

TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE SPECIAL TOWN COUNCIL MEETING HELD ON JULY 9, 2002 AT 5:01 P.M.

I. CALL TO ORDER AND ROLL CALL

The Special Town Council Meeting of July 9, 2002, was called to order at 5:01 p.m. On roll call the following elected officials were found to be in attendance:

Mayor Lesly Smith
President William Brooks
President Pro-Tem Norman Goldblum
Councilman Jack McDonald
Councilman Samuel McLendon
Councilman Allen Wyett

Others in attendance for all or a portion of the meeting were:

Town Manager Peter Elwell
Assistant Town Manager Thomas Bradford
Town Attorney John Randolph
Director of Planning, Zoning & Building Robert Moore
Assistant Director of Planning, Zoning & Building Veronica Close
Zoning Administrator Paul Castro
Police Chief Michael Reiter
Fire-Rescue Chief Kent Koelz
Public Works Director Al Dusey
Town Engineer James Bowser
Public Works Services Division Manager Lloyd McCoy
Town Clerk Mary Pollitt

SPECIAL TOWN COUNCIL MEETING 7-9-02

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II. INVOCATION AND PLEDGE OF ALLEGIANCE

Town Clerk Pollitt gave the invocation. President Brooks led the Pledge of Allegiance.

III. APPROVAL OF THE AGENDA

Councilman Wyett moved approval of the Agenda. The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

IV. ORDINANCES

A. Second Reading

1. Ordinance No. 3-02 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, of the Code of Ordinances by Amending Section 134-2. Definitions and Rules of Construction by Adding Definition for a Pergola and Trellis and Sections 134-795, 134-845 and 134-895, Same-exceptions to Yard Regulations, and Divisions 5 Through 12, Sections 134-950, 134-1006, 134-1061, 134-1114, 134-1213, 134-1263 and 134-1308. Same-exceptions., by Creating Regulations for Pergolas and Arbors; Providing for a Penalty for a Violation Hereof; Repealing All Ordinances or Parts of Ordinances in Conflict Hereof; Providing for Codification; Providing an Effective Date.
[Paul Castro, Zoning Administrator]

Town Attorney Randolph read Ordinance No. 3-02 by title, as printed above.

Councilman Wyett moved approval of Ordinance No. 3-02. The motion was seconded by President Pro-Tem Goldblum. On roll call the motion carried 4/0, as Councilman McDonald had temporarily left the room.

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B. First Reading

1. Ordinance No. 14-02 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Imposing a Temporary Moratorium on the Acceptance and Issuance of Permits for Construction and the Conduct of Construction in That Area of the Town from and Including All Properties Abutting the South Side of Orange Grove Road, North to the Northernmost Limits of the Town and Between the Westernmost Limits and the Easternmost Limits of the Town in That Same Area, as Described on the Attached Map Hereto; Making Findings of Fact; Declaring the Intent and Purpose of this Ordinance; Setting Forth Certain Exceptions; Providing for Appeals; Providing for Severability; Providing an Effective Date. [John C. Randolph, Town Attorney]

Town Attorney Randolph stated that, pursuant to the Mayor and Town Council direction received at the last Town Council meeting, he had prepared a draft of a moratorium ordinance. He explained that he had provided a letter, dated July 1, 2002, in which he indicated that he had prepared the ordinance, that it was simply a draft, and that it incorporated certain exceptions. He emphasized that the ordinance was a draft only, so that consideration could be given to input from staff and the public; modifications could be made and a determination could be made as to whether a moratorium would be imposed. He suggested that the Town Council hear the input from staff, and then the public, in order to make a determination.

Public Works Director Al Dusey reported that he had met with staff to determine any concerns regarding impacts of a moratorium: garbage collection would not be a problem, and Division Manager for Services Lloyd McCoy would discuss the impact on yard trash collection.

Division Manager for Services Lloyd McCoy reported that the primary concern was that trash trucks would have to back in or back out of a particular street where construction was taking place. Any traffic in the area associated with construction would be a safety concern with public works vehicles backing in or out of an area where construction was

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taking place.

