TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL MEETING
HELD ON TUESDAY, JUNE 9, 2009

I. CALL TO ORDER AND ROLL CALL

The Regular Town Council meeting was called to order on Tuesday, June 9, 2009, at 9:30 a.m., in the City of West Palm Beach Commission Chambers. On roll call, all of the elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Town Clerk Cunningham gave the invocation. President Rosow led the Pledge of Allegiance.

III. PRESENTATIONS

A. Legislative Update Provided by Representative Mary Brandenburg.

State Representative Mary Brandenburg provided an update on the most recent legislative session. She spoke of the increased fees and a higher cigarette tax to yield revenue for the State.

President Pro Tem Coniglio was also opposed to not using Town funds for elections. She indicated that is the only way for the Town to educate the public.

Mayor McDonald asked about the beach restoration funds and how they are allocated. Rep. Brandenburg indicated that there is the permit process through DEP (Department of Environmental Protection). Mayor McDonald asked her about the home rule bill last year and how she voted. He indicated that it was very important to Palm Beach. She stated that she had voted against it.

Council Member Diamond agreed with State Representative Brandenburg on the spending dollars on elections. Council President Rosow expressed his disagreement with her on the issue. He urged the State to allow the Town to manage their own government. Mayor McDonald also brought up unfunded mandates. Representative Brandenburg philosophically agreed that local governments should be able to make their own decisions.

B. Recognition of William P. Vanneck, Code Enforcement Board, From April 2008 Through April 2009.

Mayor McDonald presented a plaque to Mr. William Vanneck for recognition of his community service on the Code Enforcement Board.

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C. Scholarship Provided by the Palm Beach Civic Association and the Citizens' Association of Palm Beach. [Stan Rumbough, Palm Beach Civic Association and Madeline Greenberg and Lee Goldstein, Citizens' Association of Palm Beach]

Ms. Madeline Greenberg and Mr. Lee Goldstein from the Civic Association and Citizens Association presented a $3000.00 Scholarship to Katharine Curcio. She graduated with a 4.42 GPA and she was in the National Honor Society and has donated over 60 hours in community service. She planned to major in mathematics at the University of Florida. She is the daughter of Fire Rescue Department Employee Mike Curcio.

D. Presentation Regarding National CPR Week. [Stacey A. Dowdle, American Heart Association]

Ms. Stacey Dowdle spoke on behalf of the American Heart Association. She thanked the Town Council for considering a Proclamation declaring National CPR Awareness Week. The American Heart Association is hoping to train one million people in CPR during the month of June. Ms. Dowdle gave a Power Point Presentation to the Town Council. Each Council member was presented with a CPR training kit.

Council Member Wildrick announced that he had been involved with the American Heart Association in the past and is impressed with the new angle the American Heart Association is going. He was very pleased to know that they are getting more aggressive in their outreach program. Council Member Kleid also mentioned that the Citizens Fire Academy teaches CPR and was also pleased to see the efforts of the American Heart Association. Council President Pro Tem Coniglio asked about the cost of training. Ms. Dowdle responded that a training kit is available on-line for $30.00. Council President Pro Tem Coniglio asked that question because of the age of the south end residents, and perhaps the condominium buildings could work together and train entire buildings. Council President Rosow asked that the American Heart Association partner with the annual Heart Ball and work with the Town in February and possibly could get more "bang for their buck".

E. Presentations by Applicants for Architectural Commission.

The following applicant provided presentations to the Town Council:

- Nikita Zukov

Council Member Diamond asked Mr. Zukov if he had anticipated any conflicts and he stated that he did not. Council President Rosow asked if he was currently licensed in Florida and he is. Mr. Zukov noted that after serving eight years on the Board, he had never declared a conflict.

Other applicants not present:

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- Kenn Karakul
- Ann Vanneck
- Robert J. Vila

F. Presentations by Applicants for Code Enforcement Board.

The following applicants provided presentations to the Town Council:

- W. Anthony Dowell

Mr. Anthony Dowell spoke regarding his desire to be appointed. He noted he was a year round resident.

- Scotch Peloso

Mr. Peloso stated that he was a full time resident. He stated that he owned six rental properties and does not anticipate any conflicts.

