TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL MEETING HELD ON TUESDAY, JUNE 10, 2008

I. CALL TO ORDER AND ROLL CALL

The Regular Town Council Meeting was called to order on Tuesday, June 10, 2008, at 9:30 a.m., in the Town Council Chambers. On roll call, the following elected officials were found to be present:

Mayor Jack McDonald
President Richard M. Kleid
President Pro Tem Gail Coniglio
Council Member Denis P. Coleman
Council Member Susan Markin
Council Member David A. Rosow

Others present for all or a portion of the meeting were:

Town Manager Peter B. Elwell
Deputy Town Manager Thomas G. Bradford
Assistant Town Manager Sarah E. Hannah
Town Attorney John C. Randolph
William Amador - Fire-Rescue Chief
Brodie Atwater, Division Chief Training & Safety
Jay Boodheshwar - Recreation Director
Paul Brazil - Public Works Director
Eric Brown - Public Works Assistant Director
Paul Castro - Zoning Administrator
Veronica Close - Planning, Zoning and Building Assistant Director
William Crouse - Human Resources Director

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Charles Langley - Public Works Assistant Director
John Page - Planning, Zoning and Building Director
Michael Reiter - Police Chief
Jane Struder - Finance Director
Karen Temme - Risk Manager
Spencer Wilson - Information Systems Manager
Susan Eichhorn - Town Clerk

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Town Clerk Eichhorn gave the invocation. President Kleid led the Pledge of Allegiance.

III. PRESENTATIONS

A. Solid Waste Authority-Outstanding Recycling Partnership.
[John Archambo, Director, Recycling, CIS and Public Affairs, Solid Waste Authority]

John Archambo, Director, Recycling, CIS and Public Affairs, Solid Waste Authority (SWA), presented the Solid Waste Authority's Outstanding Recycling Partnership Award, made out of recycled glass, to thank and recognize the Town of Palm Beach.

Mayor McDonald accepted the award on behalf of the Town Council and the residents of the Town of Palm Beach. He acknowledged Director of Public Works Paul Brazil, noting that it was the Public Works Department that made this program work.

Mr. Archambo thanked and recognized the Public Works Department, as well, for their great teamwork and communication.

Mr. Archambo responded to Council Member Coleman's questions regarding the benchmarks the Town could reach for recycling as well as questions related to the Town's compost site.

IV. COMMENTS OF MAYOR JACK McDONALD

I have one comment today. Recently, the Palm Beach Daily news reported the sale of a home in town for a price of approximately one hundred million dollars. We know people who can afford to live anywhere often choose Palm Beach. The reasons given by the selling realtor for this largest price ever for a Palm Beach property was, and I quote:

"The town is maintained superbly. We keep this town refined, beautifully maintained and wonderfully serviced. This was what appealed to my buyer."

This quote stimulated me to crystalize the reasons for this unique community and its appeal. Many committed Mayors and Town Councils have established policies to foster quality lifestyle, but a part-time volunteer Mayor and Council do not execute the policies that result in this Town being so desirable. To accomplish that on a long term basis requires focus and execution by quality employees, skilled department heads, and an executive who can manage these resources to create an environment of desirability. This team delivers a high level of service that achieves the standard the realtor spoke about. This accomplishment is a reflection on our Town Manager who has shown the ability, skill and finesse to deliver these results over the last several years. His leadership has enabled Palm Beach to command this level of value. So, kudos to you, Peter, for a job well done!

President Kleid commented that the members of the Town Council felt the same way.

V. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

Council Member Coniglio:

- Thanked the community and thanked Town Manager Peter Elwell, Director of Public Works Paul Brazil and Mayor McDonald for their diligent efforts, again, in working through the obstacles with the permitting on Reach 8.

- Requested that everyone clap for Mayor McDonald as he had been named "The Defender" by the Palm Beach County League of Cities in heading the "Let Us Vote" to protect the municipalities in their financial control. She thanked Mayor McDonald.

Council Member Rosow:

- Commented that today he would be driving around Town with Town Manager Elwell, Director of Planning, Zoning, and Building Page, and Director of Public Works Brazil to look at signs, flowers, and beautification to see what can be improved upon in Town. He advised that everything that could be done to continue to foster a beautiful Town would be beneficial, and he believed that the Mayor's comments dovetailed perfectly. He noted that perhaps at the next meeting, a report could be provided on what was seen around Town.

Council Member Coleman:

- Commented regarding a letter to the editor in last Sunday's Shiny Sheet written by a resident commenting on the amount of time it took for the Police Department to respond to the theft of two Picasso's on Worth Avenue. He suggested that the Town should make the residents aware and put the word out that the Police Department responded in twenty seconds, and that it was the security company that took six minutes to call the Police. He noted that the Town's Police Department did a great job, and in this case, it was the security company that the business person chose to protect them that let them down.

- Explained why he was requesting a study be done by Town staff regarding South Ocean Boulevard. He advised that he never understood why Palm Beach County Road came back to County Road at the intersection of South Ocean Boulevard and did not continue on to Royal Palm Way.

President Kleid:

- Noted that in the Consent Agenda, the Town Council would be approving decorative lighting for the area south of the Lake Worth Bridge. He advised that he believed that it had been agreed upon to purchase decorative lighting from the Lake Worth Bridge to Sloan's Curve.

Town Manager Elwell responded that he believed it was a prior Town Council that had expressed their consensus desire for decorative lighting in that area similar to what had been incorporated all along A1A with the State's project. He explained that because that particular portion of A1A had already been improved by the State, there was no State funding available; the project was among the several that were pending for the Town to decide whether or not to proceed with as a Town funded Capital Improvement Project; staff continued to explore the possibility of having the State, at least contribute to that, but that was unlikely as they were already invested in the upgrade of that particular segment. He noted that the Town partnered with them on each of the other segments, because the Town had been able to plan for them. Consideration could be given to this segment during discussion of Capital Improvements.

VI. COMMUNICATIONS FROM CITIZENS- 3 MINUTE LIMIT PLEASE
(Another opportunity for communications from citizens will be offered immediately after the lunch break.)

- Patricia Sans, President of the South County Road Association, reiterated Council Member Rosow's comments regarding beautification. She offered kudos to the Citizen's Association for doing the same thing on Royal Poinciana. She suggested that during the drive, which was mentioned earlier, there be consideration of the following:

  1. The possible placement of foliage pots, with flowers, identically the same, up and down South County Road.
  2. The patchwork look of the sidewalks could be addressed in the FY09 budget for beautification.
  3. Improvement of the signage to be more in keeping with the character of the Town.

VII. APPROVAL OF AGENDA

<u>Items Moved from the Consent Agenda to the Regular Agenda:</u>

- Item VIII.E.1., Approval of the Scheduled and Budgeted Purchase of GO-4 Interceptor III Vehicles, to be heard as Item XI.B.7.

- Item VIII.E.5., South Cove Project Update, to be heard as Item XI.B.8.

- Item VIII.E.2., Approval of Additional Funding for Contract Negotiations Related to Undergrounding Overhead Utilities, to be heard as Item XI.B.9.

01/29/2010

- Item VIII.E.3., Approval of Donation by Mizner Industries to Install Decorative Tiles on the Exterior of the Central Fire-Rescue Station in the Niches on the North and East Walls, to be heard at Item XI.B.10.

Motion made by Council Member Rosow, seconded by President Pro Tem Coniglio, to approve the Agenda as amended. On roll call, the motion carried unanimously.

VIII. CONSENT AGENDA

A. <u>MINUTES: MAY 12, 2008</u>
APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

B. <u>MINUTES: MAY 13, 2008</u>
APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

C. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL COMMISSION AT ITS MEETING ON MAY 28, 2008, WITH THE EXCEPTION OF ARCOM DECISION REGARDING 144 WELLS ROAD.

D. RESOLUTIONS

1. <u>RESOLUTION NO. 26-08</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Acceptance of Funds from the Palm Beach County Emergency Medical Services Awards Program to Be Used for the Improvement and Expansion of EMS Services for the Town and Helping Meet State EMS Goals. Such Funds Shall Not Supplant Existing EMS Budget. [William Amador, Fire-Rescue Chief]

2. <u>RESOLUTION NO. 39-08</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Purchase of Radio Subscriber Units and Equipment (Mobile, Portable and Dispatch) from M/A-com for Use on the New Radio System; Providing for an Effective Date.
[Michael S. Reiter, Chief of Police]

3. RESOLUTION NO. 40-08 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Software License Agreement with PDSI Which Will Provide the Town with 150 Additional Software Licenses to the Existing Town Telestaff Software System and Authorizing the Town Manager to Execute the Telestaff License and Annual Service Agreement on Behalf of the Town.
[Thomas G. Bradford, Deputy Town Manager]

4. RESOLUTION NO. 41-08 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Palm Beach County Law Enforcement Agencies Combined Operational Assistance and Voluntary Cooperation Mutual Aid Agreement and Authorizing the Mayor, Town Council President, Town Manager, and Chief of Police to Execute the Same on Behalf of the Town. [Michael S. Reiter, Chief of Police]

5. RESOLUTION NO. 42-08 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Establishing the Preliminary Non-ad Valorem Assessment Rates for Commercial Solid Waste Collection; Providing an Effective Date. [H. Paul Brazil, Director of Public Works]