Police Chief Reiter commented that construction within the roadways, particularly excavation, presented a hazard to motorists negotiating detours; it also reduced the ability of the police to patrol the area, and often displaced parking as well. He stated that he envisioned that would be the case under the extensive construction in the roadway that was planned in the north end of Town. He noted that response time of police vehicles would also be reduced.

Fire-Rescue Chief Kent Koelz commented that he shared the concerns of the Public Works Department and Police Department; his main concern was with the delay in response time of emergency vehicles. He noted that some of the Fire-Rescue Department vehicles were very large, and it would be difficult to maneuver them on streets where construction was taking place.

Director of Planning, Zoning & Building Robert Moore commented that the draft ordinance took the following into consideration: work moving south to north, those already in the pipeline. He agreed that it would be more difficult for public works vehicles and emergency vehicles to access streets; service vehicles would also be using the streets, and construction vehicles parking on the street could present a problem to access as well.

Attorney Ron Kolins commented that he represented a large number of people who had interests in the Town, and asked Public Works Director Dusey what role the City of West Palm Beach would play in the construction project?

Public Works Director Dusey replied that it was a coordinated project; the Town of Palm Beach would be in charge of the project, which would replace both the water line and drainage. The City of West Palm Beach would reimburse the Town for the work done with the water pipes; the Town would be doing the drainage pipes. Some small sections of sewer line would need to be replaced, and it was the intent to replace any part of the infrastructure that was not in good shape. The construction would be done through an hourly rate contract however, the contractors had not yet been hired for this project. Town staff would act as the general contractor on the project, buying the materials, setting up the traffic control plans, etc.

In response to Attorney Kolins, Chief Reiter explained that when major construction took place in the past on North Lake Way, it had been difficult for Police vehicles to enter the roadways; there had also been a number of situations in the past when residents could not access their homes without parking on side streets.

In response to Attorney Kolins, Fire-Rescue Chief Koelz replied that he would imagine that there would be problems getting Fire-Rescue vehicles in and out of residential

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areas during construction activities, however, he did not know that for a fact.

In response to Attorney Kolins, Director of Planning, Zoning & Building Robert Moore replied that staff had not done a study/analysis to identify the percentage of vehicles parked along the road of construction areas that were related to construction activities, however, staff had gone to observe the areas where parking took place.

The following members of the public addressed the Town Council in opposition to a moratorium:

Joe Crossen, 118 Dolphin Road, asked if an economic recovery report had been done by staff regarding the impact of financial losses of a moratorium?

Mr. Moore responded that approximately \$430,000 of permit fees would not be coming to the Town as a result of the moratorium. He noted that one plan reviewer had been eliminated in an effort to reduce staff.

Joseph Visconti, 1430 North Ocean Blvd., commented that it was important to consider that some residents may have parking on their property for construction vehicles, which would not clog the roadways.

Enis Beck, 212 Cherry Lane, asked if there was a plan to implement proper drainage on her street?

Town Manager Elwell replied that there was a plan evolving regarding drainage improvements; the North Lake Way project would not have any direct impact on Cherry Lane, however, the overall plan to improve drainage throughout the north end would improve the conditions on Cherry Lane.

Jim Paine, representing two residents, Judge and Ruth Paine at 170 Seagate, and John and Margaret Kaywell at 201 Angler Ave., asked if projects that had received Architectural Commission (ARCOM) approval previous to the moratorium be allowed to proceed?

Mr. Moore replied that they would be exempt.

Ann Hazel Wilcox, 218 Debra Lane commented that she was unhappy with the idea that her taxes may go up because of the moratorium.

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Town Manager Elwell responded that the proposed budget for the upcoming year included a reduction in the tax rate.

Lethrup Morris, 255 El Pueblo Way asked if the constitutional implications of a moratorium had been considered?

