrider Foundation for appropriations on both the
38 state and federal levels.
39

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d.) Persons attending the meeting (listed above) relocate from Town Hall Council Chambers to the immediately adjacent conference room.

The following persons relocated from the Town Hall Council Chambers to the adjacent conference room at 8:03 p.m.:

Jack McDonald, Mayor
Richard M. Kleid, Town Council President
Gail Coniglio, Town Council President Pro Tem
Susan Markin, Town Council Member
David A. Rosow, Town Council Member
Reginald Bouthillier, Attorney
Peter B. Elwell, Town Manager
Ley and Marsaa, Court Reporters

IV. RECONVENE SPECIAL TOWN COUNCIL MEETING IN THE TOWN COUNCIL CHAMBERS

A.) Call to Order

The Special Town Council meeting was reconvened at 8:45 p.m., in the Town Council Chambers.

B.) Town Council President to Announce the Termination of the Attorney/Client Session.

President Kleid announced the termination of the Attorney/Client Session. He made the following statement related to the settlement offer:

"We want you to know that we are most appreciative of your coming here and making your presentation, and we are hopeful that there will be continual open dialogue between the two parties. We are free for you to come to us at anytime with any kind of suggestions, any kind of settlements. However, we have to reject this particular settlement offer. We feel that it was not in the best interest of our taxpayers both from a cost-effective point of view and also for the protection of their person and their property. So, again, we are going to turn down your settlement offer."

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V. ANY OTHER MATTERS

There were none.

VI. ADJOURNMENT

There being no further business, the Special Town Council meeting of August 26, 2008, was adjourned at 8:49 p.m.

APPROVED:



Richard M. Kleid
Town Council President

ATTEST:



Susan A. Eichhorn
Town Clerk