6. RESOLUTION NO. 43-08 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding the Purchase of Decorative Street Lights for the SR A1A Street Light Project South of Lake Avenue.
[H. Paul Brazil, Director of Public Works]

7. RESOLUTION NO. 46-08 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, in Recognition of Service by Students of the University of Miami.
[John S. Page, Director of Planning, Zoning, and Building]

8. RESOLUTION NO. 47-08 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Purchase Order to Ferguson Enterprises, Inc., for Inline Booster Station Force Main Piping and Fittings for the Town of Palm Beach, Sealed Bid Number 2008-17.
[H. Paul Brazil, Director of Public Works]

E. OTHER

1. Approval of the Scheduled and Budgeted Purchase of GO-4 Interceptor III Vehicles. [Michael S. Reiter, Chief of Police] *[Moved to Regular Agenda as Item XI.B.7.]*

2. Approval of Additional Funding for Contract Negotiations Related to Undergrounding Overhead Utilities. [Thomas G. Bradford, Deputy Town Manager] *[Moved to Regular Agenda as Item XI.B.9.]*

3. Approval of Donation by Mizner Industries to Install Decorative Tiles on the Exterior of the Central Fire-Rescue Station in the Niches on the North and East Walls. [William Amador, Fire-Rescue Chief] *[Moved to Regular Agenda as Item XI.B.10.]*

4. Selection of Pump Station Contractors for Future Projects. [H. Paul Brazil, Director of Public Works]

5. South Cove Project Update. [H. Paul Brazil, Director of Public Works] *[Moved to Regular Agenda as Item XI.B.8.]*

6. Receipt and Acknowledgment of Final Medical Care Commission Report. [Jack McDonald, Mayor]

7. Florida League of Cities 82^{nd} Annual Conference- Authorization of Town Council Attendance and Designation of Mayor Jack McDonald as the Town's Official Voting Delegate. [Peter B. Elwell, Town Manager]

8. Selection of Insurance Agents for Property, Liability, Workers' Compensation and Ancillary Coverages. [Thomas G. Bradford, Deputy Town Manager]

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

IX. BOARD/COMMISSION ANNUAL REPORT

A. General Employees Retirement Board. [Robert A. Garvy, Chair]

Robert Garvy, Chairman of the General Employees Retirement Board, presented the Annual Report, included in the backup material, and summarized the important elements.

Mr. Garvy responded to questions from the Town Council.

President Kleid, on behalf of Mayor McDonald and the Town Council, thanked Mr. Garvy and the other board members for their dedicated service.

B. Firefighters Retirement Board. [Richard Krock, Chair]

Richard Krock, Chairman of the General Employee Retirement Board, presented the Annual Report, included in the backup material, and summarized the important elements.

Mr. Krock advised that the Firefighters Retirement System was now self-administered. He introduced Mr. William Hanes, noting that for twenty-two years he had been the Counsel and Executive Director of the Kentucky Retirement System, and presently administered both the Firefighters Retirement System and the Police Officers Retirement System.

Mr. Krock responded to questions from President Kleid.

President Kleid, on behalf of Mayor McDonald and the Town Council, thanked Mr. Krock and the other board members for their dedicated service.

C. Police Officers Retirement Board. [Raymond W. Snow, Chair]

Raymond Snow, Chairman of the Police Officers Retirement Board, presented the Annual Report, included in the backup material, and summarized the important elements.

Mr. Snow commented as follows:

- Thanked Mr. Hanes for accepting the position of contract employee for the Town of Palm Beach dedicated to administering both the Firefighters Retirement Plan and the Police Officers Retirement Plan.

- Introduced Brad Armstrong, actuary for all three retirement plans: General Employee Retirement System, Firefighters Retirement System, and the Police Officers Retirement System.
- Introduced Sean Higman, Principal of Prime Buchholz & Associates, Inc., investment advisor and consultant to the Firefighters Retirement System and the Police Officers Retirement System.

Mr. Snow thanked the members of the Police Officers Retirement Board.

Mr. Armstrong responded to questions from Council Member Markin as did Mr. Snow.

President Kleid, on behalf of Mayor McDonald and the Town Council, thanked Mr. Snow and the other board members for their dedicated service.

X. COMMITTEE REPORTS

A. Administrative and Personnel Committee Meeting of May 19, 2008. [Richard M. Kleid, Chair]

President Kleid presented the following report and reviewed the recommendations of the Administrative and Personnel Committee Meeting held on May 19, 2008, attended by both Chair Kleid and Committee Member Coleman.

The Administrative and Personnel Committee Report is included in its entirety below:

ADMINISTRATIVE AND PERSONNEL COMMITTEE MEETING HELD ON MAY 19, 2008 REGARDING THE APPEAL OF WRITTEN REPRIMAND IN THE MATTER OF BRUCE DASH

I. CALL TO ORDER AND ROLL CALL

The meeting of the Administrative and Personnel Committee Meeting was called to order at 9:30 a.m., on Monday, May 19, 2008, in the Town Council Chambers. On roll call, Chairman Richard M. Kleid and Committee Member Denis P. Coleman were found to be present. Also present were: Town Attorney John Randolph, Counsel for the Committee I. Jeffrey Pheterson, Fire-Rescue Chief William Amador, Division Chief Bruce Dash, and Deputy Town Clerk Diane Kassover.

Others present for all or a portion of the meeting were:

Brodie Atwater, Division Chief Training & Safety
Andrew Cox, Assistant Chief
William Crouse, Human Resources Director
Darrell Donatto, Battalion Chief
Brian Fuller, Division Chief EMS
Rick Howe, Major Law Enforcement
Roger Lane, Battalion Chief
Michael Reiter, Police Chief
Dr. Randall L. Wolff - Town of Palm Beach Medical Director, Fire-Rescue Department

II. PLEDGE OF ALLEGIANCE

President Kleid led the Pledge of Allegiance.

III. APPROVAL OF AGENDA

The agenda was approved as printed.

IV. CONSIDERATION OF APPEAL OF WRITTEN REPRIMAND IN THE MATTER OF DIVISION CHIEF BRUCE DASH.

Town Attorney Randolph and Attorney Block agreed to allow the Town to present its case first.

President Kleid advised that the members of the Committee had not seen any part of the record, they had absolutely no idea of what the case was about, and the backup had just been presented to them for the first time. He noted that it would be helpful to the Committee if a brief opening statement was made by both parties.

Town Attorney John Randolph provided an opening statement:

The Committee had been provided a package containing the following documents regarding Bruce Dash who on October 28, 2007, while serving as a

Battalion Commander, took charge as an Incident Commander and Safety Officer of an incident in which seven of the Town's personnel were unnecessarily exposed to what could have been deadly gas. The incident was described in the Palm Beach Daily News on October 29, 2007, and because of the seriousness of the event, was reviewed by the Town Council on that same date.

He submitted and referred to the following documents:

- Palm Beach Daily News articles dated October 29, 2007 and October 30, 2007.
- Written Reprimand to Bruce Dash, dated February 8, 2008.
- Written Grievance submitted by Bruce Dash, dated February 11, 2008.
- Memorandum to Bruce Dash from Human Resources Director William Crouse, dated March 12, 2008.
- Palm Beach Police Department Incident Report.

The documents, that he would focus on, were the written reprimand and the grievance filed in response to the reprimand.

The written reprimand referenced several Town regulations that were violated by Bruce Dash in regard to the October 28th incident.

Testimony would be given by the following persons: William Amador, Fire-Rescue Chief, Dr. Randall Wolfe, Town's Medical Director for Fire-Rescue, Brian Fuller, Fire-Rescue Training Officer.

The two sub issues of this grievance were:

1. A complaint by Bruce Dash that, as a result of this incident, he was transferred from the position of Battalion Chief to Division Chief.

2. A complaint by Bruce Dash that he was improperly required to take vacation time while he was on administrative leave.

The written reprimand was the very least that could have been rendered in this situation and that the Committee would support the reprimand, as well as the other actions taken by Chief Amador relating to Bruce Dash's transfer and his vacation pay.

Attorney Ellen Block, on behalf of herself and her client, Division Chief Bruce Dash, thanked the Committee for the opportunity to be heard on the issues as set forth in the agenda, which was included in the packet of documents that she had provided to the Committee. She provided an opening statement, referring to the agenda, related to the following issues:

- Her document Item #1: Written Reprimand
  - The written reprimand was Bruce Dash's first and only written reprimand in an otherwise unblemished 26 year career with the Town of Palm Beach Fire Department.
- Her document Item #2: Administrative Leave Versus Vacation Leave
- Her document Item #3: Whistle Blower Action/Retaliation

Town Attorney Randolph objected to discussion of the Jason Weeks incident, because that issue was not part of the grievance before the Committee today.

In response to Attorney Pheterson, Attorney Block agreed that it was the subject of a pending investigation, but noted that the relevance was the fact that Lt. Weeks had been able to return to his position pending the investigation whereas Division Chief Dash was not. It had to do with additional ongoing retaliatory treatment.

Attorney Pheterson requested that if Attorney Block addressed this, she keep it short, because it was dealing with motive and not with the actual substance of the underlying treatment.