- Riccardo Boehm

Mr. Boehm spoke regarding his desire to be appointed. He indicated he was a Harvard graduate. Council Member Kleid asked Mr. Boehm if he would be available for meetings and he indicated he was a full time resident.

G. Presentations by Applicants for Investment Advisory Committee.

The following applicant provided presentations to the Town Council:

- Dr. Michael Andrews

Dr. Michael Andrews spoke regarding his desire to be reappointed to the Committee- He is currently the Chairman. He stated he has been in the investment business for over 25 years. Council Member Diamond asked Dr. Andrews if his business conducts any business in Palm Beach and they do not.

- Heinz Gundlach
- Benton P. Bohannon

Tony Bohannon spoke regarding his desire to serve on the IAC. He is year round resident. Council Member Diamond asked him if he would have any conflicts and Mr. Bohannon responded no.

Other applicants not present:

- Philip Byrne – sent letter

H. Presentations by Applicants for Recreation Advisory Commission.

The following applicant provided presentations to the Town Council:

- Kooshe A. Aiken

Ms. Kooshe Aiken spoke regarding her desire to be appointed to the Recreation Board and has been very active with the Town's recreation programs. She stated that she was a full time resident.

Other applicants not present:

- June Bakalar – sent letter
- Donald Singer – sent letter

President Pro Tem Coniglio announced that the presentations were helpful and stated that the process needs to be very clear. Town Manager Elwell was asked to clarify the procedure. The individual applicants have been receiving the notice to appear at the Town Council meetings rather late and effective immediately they will be notified via e-mail and/or phone call. Town Manager said they will do two processes. Council Member Wildrick said he was most impressed with this crop of candidates. He also stated that the group of applicants were highly qualified and thanked all of the applicants. Council President Rosow thanked all of the candidates as well for their Town Service.

IV. COMMENTS OF MAYOR JACK McDONALD

There were none.

V. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

Council President Pro Tem Coniglio had some addition to be made to the Strategic Plan which was on the agenda as Resolution No. 59-09. She wanted to mention follow-up considerations regarding beach management, and critically eroded areas in Reach 8 and Reach 7. She asked that the Town Council have an intensified effort to identify and include the examination the inlet dredging in Port and the coastal management plan. Council President Pro Tem Coniglio also encouraged the long term fiscal preparation and lastly the Public Works infrastructure with sewer replacement. She stated that the Town should have added an expedited schedule. Council Member Diamond asked Gail to allow the Shore Protection Board to make the recommendations that pertained to the shoreline. Council President Rosow directed the Assistant Town Manager to work on the Strategic Plan with Council President Pro Tem Coniglio on the new language by the July Town Council meeting. Council President Rosow clarified that the Shore Board does not have any financial responsibilities.

Council President Pro Tem Coniglio reported on the feral cat situation. She stated that PB Cats has informed her that the hang-up is the law suit with Island Cats. In the transfer of the cat records, she has expressed the need to move forward again quickly. Town Attorney Randolph said the issue is not between PB Cats and the Town, it is between Island Cats and PB Cats. Assistant Town Manager Sarah Hannah was asked about the records and she responded that Islands Cats have received some records, but not the vaccination records.

Council Member Wildrick noted that he noted he wanted a few items removed from the agenda and since he spoke with staff this morning he will not remove them now. Resolution No. 54-09 was the best emergency technology for residents and would be essential in lifesaving situations. The other items were G4 and G5 regarding landscaping projects in two areas of Town. He spoke to Public Works Director Paul Brazil. He was informed that the Garden Club is providing all of the funds and had thought about low maintenance; low visibility plantings and the overall maintenance will be less, once the projects are completed.

Council Member Kleid spoke regarding the beaches and he felt the Shore Protection Board is doing a lot for the Town He mentioned that the Shore Board is meeting bi-monthly and have been hearing from numerous environmentalists, companies, engineers. The Town is pursuing the renovation of the Sand Transfer Plant. They are working on a collaborative beach solution. They also are suing the USA regarding the erosion problem. He does not accept criticism from the residents who state that the Town has done nothing to protect the beaches.