Town Attorney Randolph replied that consideration had been given to constitutional implications both in the drafting of the ordinance and in the manner in which the hearing had been advertised and was being conducted. He explained that he had advised the Town Council via letter that any action taken should be supported on the basis of fact, and the input they receive; whatever they do should be sustained by fact, and they could not, at their own discretion, decide that they would approve a moratorium.

Bill Blodgett commented that he owned two homes in the area covered by the moratorium, and that the moratorium would have negative impacts on the tax base. He noted that last year there had been much construction along North Lake Way, and he did not recall any resulting traffic jams on North Ocean Blvd. He suggested that the project start at Mediterranean in October and work southward until May 1st; and then work from Orange Grove backwards; or start the work at Orange Grove, lifting the moratorium on May 1, 2003, accept permit applications during the winter, and start construction during the summer.

Public Works Director Dusey responded that the plan was to have three crews on site if the design elements were completed on all of the basins; one crew would start at the north end and work south, one in the middle, and one in the south working north.

Ed Curtis, 1441 North Lake Way, commented that he was concerned about how long individual blocks or sections would be under construction. He mentioned that some drainage pipes had been replaced in front of his home approximately 20 years ago.

Town Manager Elwell replied that, generally speaking, through the 13-19 month period, the crews would be keeping the excavated area as isolated as possible, and will be moving through the overall area, so that there would not be continual disruption for an individual property owner; there would be continual disruption in the area between Orange Grove and Mediterranean. As the project moved north from Orange Grove, the restrictions would be released in the areas where construction was finished. Each crew would be working in a three block area at any given time, so there would be nine blocks under construction at any given time.

Town Engineer Bowser explained that the crews would always endeavor to have

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residents back into their driveways at night, except if there was a manhole blocking access, or if there was only one driveway access. As the plan evolved, some drainage pipes installed in 1980 may need to be taken out and replaced, depending on how the design evolved.

Town Manager Elwell commented that the design continued to evolve in part because of how quickly the project was being addressed, and in part because the additional analysis was yielding cost savings.

Town Engineer Bowser commented that there were a number of factors that would determine how each three block section would be under construction, depending upon how many utilities would need to be replaced. BellSouth had expressed a desire to have conduits installed while the roadway was opened. The other concern was geotechnical. He estimated that it could take up to two months per block, however, it was hopeful that it would go faster than that, depending on the amount of work that was needed. The intention of staff was to go as fast as possible.

Dr. Andre Golino, 1500 North Ocean Blvd., commented that he owned two homes in the area that may be affected by the proposed moratorium, and for family reasons he would like to add rooms to one of the houses, and he suggested that the Town Council realize that there is a significant hardship involved with a moratorium.

Ms. Pamela Hoffpauer, Martha Gottfried Realty, commented that she was against the proposed moratorium, as the negative impact of a moratorium would be felt by various industries – the real estate industry alone had 70 real estate offices in Town, and about 470 licensed agents. The moratorium would also affect numerous attorneys, architects, builders, sub-contractors, suppliers, and a significant amount of additional employees that rely upon work in the community for economic support. She encouraged the Town Council members to make a careful, thorough, and rational decision about the proposed moratorium.

Tom Turchan, 211 Eden Road, commented that he had recently bought a house at 249 Queens Lane. He stated that anyone who had purchased a property within the past several months would be in a situation where it would be two-three years before they were allowed to renovate or to do anything of economic value with the home. He stated that the north end had very little traffic during the season, and virtually no traffic during the off season. He stated that he and his wife had pooled all of their resources to buy a house at 249 Queens to renovate and to live in; there had been two lots involved in the purchase, and they had obtained a variance to sell the additional lot, and the sale of the lot was the money that was going to be used to renovate the house.