Attorney Block advised that was all she had to say regarding the Jason Weeks incident. In closing, on behalf of her client, she thanked the Committee, in advance, for their careful consideration of the facts.

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

William Amador, Fire-Rescue Chief, provided testimony in response to the questions of Town Attorney Randolph, members of the Administration and Personnel Committee, and Attorney Pheterson.

Attorney Block was afforded the opportunity to cross-examine Chief Amador.

Committee Member Coleman noted that the cross-examination proceedings so far were a bit of a distraction from the only relevant issue, which was how seven people became contaminated.

Discussion ensued and President Kleid advised that the cross-examination would be curtailed, the Town would continue to present its case, and Attorney Block had reserved the right to cross-examine at a later time.

Town Attorney Randolph called the following persons to provide testimony:

Dr. Randall L. Wolff, Medical Director of the Town of Palm Beach Fire-Rescue Department
Brian Fuller, Division Chief Training & Safety
Brodie Atwater, Division Chief of Operations

Attorney Block was offered the opportunity to present her case, requesting Bruce Dash to testify.

Bruce H. Dash, Division Chief of EMS, testified that he had been employed with the Town of Palm Beach Fire-Rescue Department since April 19, 1982. He briefly described his employment history with the Town and his education. He reviewed the key points related to the investigation that had taken place regarding the issues.

During the testimony of Dr. Wolff, Division Chief Fuller, Division Chief Atwater, and Division Chief Dash, the members of the Committee and Attorney Pheterson were given the opportunity to question them.

After discussion regarding the proceedings of the meeting, President Kleid advised that with Attorney Block's permission, the Committee would stop discussion and focus just on the incident itself before moving onto the next set of issues. The Town would have the opportunity now to rebut Division Chief Dash's characterization of the incident.

Town Attorney Randolph commented that, procedurally, what he would have done was to have cross-examined Division Chief Dash, but he believed the best way to continue was to hear from Chief Amador in response to some of the statements that had been made.

Committee Member Coleman noted that from what he had heard, someone was either responsible for people getting contaminated or nobody was responsible because of the chaos of unified command, and a lack of awareness that the device was going to be exploded. He noted that was a very important point related to the contamination of people.

Attorney Pheterson questioned whether the Committee believed it would be more productive for Town Attorney Randolph to ask some follow-up questions of Division Chief Dash before questioning Chief Amador.

Town Attorney Randolph commented that he would prefer that they heard from Chief Amador now, and called him on rebuttal.

Committee Member Coleman requested that Chief Amador provide a copy of the transcript of the interrogation of Bruce Dash in order that Town Manager Elwell could review same, at a future date, due to the concern related to unified command.

Chief Amador provided testimony in response to the questions of Town Attorney Randolph, Chair Kleid, and Committee Member Coleman.

Division Chief Dash provided responses to Attorney Block's questions related to the comments made by Chief Amador.

Town Attorney Randolph was provided the opportunity for cross-examination of Division Chief Dash related only to the incident.

After completion of Town Attorney Randolph's cross-examination of Division Chief Dash, Attorney Block referred to Section B in the backup material she had provided, to present her case relative to the vacation leave issue.

Division Chief Dash provided testimony relative to the vacation leave issue and responded to the questions of Attorney Block, Chair Kleid, and Committee Member Coleman.

Chief Amador responded to Committee Member Coleman relative to the seven-day notice period required to cancel vacation. He further clarified that

Division Chief Dash had been reminded, as a courtesy, that his primary vacation would be honored, and that he did not have to be available for any questioning.

Division Chief Dash was provided the opportunity to rebut the comments made by Chief Amador.

Committee Member Coleman commented that the issue relative to administrative leave versus vacation leave was a financial issue, because Division Chief Dash believed that it should have been administrative leave and not vacation leave.

Attorney Block noted, for the record, that Division Chief Dash's vacation was to have started December 18, 2007, ending on January 11, 2008. She continued with the presentation of her case, referring to Section B of the backup material.

Attorney Block called Battalion Chief Roger Lane to testify relative to policy and procedure related to vacation leave.

Battalion Chief Lane, provided testimony in response to questions of Attorney Block, Chief Amador, and Town Attorney Randolph.

In response to Attorney Block, Battalion Chief Lane provided information regarding his position as Battalion Chief, and the training he had received from Division Chief Dash.

Chief Amador read the following portion of Section B, Document 43: Town of Palm Beach's Rules and Regulations regarding Vacation Leave and Cancellation, from the backup provided by Attorney Block:

> "Section 10-1.6 Vacation Policy
> Nothing in this Article shall restrict the authority of the Fire-Rescue Chief to implement a vacation policy that ensured employees will not lose vacation time and the Town will not be forced to staff through overtime involuntarily."

Chief Amador commented that the reason the policy was utilized, was so that employees would not be allowed to turn in blocks of vacation time. He explained that there was a period when vacation time could be sold back, which would be circumvented if employees were allowed to turn back time, then not utilize it, and then lose the time. He advised that, as Chief Lane had stated, in his four years as Battalion Chief, he could not recall a situation where blocks of time were turned back in.

Attorney Block called Battalion Chief Darrell Donatto to testify relative to policy and procedure related to vacation leave. In response to President Kleid, Attorney Block advised that Donatto would testify similarly to the testimony of Battalion Chief Lane. She explained that Donatto's testimony would show that this was a pattern in practice among all Fire-Rescue Battalion Chiefs.

Committee Member Coleman advised that he accepted that.

Battalion Chief Donatto provided testimony in response to the questions of Attorney Town Attorney Randolph.

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Recess was taken at 1:00 p.m.
The Administration and Personnel Town Council Committee Meeting of May 19, 2008, was reconvened at 1:20 p.m.

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Town Attorney Randolph advised that Chief Reiter had been placed on a witness list by Attorney Block, and noted that he had to leave the meeting no later than 2:00 p.m. He questioned whether Attorney Block would be calling on Chief Reiter to testify, and she advised that she did not plan to call on him.

Town Attorney Randolph was provided the opportunity to call Chief Reiter to testify on the incident.

Deputy Town Clerk Kassover administered the oath to Chief Reiter.

Chief Reiter provided testimony in response to the questions of Town Attorney Randolph.

Division Chief Cox provided testimony in response to the questions of Attorney Block regarding the Whistle Blower Action/Retaliation issue.

Attorney Block called Assistant Chief Andrew Cox as a witness relative to Division Chief Dash's participation in an investigation of a complaint filed by

Assistant Chief of Administration Andrew Cox, who was disputing a poor job performance evaluation completed by Chief Amador.

In response to Attorney Pheterson, Attorney Block advised that she had not, at this point, concluded with the testimony of Division Chief Dash. She noted that after the testimony of Assistant Chief Cox, who was their last witness, she would have a few follow-up questions for Division Chief Dash. She advised that Mr. Cox's testimony was relevant to what Mr. Dash was now testifying to.

Chair Kleid stated, for the record, that both he and Mr. Coleman were members of the Administrative and Personnel Town Council Committee at the time of the complaint made by Assistant Chief Cox, and that they were quite familiar with what transpired at that meeting.

Town Attorney Randolph advised that the Committee, at that time, had heard a different complaint. The complaint here was for a complaint that Assistant Chief Cox had made against Chief Amador for a hostile work environment. The complaint heard previously concerned a hostile work environment against Assistant Chief Cox.

Assistant Chief Andrew Cox provided testimony in response to the questions of Attorney Block, Town Attorney Randolph, and Chair Kleid.

Town Attorney Randolph objected to the questioning of Assistant Chief Cox relative to whether Division Chief Dash had informed him of the difficult work environment he was experiencing, because it did not have anything to do with today's discussion, and because it was under investigation.

In response to Attorney Pheterson, Attorney Block advised that there was nothing currently under investigation, and what this questioning went toward, was the continuous and ongoing retaliation as a result of Division Chief Dash's participation in Assistant Chief Cox's complaint.

Town Attorney Randolph commented that issue was not up for review today.

Attorney Block responded to the questions and concerns of Attorney Pheterson related to the relevance of the questioning of Assistant Chief Cox.

Discussion ensued and Chair Kleid requested that Assistant Chief Cox's testimony be limited to whether or not there was retaliation at the time of the reprimand and not what occurred subsequent to the reprimand.

Attorney Block continued to question Assistant Chief Cox.

In response to Chair Kleid, Assistant Chief Cox advised that he had been a victim of retaliation since the original harassment occurred, and Chief Amador had been found guilty of harassment, and there had been additional retaliation.

Discussion ensued and Assistant Chief Cox commented that based on the facts of the incident and all the information that he had seen and heard about, he did not believe the written reprimand was warranted, and he believed that a different approach would have been more appropriate.

Assistant Chief Cox continued his testimony in response to questions of Attorney Block.

Town Attorney Randolph objected to Attorney Block's questioning of Assistant Chief Cox relative to his opinion on whether it was possible that when a disciplinary reprimand was given, without any follow-up training or counseling, it could be that it was not the result of subjective retaliation, but it was actually a disciplinary reprimand that was meant to train and educate the person being reprimanded. He advised that he did not know what Assistant Chief Cox's opinion, in regard to that, had to do with what the discussion. He believed that Chief Amador was the person to make that determination, and the opinion of Assistant Chief Cox was irrelevant and had no interest to the Committee today.