Council Member Diamond noted that on May 20, 2009 Town Attorney Randolph gave a memo to the Town Council regarding the Royal Poinciana Playhouse and noted it was a private document. Council member Diamond wanted the memo released before tomorrow's meeting. Council Member Wildrick agreed and said there should be transparency. Town Attorney Randolph stated that the information was provided with the confidential notation because it discussed potential or imminent litigation. It was provided to the Town Council to decide if the information should be disseminated to the public. There was not anything secret in the memo. The memo would become declaratory relief in litigation.

President Pro Tem Coniglio asked if his conversations with Attorney Bruce Rogow would also be included. Town Attorney Randolph indicated that it would, and that Mr. Rogow would be at the Town Council Meeting the following day at 4 p.m. Town Manager Elwell indicated that the decision should be to release both memos, or neither.

Motion made by Council Member Diamond, seconded by Council Member Wildrick to release the memo and information regarding the Royal Poinciana Plaza and be placed on the Town website by 4 p.m. Tuesday, including the Town Attorney Memo and the correspondence from Attorney Bruce Rogow. On roll call, the motion carried unanimously.

Town Manager Elwell announced that there would be supplemental back-up for tomorrow's meeting and the memos would also be on the main page of the town website.

Council President Rosow announced that the Police and Fire Departments should be commended for their efforts regarding wages in the coming year. He also thanked the Garden Club for doing a superb job for the Town at no cost to the Town. He noted that Royal Poinciana Way is a beautiful project. They (Garden Club) continue to beautify the Town.

Town Manager Elwell announced the new Police Chief, Kirk Blouin for the first time in public. Council Member Wildrick commended the Town Manager for promoting from within the department. It ensured continuity and Chief Blouin was a man who earned the position. He had worked his way up through the ranks and deserved it. Council President Pro Tem Coniglio thanked Town Manager Elwell for changing the process to one that was more interactive this time. The Town Council was able to be involved this time. Town Manager Elwell responded that the Council's advice and opinions were helpful.

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

Madeline Greenberg, 3360 S. Ocean Blvd. spoke regarding the new ordinance on Conflicts of Interests. The intent of the Town Council is good but sometimes the difference between intent and reality can be significant. She was opposed to the Ordinance.

Laurel Baker, Chamber of Commerce, encouraged the Town to defer to the Garden Club and the Preservation Society for holiday decorations along with the Worth Avenue improvement plan and decorations for the street. Gail asked her if they were going to pay for the projects. Council President Rosow indicated that the decorations would be discussed at 4:00 p.m. today.

Ned Barnes, Civic Association, spoke about last month's minutes and an error regarding Mr. Steve Brown's comments regarding a proposed ordinance. The Town Clerk made the correction.

Lee Goldstein, 3440 S. Ocean Blvd., and Shore Protection Board Member, indicated that the Shore Board did take action on the hot spots. Council President Pro Tem Coniglio commended him for his work on the Shore Board.

VII. APPROVAL OF AGENDA

The following changes were made to the Agenda:

TIME CERTAIN: 4:00 p.m. Item XII.B.3., Holiday Ornament Recommendations from ARCOM

DEFERRED Item VIII.G.5., Resolution No. 60-09, and Item VIII.G.6., Resolution No. 61-09, until the July Town Council meeting per Town Manager Elwell.

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

VIII. CONSENT AGENDA

The following changes were made to the Consent Agenda:

MOVED Item VIII.G.2., Cancellation of July 16, 2009, Special Town Council Meeting Regarding the Proposed FY2010 Budget to New Business XII.B.10

MOVED Item VIII.G.3., Authorization to begin Dune Restoration Permitting for Reaches 3, 4, 7, and 8 to new Business XII.B.11.

MOVED Item VIII.G.7., Approval of a New One Year Lease Agreement between the Town Rosarian Academy for the Use of Town Property in Downtown West Palm Beach for Physical Education Programs to New Business XII.B.12.

A. MINUTES: MAY 11, 2009 APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING

B. MINUTES: MAY 12, 2009 APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

C. MINUTES: MAY 13, 2009 APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

D. MINUTES: MAY 13, 2009 APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING, CLOSED-DOOR ATTORNEY/CLIENT SESSION

E. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL COMMISSION AT ITS MEETING ON MAY 29, 2009.