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Attorney Frank Lynch, on behalf of Frank and Maureen Wilkins, commented that the Wilkins family had recently purchased a property at 1491 North Ocean Blvd., and planned to build a house on the property; they also occupied another property at 1565 North Ocean Way, that they had occupied as a residence since 1993, and they were faced with the concern that they could not sell their properties if a moratorium took place. Attorney Lynch suggested consideration of parking construction vehicles directly on the properties, rather than the streets; a potential parking moratorium on the streets, or alternative side of the street parking.

Attorney Lynch commented that he also represented Mr. and Mrs. Arthur Williams, 1545 North Ocean Way, who were prepared to submit for permit; he asked if they would be allowed to go forward?

Mr. Moore replied that was correct.

Mr. Harry Chauncey, 249 Bradley Place, on behalf of the Sailfish Club, commented that the Sailfish Club had no position on this matter, as there had not been time to have a board meeting. He explained that the Sailfish Club was in the process of replacing its south dock, however, the work may have to be stopped because of the need to place utilities in the easement from the road; all construction vehicles could be parked on site to do the work in the easement, however, some relief would be needed to do that.

Attorney Ron Kolins commented that he was representing approximately 40 individuals and businesses; he urged the Town Council not to impose the moratorium. He stated that he had two expert witnesses to present: Jerry Wentzel, Traffic Engineer, and Diane Jenkins, Jenkins Appraisal Services. He explained that a moratorium was a very drastic remedy because there were broad and severe impacts, and was not justified in the current situation. He maintained that the theory that traffic would be disrupted would not justify the harm that would befall many, including the Town, by the imposition of a moratorium. He suggested that construction vehicles comprised a very small percentage of overall traffic, and taking them off the roads would have no significant impact on whatever traffic problems were created.

In response to President Brooks, Attorney Kolins advised that whatever he would say on this subject represented the views of his clients, and was both opinion and based on the facts presented.

Mr. Jerry Wentzel, Traffic Engineer, DKS Associates, presented his resume, and his report, and commented that he had reviewed the draft address and had been asked by

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Attorney Kolins to comment on some of the issues that had been raised in terms of the concerns for traffic on North Lake Way. He had summarized his comments in the report which he had presented, and noted that there were two main areas of concern: the operation and capacity of the north/south traffic with the closure of North Lake Way and the movement of traffic to North Ocean Blvd.; the second issue was the operation of the residential streets themselves, as the result of closures and street parking. He advised that traffic counts of the north end of the Town had indicated that traffic was quite low; North Ocean Blvd. was similar as it moved northward. Level of service conditions on North Lake Way, from the Town's own report done in March 2002, was considered to be operating at Level of Service A, the highest level of service there can be on a roadway, and Ocean Blvd. was considered to be operating at Level of Service B. He maintained that in peak season, if all of the traffic off of North Lake Way was put on North Ocean Blvd, a Level of Service C would still be maintained; the capacity limitation of the roadway would not be exceeded. He also noted that a "windshield" survey of cars, driving up and down all of the streets in the north end, and counted the number of cars that could be considered related to construction activity – the majority of vehicles were found to be related to maintenance activities, and not related to construction. He maintained that approximately 42 vehicles in the entire area were identified as being related to construction. He suggested that a more effective way of handling traffic on the local streets was with parking restrictions. He suggested that a non-standard re-routing plan would work efficiently in the construction area, so as not to burden any east/west street with any more than a 10-20% increase in traffic.

Attorney Kolins maintained that a moratorium must be a valid way to deal with the problem, and suggested that in this case it was not. He gave examples of the negative impacts of the proposed moratorium.

Ms. Diane Jenkins, Jenkins Appraisal Services, reported that she had been requested to review the effect of a moratorium on property values; she maintained that a moratorium would limit single family home owners who wished to sell their homes; people with vacant land were in a situation where they were in a holding pattern.

Attorney Kolins summarized that it was his opinion that the moratorium could not be justified by the expected benefit. In addition, he maintained that the Town would lose money in permit fees as well. He pointed out if the proposed moratorium was approved, there would be additional problems when the moratorium was lifted. He suggested that the problem could be dealt with by a traffic re-routing plan; he distributed a plan sponsored by 13 developers and contractors that would take traffic/parking off the street; enforcement programs were included. He noted that one company, Sloan's Construction, had requested that their name be removed, as they currently did not have any ongoing work in the area.