Attorney Pheterson commented that, at first, the question was very leading, but he believed that the answer would be yes, and he did not think anyone would be surprised to hear Assistant Cox answer in the positive. He noted that he did not know how this question was advancing this matter.

Attorney Block questioned whether Assistant Cox could respond, and Chair Kleid requested that she try a different line of questioning.

Attorney Block continued questioning Assistant Chief Cox.

Town Attorney Randolph then cross-examined Assistant Chief Cox.

Attorney Block was given the opportunity to continue questioning Division Chief Dash regarding the issue of retaliation and a hostile work environment.

Chair Kleid commented that he did not know what Division Chief Dash's testimony had to do with a hostile work environment.

Division Chief Dash continued to provide testimony relative to the issue of extraordinary longevity.

Attorney Block advised that she had no further questions and Town Attorney Randolph cross-examined Division Chief Bruce Dash relative to the retaliation issues that had been brought forward.

Town Attorney Randolph advised that he now had several questions for Division Chief Dash regarding the incident.

Attorney Pheterson explained that Town Attorney Randolph had deferred cross-examination, up to that point, and could now proceed.

Town Attorney Randolph cross-examined Division Chief Dash regarding the incident, and after the testimony was concluded, and there were no further witnesses, Town Attorney Randolph provided a brief closing statement. He noted that the Committee had requested that the interviews with Division Chief Bruce Dash would be included in the record, and he would provide those transcripts.

Attorney Block provided a brief closing statement.

In response to Chair Kleid who questioned how the Committee would proceed, Attorney Pheterson explained that this meeting was in the Sunshine. The Committee did not need to make a decision today, but under the Sunshine Law, each member of the Committee could independently speak with him, but if a decision was made, it would have to be made again in a public forum. The Committee, would need to set another meeting.

Chair Kleid and Committee Member Coleman provided comments regarding the reasons for the findings rendered. The findings of the Committee were:

- The written reprimand was upheld and the grievance was denied.
- The seven twenty-four hour sifts that were deducted from the vacation leave bank of Division Chief Dash would be reinstated without setting a precedent.
- There was no finding of evidence to support the allegation of retaliation for being a whistle blower.

Attorney Pheterson restated the findings of the Administrative and Personnel Committee as noted above, to ensure that the record was clear. The members of the Committee agreed.

V. ANY OTHER MATTERS

There were none.

VI. ADJOURNMENT

There being no further business, the meeting of the Administrative and Personnel Committee of May 19, 2008, was adjourned at 2:30 p.m.

Richard M. Kleid	Denis P. Coleman
Chairman	Committee Member

End of Report of the Administrative and Personnel Committee

Motion made by Council Member Markin, seconded by President Pro Tem Coniglio, to accept the report and adopt the recommendations made by the Administrative and Personnel Committee. On roll call, the motion carried unanimously.

B. Public Works Committee Meeting of May 20, 2008.
[Gail Coniglio, Chair]

President Pro Tem Coniglio presented the following report and reviewed the recommendations of the Public Works Committee Meeting held on May 20, 2008, attended by both Chair Coniglio and Committee Member Markin.

The Public Works Committee Report is included in its entirety below:

REPORT OF THE PUBLIC WORKS COMMITTEE MEETING HELD ON MAY 20, 2008

I. CALL TO ORDER AND ROLL CALL

The Public Works Committee Meeting was called to order on Tuesday, May 20, 2008, at 2:00 p.m., in the Town Council Chambers. On roll call, Chair Gail Coniglio and Committee Member Susan Markin were present.

Others present for all or a portion of the meeting were:

Peter B. Elwell - Town Manager
Thomas G. Bradford - Deputy Town Manager
James Bowser - Town Engineer
Paul Brazil - Public Works Director
Eric Brown - Public Works Assistant Director
Veronica Close - Assistant Director of Planning, Zoning, and Building
Jeff Taylor - Acting Building Official
Diane Kassover - Deputy Town Clerk

II. APPROVAL OF AGENDA

The Agenda was approved as printed.

III. STATUS REPORT ON THE ACTION ITEMS FROM THE PUBLIC WORKS COMMITTEE MEETING ON FEBRUARY 27, 2008.
[H. Paul Brazil, Director of Public Works, and John Page, Director of Planning, Zoning, and Building]

Assistant Director of Planning, Zoning, and Building Veronica Close referred to the memorandum dated May 16, 2008 to the members of the Public Works Committee , and included in the backup material, to provide a status report on the following agenda items related to the Planning, Zoning, and Building Department, which were discussed at the Public Works Committee Meeting held on February 27, 2008.

A. Digitized Plan Submittal and Concurrent Plan Review.
[John Page, Director of Planning, Zoning, and Building]

- Submission of budget proposal and concurrent plan review.

Ms. Close commented that the Planning, Zoning, and Building (PZ&B) Department had submitted a budget request for $71,000, as a supplemental item, within its FY09 budget, for the acquisition of specialized software that allowed plan marking directly to plans by multiple users simultaneously, in conjunction with implementation of the EDEN permitting system. She noted the total project cost was $95,000. The system required the use of 30' monitors in addition to software acquisition. If approved, the $71,000 would be used this coming year to implement the system, purchasing six stations, and the following year additional stations would be put in place. PZ&B assumed a total of ten stations.

Mrs. Close along with Town Manager Elwell responded to questions and concerns of the members of the Committee related to plan storage, backup of plans, and the time frame for implementation.

B. Computerized Trading of Plan Review Status.
[John Page, Director of Planning, Zoning, and Building]

- Ability for contractors and owners to track the status of plan review.

Ms. Close commented on the tracking system that the Planning, Zoning, and Building Department had developed and placed on the web to enable contractors and owners to access the Department's website to track the status of their permit applications. She noted that the information was updated twice daily at noon and 4:30 p.m.

C. Shared Parking at On-Island Clubs for Construction Contractors. [John Page, Director of Planning, Zoning, and Building]

Ms. Close commented on the above item, noting that staff had added this item to a proposed list of possible zoning season study items to be considered at the June Town Council Meeting.

In response to Committee Member Markin, Town Manager Elwell explained the reason shared parking had to be a zoning season study item, noting that shared parking at the clubs could not be initiated until next summer.

Action Item:

Chair Coniglio requested that Code Enforcement track, particularly through the summer, what problems had occurred with construction parking, and how many complaints were received.

Town Manager Elwell responded that staff would continue to provide updates.

Ms. Close advised that at the next meeting held with contractors, staff would ask them what difficulties they were having with their employees and subs onsite.

Discussion ensued relative to the impact of construction related on-street parking. Town Manager Elwell responded that the Town was tracking the impact of additional code enforcement efforts and a report would be provided.

He commented that a study had been conducted determining that on-street parking could be made up to 1/3 better with stronger enforcement, but there would always be some on-street parking that had nothing to do with construction.

Action Item:

After discussion, it was the consensus of the Committee to request that Town Attorney Randolph render a written opinion as to whether there was a way to expedite this item without having to go through the zoning season.

Town Manager Elwell advised that staff would attach that opinion to the Public Works Committee Report, which would be considered at the June 10, 2008, Town Council Meeting.

D. Flowcharts and Checklists for Review of Development Applications. [John Page, Director of Planning, Zoning, and Building]

- Checklists for use by contractors in filing permit applications.

Ms. Close commented on the above item and responded to questions and concerns of the Committee Members as did Town Manager Elwell.

Committee Member Markin commented that she was very excited about the changes, noting that the results would be positive. She advised that she looked forward to the installation of the software in order to see the efficiencies that went with it.

Chair Coniglio commented that the hard work that staff had already done would be substantiated.

E. Update on Hibiscus Avenue Sewer Main Extension (and Related Lateral Connections) [H. Paul Brazil, Director of Public Works]

Director of Public Works Paul Brazil provided an update on the above item as follows:

- The work had started on schedule, and the project should finish on schedule.

- The project was currently under budget.

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- Staff had been working with the two homeowners who were attached to the third homeowner, Mr. Braden.

- The Town had broken Mr. Braden's water line, which has been repaired; sand had entered into the water system damaging his washing machine and hot water heater.

    - The Risk Manager has been involved and would contact Mr. Braden.

    - Staff was working with Mr. Braden and spoke with him almost on a daily basis.

Mr. Brazil responded to the questions and concerns of Chair Coniglio.

F. Standard Details to Assist Contractors in Complying with Town Infrastructure Requirements. [H. Paul Brazil, Director of Public Works]

Director of Public Works Paul Brazil referred to the memorandum to the members of the Public Works Committee dated May 16, 2008, and included in the backup material, to provide a report on Public Works Standard Details and Checklists. He responded to questions and concerns of the members of the Public Works Committee.

<u>**Action Item:**</u>

Committee Member Markin read the following from the backup on page 2 of the Public Works Permit Coordination Review, e. Drainage Plan (last paragraph).

> "New Construction is required to provide for the retention of storm water runoff from a two inch rainfall over the entire site. Major remodeling projects are required to provide retention for areas of new construction and areas disturbed during construction."

Committee Member Markin noted that it did not state how much retention was required. She questioned whether the entire site had to provide drainage for the entire piece of property, if it was a major renovation.

Mr. Brazil advised that a different phrase should have been used, and he would change the wording to clarify the statement.

G. Procedures to Clarify Distinction Between Planning, Zoning, and Building Approval of Private Improvements and Public Works Approval of Infrastructure.
[H. Paul Brazil, Director of Public Works]

Director of Public Works Paul Brazil reviewed the procedures that would be used to clarify the distinction between the Planning, Zoning, and Building Department's approval of private improvements and the Public Works Department's approval of infrastructure.

H. 20-Year Capital Improvement Program.
[H. Paul Brazil, Director of Public Works]

Director of Public Works Paul Brazil referred to his memorandum to the members of the Public Works Committee dated May 16, 2008, and included in the backup material, to provide a report on the 20-Year Long Range Capital Improvement Plan. He noted that Town Engineer Bowser had spent a great deal of time in putting this program together.

Town Engineer Bowser responded to questions and concerns of the members of the Town Council on the following items:

- Roadways - Bridges
- Street Lighting

After discussion, Town Manager Elwell advised that the expansion of the lighting system was not included in this program, just as the expansion of the drainage system and the beaches were not included.

At the request of Mr. Brazil, Mr. Bowser commented on the following sanitary sewer items, noting that they were the two largest issues facing the Town:

- Regional Plan/Town's Sewage Treatment Plant
- Force Mains

Mr. Bowser advised that it was recommended that the Town place money into a force main replacement account.

Mr. Bowser commented on the following issues:

- Pump Stations/Maintenance of Existing Infrastructure

- Town Buildings

    - Renovations of the North Fire Station and Public Works

- Recreation Department Facilities

    - Docks

Discussion ensued and Mr. Brazil advised that the bottom line was higher than what had occurred, in the past, for the Capital Improvement Program. He explained that the Town would average about $6.5 million a year, in today's dollars, to maintain the Town's infrastructure in these out years as opposed to the approximately $3 million a year presently in the Capital Improvement Program. He noted that this plan was a prudent way to anticipate what needed to be done, but it showed that the Town probably needed to invest more in the infrastructure in the out years than what was presently being done.

Mr. Bowser responded to questions and concerns of the members of the Public Works Committee with input from Mr. Brazil and Mr. Elwell on the following:

- Force main rehabilitation costs
- Major renovation costs - Police Department facility
- Resurfacing

Committee Member Markin noted that the reason this program had been developed initially was to make the Town Council and others aware of the looming expenses that could be out there for the Town's infrastructure. She believed that this report did that and complimented staff for taking the time and providing the detail. She commented that even though it was in today's dollars and not in future dollars, it still provided a road map for expected expenses, which were fairly large. She reiterated that the numbers needed to come to the forefront of the Town Council to make them all aware of it so when choices were made, it was known that there were other items to be considered as well.

In response to Chair Coniglio relative to the bottom line and the effect it would have on the the taxpayers, Mr. Brazil advised that what might occur was that there would be some transition, as the first year of the long term program rolled into the last year of the short term program, which would need refining. That number would probably change over time and would be more expensive over time.

Town Manager Elwell commented on the impact to taxpayer numbers as opposed to construction estimate numbers. The engineers had commented today that even the construction estimate numbers were in order of magnitude, in today's dollars, as some of the work might not need to be done, other work that cannot be foreseen might need to be done, or might need to be done sooner. The variables at play were many, just on the construction side of this. He noted that when trying to relate it to the rest of the Town's budget, it really became a risky exercise, because it could not be predicted with accuracy, looking out more than a few years, what else would change in Town government, or State law. He advised that the Town was in a very dynamic period, at present, with a lot changing on both fronts. He urged the Committee to be careful when looking at the bottom line of this chart as to the decision making number.

Chair Coniglio commented, on the concerns she had in addition to this exercise going forward. She noted that there was no clear grasp on the additional monies that would be needed for a rainy day fund for either a catastrophe or a major overhaul, and it was that monetary number, that needed to be explained at the June10, 2008, Town Council Meeting.

In response to Chair Coniglio, Mr. Brazil responded as follows:

- This program had not been "levelized" on purpose, and the program, as it rolled into the short term capital improvement program, would become "levelized."
- The total magnitude of the dollars was a pretty good estimate, but it was in today's dollars.
- The impact could be shown short term, but if looking out very far, with impact to the taxpayer, it was very skewed.
- The transition between the existing 5-year program and that first jump ahead into long term items, was a reasonable estimate of what the Town would be faced with.

In response to Chair Coniglio, who wanted to know what staff's suggestion was as to what additional monies should be accumulated per year to prepare for year 2014, Mr. Elwell responded as follows:

- Staff intended to provide very specific information to the Town Council this summer, during the budget process, for the 5-year Capital Improvement Process, but noted that anything beyond that was based on assumptions making it very risky to make decisions.
- Staff had great concerns about discussing funding beyond the five-year horizon.
- Staff would discuss funding with the Town Council, in the budget context, relative to making decisions looking into the future for funding, because there were so many construction variables and other variables about the tax laws and other operations of Town government.
- The out years should be used for context, and the near term years should be used for numbers that could be counted on.
- The Town expected to be able to handle the present year, but had concerns looking ahead if State law did not change.

Deputy Town Manager Bradford added that he believed, with the upcoming fiscal year budget, State law would now require the Town to identify the funding sources that would be used to fund the Capital Improvement Program for the 5-year time period.

Mr. Elwell noted that though it was pure conjecture, the State could not allow infrastructures to deteriorate and might offer some State programs to assist local governments. He reiterated that the exercise that was completed here was staff's best effort to identify, in today's dollars, the money that would be necessary in order to keep the Town's existing infrastructure in good working order. It did not expand anything, it did not do anything new, and it did not add to existing systems.

William Diamond, 220 Wells Road, questioned what the residents on the north end would do about additional street lighting, commenting that he did not understand why there were no provisions in the budget for that.

Committee Member Markin explained that it was not that it was not included in the budget, but it just was not included in this program, because what they were looking at was maintaining the existing infrastructure, and staff clarified that at the very beginning. She advised that the point of the whole process was to make the citizen's, the Town Council, and others aware of the looming infrastructure expenses.

Mr. Elwell explained that the Town recognized that there were huge policy decisions that needed to be made and staff was prepared to assist the Town Council in making them. He advised that undergrounding, additional lighting, water system investments, the second half of the drainage program would all be considered improvements. The decisions relative to those other items would be a process of how much more the Town was willing to invest.

In response to Committee Member Markin, Mr. Elwell explained why a reduced operating millage rate was used.

Discussion ensued and Mr. Elwell noted that the issue of 8% return for pensions raised by Mr. Diamond was not a topic on today's agenda, but believed it was an important issue. He explained that there was some misunderstanding in the community relative to this matter, and clarified same. He advised that this issue could be discussed further at the June 10, 2008, Town Council Meeting, as the three chairs of the Retirement Boards would be present to provide their Annual Report.

Mr. Bowser noted that he wanted to make a point, advising that when talking about water in the future, the Town currently, through its water rates, was paying for a lot of infrastructure, operation, and maintenance. He noted that whatever the water rates were going to be, they would be what paid for purchase of the system, operation, and maintenance.

Mr. Elwell noted that Mr. Bowser had made a very good point. The Town needed to be cautious about assuming that it would be a wash, but there was certainly going to be a substantial revenue stream to set against those substantial expenses, and that made water different than undergrounding, drainage, and the other things that did not have that dynamic.

In response to Committee Member Markin, Mr. Brazil advised that the Town, every time a job was completed, submitted invoices to the City of West Palm Beach, and they reimbursed the Town.

Mr. Elwell clarified that the money came from funds the residents paid into the system as customers. It was all coming from the pockets of the people of the Town, but it was not an additional cost burden to the Town as it came out of the water rates.

Committee Member Markin commented that if this process and this exercise did one thing positive, without looking into how the Town was going to fund things in the future, it was that the Town came across the categories of major expenses that the Town could incur, which needed to be known in order to make good choices in the future. She believed that had been accomplished in this report and thanked staff.

Deputy Town Manager Bradford commented that another positive result was that this exercise picked the brain of Town Engineer Bowser before he retired.

In response to President Pro Tem Coniglio, Mr. Bowser advised that this program was based upon the operators and what they believed it would cost to operate and maintain. It was broken down into three broad categories, structural, electrical, and mechanical.

IV. REPLACEMENT OF PNEUMATIC SANITARY SEWER PUMP STATIONS
[H. Paul Brazil, Director of Public Works]

Director of Public Works Paul Brazil referred to his memorandum to the members of the Public Works Committee dated May 16, 2008, and included in the backup material, to provide a report on Sanitary Sewer Pump Stations - Replacement of Pneumatic Sanitary Sewer Pump Stations.

In response to Committee Member Markin, Mr. Brazil advised that he would ask Town Attorney Randolph what could be done legally to make the residents take ownership of the lift stations on their property.

Action Item:

After discussion, it was the consensus of the Public Works Committee to request Town Attorney Randolph render a written opinion to be available for the June 10, 2008, Town Council Meeting, on the legal question of what the Town could do legally to make the residents take ownership of the lift stations on their property.