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Mayor Smith commented that she was concerned with the residents as well, and that everyone involved should be treated fairly. She noted that most residents supported the proposed drainage program in cooperation with the City of West Palm Beach, and the neighborhoods must be protected during the process.

President Brooks thanked all those attending the meeting, and pointed out that it was very important to receive the input of citizens; the Town Council was motivated by the public safety and welfare of the community.

President Pro-Tem Goldblum commented that he appreciated everyone coming to the meeting, and that many had come forward with ideas. He suggested that there be no parking on any street where there is construction involved. Any cars or trucks that come to do service on your property must be on your property. They could park from the curb into your property, and it would be the responsibility of the property owner to replace the grass in those areas. The streets would be opened up as quickly as possible when construction was finished. On North Ocean Blvd. there would be no parking during the whole period of time, because that was a thoroughfare. He offered that compromise.

Councilman Wyett commented that the side streets would have more traffic when construction took place on North Lake Way. He stated that the Town Council was very concerned with the public welfare, and suggested that North Ocean Blvd. not be included in the moratorium, however, any construction on North Ocean must contain all vehicles on its own property. Several streets running north and south that would not impact traffic could be released from the proposed moratorium. As soon as a street had been finished, it would come out of the moratorium. He suggested that the moratorium be imposed for only 18 months.

Councilman McDonald commented that he had opposed the moratorium when it was passed last month, and based upon the evidence and testimony today, and the Town's own traffic report prepared by Kimley Horne, he could not see how a moratorium could be sustained. He suggested that a traffic construction management plan would enable the Town to control traffic and construction during the period of work on North Lake Way, without a moratorium.

Town Attorney Randolph commented that the Kimley Horne traffic report should be made part of the record today.

Mayor Smith commented that twenty years ago the same type of project had been undertaken on North Ocean Blvd., and had lasted for two years; she asked staff how

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traffic/parking had been dealt with at that time?

Director of Planning, Zoning & Building Robert Moore replied that traffic had been re-routed wherever necessary.

President Brooks commented that it appeared that a moratorium was unacceptable, and a decision must now be made on a plan to allow the necessary construction and manage traffic/parking as well.

Councilman McLendon commented that a year ago he had noticed 30 pick up trucks parked between Coconut Row and South County Road on Clarke Avenue. He expressed concern that residents who had pushed for a moratorium, and who had expressed that the upgrading of houses and excess of building permits in the north end had caused traffic problems had not voiced an opinion today.

Attorney Randolph advised that he did not believe the Town Council would need to spend time at this meeting to make a determination as to what kind of plan would be devised if it was decided that there would not be a moratorium. Staff had the ability to address that and come back to the Town Council with a plan.

President Pro-Tem Goldblum moved that Ordinance No. 14-02 be rejected, that Zoning In Progress was no longer in effect, and that staff be requested to address a parking/traffic plan to be put into place during the construction project. On roll call the motion carried 4/1, with Councilman McLendon casting a dissenting vote.

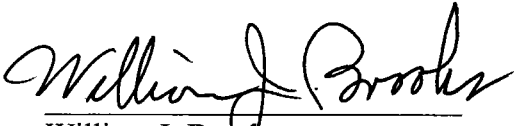
V. ANY OTHER MATTERS

There were none.

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VI. ADJOURNMENT

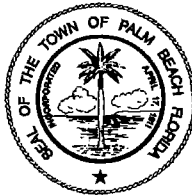
There being no further business, the Special Town Council Meeting of July 9, 2002, held at 5:01 p.m. was adjourned at 6:48 p.m.



William J. Brooks
Town Council President



Mary A. Pollitt
Town Clerk



PREPARED BY:
SUSAN EICHHORN
DEPUTY TOWN CLERK
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