V. ANY OTHER MATTERS

There were none.

VI. ADJOURNMENT

There being no further business, the Public Works Committee Meeting of May 20, 2008, was adjourned at 3:30 p.m.

Gail Coniglio, Chairman | Susan Markin, Committee Member

End of Report of the Public Works Committee

Motion made by Council Member Coleman, seconded by Council Member Markin, to accept the report of the Public Works Committee presented by Chair Coniglio. On roll call, the motion carried unanimously.

XI. REGULAR AGENDA

A. Old Business

1. Lobbying Services in Washington.
[Peter B. Elwell, Town Manager]

Town Manager Elwell introduced Philip Bangert of Patton Boggs, LLP, Lobbyist for the Town of Palm Beach in Washington, D.C. He referred to his memorandum to the Mayor and Town Council dated June 5, 2008, and included in the backup material, to review the Town's lobbying services.

Philip Bangert, Partner, Patton Boggs, LLP, referred to his letter to Town Manager Elwell dated June 2, 2008, and included in the backup material, to provide a brief history of Patton Boggs, LLP, and the firm's association, past present and future, with the Town of Palm Beach.

Discussion ensued and Mr. Bangert responded to questions and concerns of the members of the Town Council as did Town Manager Elwell regarding the following:

- Tri-Party Coalition

- Reach 8 Permitting/Beach Renourishment

- Sand Transfer Plant

- Permit modification allowing the placement of dredged sand on other beaches of the Town

- Expansion of the Port of Palm Beach

- Feasibility Study

Town Manager Elwell noted that over the four years of service that Patton Boggs had provided to the Town, the major emphasis of the work related to issues concerning the Lake Worth Inlet.

After discussion, it was the consensus of the Town Council to add to an item to a future Town Council Meeting agenda regarding discussion of the position of the Town vis-a-vis the expansion of the Port.

Council Member Coleman commented on present litigation on Long Island against the federal government, regarding the injection of jetties and the loss of downstream sand. He questioned whether that legislation had any relevance to the Town.

Mr. Bangert responded that he was not aware of that litigation, but would do some research and send Town Manager Elwell a memo regarding same.

Mayor McDonald provided background information on the Tri-Party Coalition Agreement, noting that he respectfully disagreed with Council Member Rosow and Council Member Markin. It would be foolish and shortsighted to renege on the agreement with the Port, backing out of it now, opposing the feasibility study. He believed it would be a gigantic political mistake, and the Town would lose the support of the congressional delegation on that issue.

Mayor McDonald responded to questions and concerns of the members of the Town Council as did Town Manager Elwell who provided historical context for the Tri-Party Coalition Agreement.

Council Member Rosow and Council Member Markin both objected to the feasibility study.

Council Member Rosow commented that the Town might, at some point, have to litigate against the Army Corps of Engineers in order to achieve their objectives with the Corps.

Discussion ensued and Town Attorney Randolph advised that previous Town Councils had addressed litigating against the Corps. He noted that a report would be presented at the time this issue came forward on the agenda.

After discussion, it was the consensus of the Town Council to direct staff to place the discussion of the Town's position vis-a-vis the Port expansion on the agenda for the July 8, 2008, Town Council Meeting.

William Diamond, 220 Wells Road, questioned if the Town's lobbyists were advising the Town who would be making the decisions affecting the Town, on what date those decisions would be made, and recommending who from the Town should be there to speak with that person. He noted that it had been said that there was nothing more important than to sit down with the actual decision maker.

In response to Mr. Diamond, Mr. Bangert responded that the Town was receiving that advice.

After discussion, President Kleid thanked Mr. Bangert for his presentation and for coming from Washington, D.C..

Mr. Bangert responded that it had been a good meeting, and he appreciated the opportunity to address the Town Council. He noted that he would work with Town Manager Elwell in preparation for the July 8, 2008, Town Council Meeting, providing information that might be useful, noting that he would be happy to attend that meeting.

Town Manager Elwell clarified that the consensus of the Town Council was to direct staff to incorporate in the FY09 budget, for Town Council consideration in July, the funding necessary to increase lobbying activity through Mr. Bangert and Patton Boggs in Washington, D.C.

2. Potential Charter Amendments to Modify the Election Date and/or the Candidate Qualification Schedule.
[Susan A. Eichhorn, Town Clerk]

Town Clerk Eichhorn referred to her memorandum to the Mayor and Town Council dated June 3, 2008, and included in the backup material, to discuss potential Charter amendments to modify the election date and/or the candidate qualification schedule.

Town Clerk Eichhorn responded to questions and concerns of the members of the Town Council.

After discussion, **Council Member Rosow made a motion, seconded by Council Member Markin, to approve removing the qualification requirement of petition signatures, to be accomplished through an ordinance to be presented at the July 8, 2008, Town Council Meeting. Candidates would qualify by being nominated and having two seconders at the Town Caucus.**

Discussion ensued regarding the candidate qualification schedule, and **Council Member Rosow amended his motion, seconded by Council Member Markin, to approve removing the qualification requirement of petition signatures, to be accomplished through an ordinance to be presented at the July 8, 2008, Town Council Meeting. Candidates would qualify by being nominated and having two seconders at the Town Caucus, *along with filing the necessary documents.* On roll call, the motion carried unanimously.**

3. Town Hall Renovation

a. RESOLUTION NO. 44-08 A Resolution of the Town Council of the Town of Palm Beach, Florida (The "Town"), Approving the Form and Authorizing the Execution and Delivery of a Loan Agreement; Authorizing and Approving the Issuance of a Note by the Town in Connection with Said Loan Agreement Relative to the Financing of Certain Improvements and Renovations to the Town Hall; Pledging Designated Revenues to Repay the Note; Authorizing the Proper Officials of the Town to Do All Other Things Deemed Necessary or Advisable in Connection with the Loan Agreement and Said Revenue Note; and Providing for an Effective Date.
[Jane Struder, Director of Finance]

Town Manager Elwell advised that staff had provided to the Mayor and Town Council Resolution No. 44-08, Resolution No. 45-08 and a letter dated June 9, 2008, from Clark D. Bennett, Managing Director of Spectrum Municipal Services providing additional information, as requested by the Town Council, related to buying a cap. He commented as follows:

- The resolutions would be read by title in order for the Town Council to formally approve the actions tentatively approved by the Town Council at yesterdays Town Council Meeting.
- The Town Council might want to give consideration to buying a cap.
- Staff update on the cost of architectural services related to Town Hall renovations as requested by Council Member Markin.
  - A total of $259,409 was spent to date on design services; a total expenditure of $516,183 had been authorized. The $516,183 represented approximately 5% of the project costs, which staff believed was appropriate for a project of this scale.

Council Member Rosow questioned whether it would be advisable for the Town to keep the $3.8 million in the Town's Capital Reserve Account and finance the entire amount, determining at a later date if the Town would want to pay down the $3.8. using the cash the Town had in that account.

In response to Council Member Rosow, Finance Director Jane Struder advised that the Town could not borrow more than $10 million.

Mr. Elwell advised that the paperwork before the Town Council indicated not to exceed $8 million, so the Town could borrow up to an additional $2 million.

Mr. Rosow requested input from members of the Town Council on his suggestion that instead of borrowing only $8 million, borrow $10 million, holding in abeyance $2 million of the $3.8 in the Town's Capital Reserve Account against the Town Hall Renovation Project. He noted that the $2 million could be used, as Mr. Elwell pointed out, for other important Capital projects or left in reserve. The Town could always prepay $2 million against the $10 million note at a later date.

Discussion ensued and Richard Miller, Bond Counsel, Edwards & Angell, LLP, suggested that the Town Council adopt Resolution No. 44-08 with the change: "not to exceed $10 million" in lieu of "not to exceed $8 million." It did not change anything other than the principal amount that the Town could borrow.

After discussion, **Council Member Rosow made a motion authorizing the Town to borrow up to a maximum of $10,000,000.**

Clark Bennett, Spectrum Municipal Services, noted that the request for bids that went out indicated that the Town would borrow $7 million. He believed that it might be a bit precipitous, on the part of the Town, to approve borrowing that money until it was known if Bank of

America was willing to lend it to the Town, and he would be willing to contact the bank as soon as possible to find that out.

The motion was seconded by Council Member Markin. On roll call, the motion carried unanimously.

It was the consensus of the Town Council not to pursue buying a cap because it was expensive and did not offer anything to the Town.

Ms. Struder advised that Mr. Boodheshwar had just reminded her that the Town had committed to the possibility of borrowing $2 million toward the renovation of the Par 3 Golf Course, but she noted that the Town could work around that debt.

Town Manager Elwell and the Finance team modified Resolution No. 44-08. Town Manager Elwell advised that the only change from what had already been reviewed by the Town Council was that the not to exceed figure had been changed to "not to exceed $10,000,000." There was not yet confirmation from the bank that they would loan the Town more than what had previously been discussed, so the documents could be properly approved today. Staff recommended that the loan would be as much as the bank would loan, up to a maximum of $10,000,000.

Town Manager Elwell read Resolution No. 44-08 by title, as printed above.

Council Member Rosow moved adoption of Resolution No. 44-08. The motion was seconded by Council Member Markin. On roll call, the motion carried unanimously.

b. RESOLUTION NO. 45-08 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Construction Manager–At-Risk Contract to Hedrick Brothers Construction for Town Hall Renovations, Project # 2007-22. [H. Paul Brazil, Director of Public Works]

Town Attorney Randolph read Resolution No. 45-08 by title, as printed above.

Council Member Coleman moved adoption of Resolution No. 45-08. The motion was seconded by President Pro Tem Coniglio. On roll call, the motion carried unanimously.

B. New Business

1. Parking [Michael S. Reiter, Chief of Police]

Police Chief Reiter referred to his memorandum to the Mayor and Town Council dated May 30, 2008, and included in the backup material, to provide a status report on the following parking issues:

a. Update on Parking Kiosks and Electronic Chalking.

Chief Reiter advised that the Police Department planned to temporarily attach a laminated instruction sheet to the kiosks. He briefly explained the electronic chalking system and responded to questions and concerns of the members of the Town Council.

Leslie Evans, 214 Brazilian Avenue, commented as follows:

- The parking meters were taken down on South County Road, near the bank, north of Royal Palm, on the east side of the street. He questioned why they had not been replaced with a kiosk.
- Noted that there had been some discussion relative to leaving meters in certain places where kiosks were not needed, and he questioned why a kiosk was placed at Bradley Place where there were six or seven parking spaces.
- Questioned the need for parking enforcement officers on weekdays from 10:00 p.m. to 11:00 p.m. during the summer.
- Noted that employees would be forced to move their cars more, unless the Town built parking lots.

Chief Reiter responded to Mr. Evans questions and concerns as follows:

- It had been determined that when the Town made all of these changes, the parking meters on South County Road, near the bank, would be removed because that was one of the few remaining commercial areas. The Police Department was following the consensus of the Town Council that area would not be a paid parking space but a timed space.
- Initially, it was thought that Bradley Place would have several meters remain, and he would confirm with Mr. Brazil that there were actually none. All of the paid spaces were now entirely controlled by the kiosks.
- The evening parking enforcement officer also had other responsibilities.

b. Consideration of Changing to Two Hour Parking in the Commercial Districts.

Chief Reiter noted, that at prior Town Council Meetings, individuals had come forward from the business community suggesting that some of the one hour parking spaces be changed to two hour spaces. It was staff's recommendation to convert one hour parking spaces on the entirety of Worth Avenue to two hour spaces, on a test basis.

After discussion, **President Pro Tem Coniglio made a motion to convert one hour parking spaces to include the entire three blocks of Worth Avenue, both sides of the street, to two hour spaces, on a test basis. The motion was seconded by Council Member Coleman.**

Council Member Markin expressed concern over putting two hour parking on Worth Avenue on the block closest to the beach. She noted that she would support two hour parking from the traffic light on South County Road westward. The other block adequately handled parking with the two parking garages. She noted that beach goers would infiltrate those spaces.

Discussion ensued and **Council Member Coleman withdrew his second.**

John Maus, Hoffman and Maus, advised that he could not offer any guidance to the Town Council, noting that the things they had done were great: the kiosks provided simplicity in parking; many of the areas that had unsightly meters had been cleaned up; and electronic chalking was a more efficient manner of policing time and parking space use. He advised that the Town Council had to keep in mind that this was a seasonal community, in terms of the residents. He suggested that the Town provide an educational period for those residents who would be returning in the fall. He explained that was the reason for his letter requesting that there be a one ticket forgiveness, a courtesy ticket.

President Pro Tem Coniglio stated that she believed her motion to convert one hour parking spaces on the entirety of Worth Avenue to two hour spaces, on a test basis, should stand. **Council Member Rosow seconded the motion. On roll call, the motion carried 4/1.**

President Pro Tem Coniglio:	**Yes**
Council Member Rosow:	**Yes**
Council Member Markin:	**Yes**
Council Member Coleman:	**No**
President Kleid:	**Yes**

c. Consideration of Issuing a Warning on First Violation (Instead of a Ticket).

Police Chief Reiter advised that he had informed the Town Council that the system would be able to issue a warning on a first violation instead of a ticket. He explained the procedure used by the City of West Palm Beach regarding this issue, noting it was printed on the ticket if it was a first violation, one could pay their fine and then receive a debit card that could be used for the meter. The Town would eventually have debit cards available for the kiosks.

After discussion, it was the consensus of the Town Council that staff would provide information and costs regarding options for violators to receive a kiosk debit card (from October 1, 2008 through December 31, 2008 only) for the amount of the fine for the first ticket received. The information would be provided as a Consent Agenda item for the July 8, 2008, Town Council Meeting.

2. Discussion of One-Day Versus Two-Day Town Council Meetings in August 2008 and Beyond. [Peter B. Elwell, Town Manager]

Town Manager Elwell referred to his memorandum to the Mayor and Town Council dated June 5, 2008, and included in the backup material, to discuss one-day versus two-day Town Council Meetings.

Discussion ensued relative to the options available for Town Council meeting schedules.

William Diamond, 220 Wells Road, commented, on behalf of some of the members in the audience, requested that the Town Council take a short lunch break.

President Kleid agreed with Mr. Diamond, noting that there should be at least a thirty minute lunch break.

It was the consensus of the Town Council to remain with a two-day meeting schedule starting in August. The meetings would remain on a two-day schedule until such time as the Town Council saw that there was a very short agenda, and the schedule could be adjusted.

3. Par 3 Golf Course. [Jay Boodheshwar, Director of Recreation]

Director of Recreation Jay Boodheshwar referred to his memorandum to the Mayor and Town Council dated June 2, 2008, and included in the backup material, to provide an update on the Par 3 Golf Course Restoration Project and to summarize the actions staff requested the Town Council take today related to the following:

a. Conceptual Plan for Revising the Course Layout

b. Options for Locating Reverse Osmosis Water Treatment Facility.

Mr. Boodheshwar, John Potts, Senior Vice President, Kimley-Horn and Associates, and Director of Public Works Paul Brazil responded to the questions and concerns of the members of the Town Council regarding the reverse osmosis (RO) water treatment facility.

Discussion ensued and Town Manager Elwell noted that the Town would seek Audubon certification for being an environmentally friendly golf course. He assured the Town Council that environmental sensitivity had been a central part of this project.

After discussion, **Council Member Rosow made a motion, seconded by President Pro Tem Coniglio, to approve the following:**

- **The conceptual plan for the Par 3 Golf Course.**
- **Option "A" - location adjacent to the golf course maintenance building of the reverse osmosis (RO) water treatment facility to serve the Par 3 Golf Course**
- **Authorized the Town Manager to enter into a contract with Kimley-Horn and Associates in an amount not to exceed $285,000 for permitting and design of a RO facility to serve the Par 3 Golf Course.**

Mr. Potts addressed the concerns of Council Member Markin related to the use of the Florida Aquifer.

On roll call, the motion carried unanimously.

At the request of President Kleid, Mr. Boodheshwar reported on the fundraising efforts for the golf course as follows:

- $2.5 million had been received through private donations; the Town wanted to raise $6 million, and had committed to $2 million.
- Later this summer he would address the question of sustainability, which would bring some good news for the future of the golf course.
- Fundraising for the golf course continued and there would be a broad-based appeal.

- The staff developed an initiative called "I Chipped In," which would be launched in the next couple of weeks where anyone playing the golf course could make a donation and would receive a bag tag: "I Chipped In."

Discussion ensued relative to Council Member Rosow's previous comment that the clubhouse should be the last part of the project to be torn down and the last to be built. It was an expensive component of the project, and he presumed that they intended to build it last, maintaining the existing clubhouse until it was known whether the Town had the funds to build it.

4. Garden Club Proposal for Modification and Donation of Royal Poinciana Way Median Plantings.
[H. Paul Brazil, Director of Public Works]

Director of Public Works Paul Brazil reported that the Garden Club had been kind enough to offer to help with a project that would replace the existing plantings in eight planter beds within the Royal Poinciana Way median. The proposed planting plan would consist of a variety of succulents that would be heat and drought tolerant.

Alan Stopek, landscape architect, provided a Powerpoint presentation regarding the proposed plantings.

President Pro Tem Coniglio moved approval of the donation and design presented. The motion was seconded by Council Member Rosow. On roll call, the motion carried unanimously.

Mr. Brazil confirmed that the Garden Club would be donating all funds, and plant material, for the project on the Royal Poinciana Way median. He discussed some of the future projects that were planned in the area that had not yet been considered by the Town Council. The Palm Beach Civic Association Beautification Committee was considering a project in the business district of Royal Poinciana Way, just north of the roadway; the Greater South County Road Association had approached staff on the possibility of doing plants on Royal Palm Way and along South County Road; the Preservation Foundation would focus on the area north of Tangier up to the Palm Beach Country Club, with placement of approximately 90 Coconut Palms.

Council Member Markin expressed concern with having nothing but succulents in the planting areas, and hoped that there would still be some flowers in the median.

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The luncheon recess was taken at 1:10 p.m.

The Town Council meeting of June 10, 2008 was resumed at 1:40 p.m.

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Announcement: Immediately following the luncheon recess, Town Manager Elwell announced that the Slat House air conditioning system had just failed, and a provision in the Code allows that emergency work, after normal hours, could be approved by the Director of Planning, Zoning & Building. Mr. Page had approved the work being done at night, since there were eighteen (18) occupied units affected by the air conditioning system.

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5. Consideration of Ordinance to Require Single Family Homes to be Retrofitted with Smoke Alarms (Including Offer of Fire-Rescue Department Assistance). [Jack McDonald, Mayor]

Mayor McDonald requested that the Town Council consider an ordinance requiring the installation of smoke detectors in single family homes. He explained that because the Fire Department was in possession of lots of smoke detectors, the Fire Department could offer and install battery operated alarm units in any residence, at no expense to the resident. He noted that he was personally in favor of hardwired smoke detectors, eventually, but if that was done it would be necessary to have a phase-in period. The battery operated smoke detectors were not his first choice, but the battery operated detectors would be a start.

Fire Chief William Amador advised that the Fire Department currently had approximately 200 battery operated smoke detectors on hand, and was in the process of obtaining another 400 detectors.

In response to Town Council discussion, Town Attorney Randolph provided information regarding establishing a requirement for smoke detectors for every home, noting that there were several methods to do that; one way was to require it prior to a home being turned over in a sale; or upon any permit being applied for; or phasing in the requirement over a period of time.

William Diamond, 220 Wells Road, commented that the City of New York had long required smoke detectors in every multiple dwelling, however, he noted that unless instructions were provided with the detectors, they would become fairly useless.

Fire Chief Amador responded that if a resident called the Fire Department, the Fire Department would do all of the installation for them, and would place the detector where it was required to be placed. He noted that battery failure was a concern with the non hardwire smoke detectors, and the Fire Department advised residents to replace batteries every six months.

Council Member Markin suggested that anyone requesting a smoke detector be asked to sign a liability form before the Fire Department entered a residence.

Director of Planning, Zoning & Building John Page expressed concern regarding how Town staff would have knowledge of a property transfer, as it related to the suggestion for a regulation making smoke detectors mandatory. Mayor McDonald noted that a lien search was done on every residential sale, so the Finance Department and/or Planning, Zoning & Building would be aware of any transfer of property.

President Pro Tem Coniglio moved approval of the Fire Department offering free battery operated smoke detectors, and installation of them to anyone requesting the service. The motion was seconded by Council Member Rosow. On roll call, the motion carried unanimously.

Town Manager Elwell noted that staff would create a liability form to be signed by anyone requesting the service.

Council Member Rosow proposed that staff study the suggestion of Mayor McDonald, along with the various mechanisms discussed today to institute a requirement for smoke detectors. The study would include costs to residents, and information and costs regarding a "direct connect" alarm system.

Police Chief Reiter explained that there currently was a direct connect service for commercial locations, however, if that service was offered to residents it would exceed the electronic system capacity. There were many concerns that would need to be examined prior to implementing a residential direct connect system.

Discussion took place regarding costs to commercial entities for the direct connect service, and the subsidizing of the rates by the Town. Council Member Coleman suggested examination of this issue during the budget process.

Town Manager Elwell advised that staff would review this, and other similar things, so that the Town Council could consider whether subsidizing them would continue, or whether the fees would be raised to cover the total costs.

Council Member Markin expressed concern regarding the staff time that would be spent during the suggested study.

Fire Chief Amador commented there was an existing ordinance requiring that any fire alarm system in Town was centrally monitored. The direct connect capabilities were not available for Fire Rescue services.

6. Streaming Video Link for Town Website.
[Sarah E. Hannah, Assistant Town Manager]

Assistant Town Manager Sarah E. Hannah presented a Powerpoint regarding the streaming video link. Comments were heard from Laurel Baker, Executive Director of the Palm Beach Chamber of Commerce. The Town Council declined the opportunity to enter into an agreement with CGI Communications, Inc.

7. Approval of the Scheduled and Budgeted Purchase of GO-4 Interceptor III Vehicles. [Michael S. Reiter, Chief of Police]

Council Member Coleman advised that last year, the Town Council had indicated that the Town would go green on vehicles. He urged that the Town Council reaffirm that position.

Police Chief Reiter responded that the Police Department was aware of energy efficiency. He pointed out the Police Department had determined that the GO-4 Interceptor III vehicles were appropriate for the needs of the Town.

Council Member Coleman moved approval of the purchase of four (4) GO-4 Interceptor III vehicles (parking enforcement scooters). The motion was seconded by Council Member Markin. On roll call, the motion carried unanimously.

8. South Cove Project Update.
[H. Paul Brazil, Director of Public Works]

Council Member Coleman advised that he had asked that this item be pulled from the Consent Agenda, in order to give residents the opportunity to speak. He explained that there had been confusion as to what was being proposed for the project, however, in the absence of the residents who had expressed concern, there was nothing further at this time.

9. Approval of Additional Funding for Contract Negotiations Related to Undergrounding Overhead Utilities.
[Thomas G. Bradford, Deputy Town Manager]

Council Member Markin expressed concern regarding the additional funding being requested.

Deputy Town Manager Bradford responded that contracts entered into with AT & T, Comcast, and FPL would still be valid, even if the Town did not go forward with underground wiring on a Town initiated basis. The contracts would afford the ability to use them in the various neighborhoods that were interested in having undergrounding, whether there was a full Town project or not. In order to get the 25% credit, the Town would need to be the lead agency, relative to any work that was done; therefore, the contracts could be used in the future for various neighborhood undergrounding projects.

Mr. Bradford noted that Comcast had posed six questions for the Town, in order to proceed with the contract negotiations.

President Pro Tem Coniglio moved approval of funding in an amount not to exceed $33,000 necessary to complete the underground utility construction contracts with AT & T, Comcast, and FPL. The motion was seconded by Council Member Markin. On roll call, the motion carried unanimously.

10. Approval of Donation by Mizner Industries to Install Decorative Tiles on the Exterior of the Central Fire-Rescue Station in the Niches on the North and East Walls.

President Pro Tem Coniglio expressed concern regarding setting a precedent through approving any entity coming forward that may be perceived as a self-promotion activity, without any input from the public or from any interested public entity that may be concerned, such as the Preservation Foundation, Landmarks Preservation Commission, Palm Beach Civic Association Beautification Committee, Garden Club, etc.

Town Manager Elwell advised that the building was in the Town Hall historic district, so the tiles would need to be reviewed by the Landmarks Preservation Commission.

Council Markin expressed concern regarding the proposed logo presented in the tile.

President Pro Tem Coniglio moved that the Landmarks Preservation Commission, Palm Beach Civic Association Beautification Committee, and the Garden Club work with the design team and present it to the Landmarks Preservation Commission for approval. The motion was seconded by Council Member Coleman. On roll call, the motion carried unanimously.

XII. ORDINANCES

A. Second Reading

1. ORDINANCE NO. 1-08 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 2, Administration, to Include a New Article IX Creating a Shore Protection Board; Providing for Appointments, Terms, Qualifications, Functions, Regulations and Procedures; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.
[John C. Randolph, Town Attorney]

Town Attorney Randolph read Ordinance No. 1-08 by title, as printed above.

Discussion took place regarding the ordinance. Mayor McDonald provided his objections and suggestions.

- Staffing issues: The ability of the town to service the board at this time.

- The duties of the board to include dealing with global warming issues.

- The intergovernmental coordination responsibilities of the board.

- The involvement of the Mayor in the appointment of the board members.

- The staggered term limits set forth in the ordinance.

After discussion, Ordinance No. 1-08 was adopted on second reading, through motion of Council Member Coleman, seconded by President Pro Tem Coniglio. On roll call, the motion carried 3/2:

Council Member Coleman:	**Yes**
President Pro Tem Coniglio:	**Yes**
Council Member Markin:	**No**
Council Member Rosow:	**No**
President Kleid:	**Yes**

Council Member Markin requested that Town Manager Elwell keep the organizational flow as part of his consideration in hiring a Coastal Coordinator, recommending that the Coastal Coordinator report directly to Mr. Elwell, at least for the first year.

B. First Reading

1. ORDINANCE NO. 19-08 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 46, Fire Prevention and Protection, Article IV, Hazardous Substances and Hazardous Waste, Division 2, Abatement and Recovery of Costs, By Amending Section 46-141 Relating to Definitions; Amending Section 46-142 Relating to Authority to Initiate Action; Amending Section 46-143 Relating to Liability for Costs of Abatement of Discharge; Amending Section 146-144 Relating to Recovery of Costs of Hazardous Substance and Hazardous Waste Clean Up; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date. [John C. Randolph, Town Attorney]

Town Attorney Randolph read Ordinance No. 19-08 by title, as printed above.

On motion of Council Member Rosow, seconded by Council Member Markin, Ordinance No. 19-08 was approved on first reading. On roll call, the motion carried unanimously.

XIII. ANY OTHER MATTERS

There were none.

XIV. ADJOURNMENT

There being no further business, the Town Council meeting of June 10, 2008, was adjourned at 3:00 p.m.

APPROVED:

Richard M. Kleid
Town Council President

ATTEST:

Susan A. Eichhorn
Town Clerk