F. RESOLUTIONS

1. RESOLUTION NO. 54-09 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Purchase of Three Freightliner M2 Type 1 Medium Duty Ambulances Spec #2 Purchase in Accordance with Florida Sheriff's Association Bid 08-08-0909 with NFPA Department of Ambulance Required Equipment. [William Amador, Fire-Rescue Chief]

2. RESOLUTION NO. 55-09 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Mayor to Execute an Agreement for Mutual Aid Between the City of West Palm Beach and the Town of Palm Beach for Fire-Rescue Emergency Services. [William Amador, Fire-Rescue Chief]

3. RESOLUTION NO. 56-09 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding the Purchase of Maintenance Equipment for the Par 3 Golf Course and Authorizing the Town Manager to Execute the Purchase on Behalf of the Town. [Jay Boodheshwar, Director of Recreation]

4. RESOLUTION NO. 59-09 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving Changes to the Strategic Plan. [Sarah E. Hannah, Assistant Town Manager]

5. RESOLUTION NO. 60-09 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Ratifying the Collective Bargaining Agreement Between the Town of Palm Beach and the Professional Firefighters/Paramedics of Palm Beach County, Local 2928, IAFF, Inc., Covering the Non-Supervisory Bargaining Unit for the Period October 1, 2009, Through and Including September 30, 2010, and Authorizing the Town Manager to Execute the Same on Behalf of the Town. [Peter B. Elwell, Town Manager] ***This item was deferred until the July Town Council meeting.***

6. RESOLUTION NO. 61-09 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Ratified the Collective Bargaining Agreement Between the Town of Palm Beach and the Professional Firefighters /Paramedics of Palm Beach County, Local 2928, IAFF, Inc., Covering the Supervisory Bargaining Unit for the Period October 1, 2009, Through and Including September 30, 2010, and Authorizing the Town Manager to Execute the Same on Behalf of the Town. [Peter B. Elwell, Town Manager]
This item was deferred until the July Town Council meeting.

G. Other

1. Florida League of Cities 83rd 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]

2. Cancellation of July 16, 2009, Special Town Council Meeting Regarding the Proposed FY2010 Budget. [Peter B. Elwell, Town Manager]
Item VIII.G.2 was moved to the Regular Agenda

3. Authorization to Begin Dune Restoration Permitting for Reaches 3, 4, 7, and 8. [H. Paul Brazil, Director of Public Works]
Item VIII.G.3 was moved to the Regular Agenda

4. Approval of Landscape Improvement Project at Miraflores Avenue and North County Road. [H. Paul Brazil, Director of Public Works]

5. Approval of Southern Boulevard Traffic Circle Beautification Project. [H. Paul Brazil, Director of Public Works]

6. Confirmation of Designation of Jay Boodheshwar to Lead Staff Preparation for the Town's Centennial Celebration. [Peter B. Elwell, Town Manager]

7. Approval of a New One-Year Lease Agreement Between the Town and Rosarian Academy for the Use of Town Property in Downtown West Palm Beach for Physical Education Programs. [Thomas G. Bradford, Deputy Town Manager]

Item VIII.G.2., was moved to the Regular Agenda

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

IX. PUBLIC HEARING

Public Works Director presented the next two resolutions. He stated that he had not received any objections.

A. RESOLUTION NO. 57-09 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Vacating and Abandoning a Portion of a Six (6) Foot Utility Easement Lying Within Lots 3, 4, 7, 8 and "Reserved A" of Plat No. 2 of Woods Landing, on Property Commonly Known as 318 No. Woods Road, Town of Palm Beach, Florida. [H. Paul Brazil, Director of Public Works]

Town Attorney Randolph read Resolution No. 57-09 by title, as printed above.

Motion made by Council President Pro Tem Coniglio, seconded by Council Member Diamond to approve Resolution No. 57-09. On roll call, the motion carried unanimously.

B. RESOLUTION NO. 58-09 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Vacating and Abandoning a Portion of a Six Foot Utility Easement Lying Within Lots 4 and 5 of Plat No. 2 of Woods Landing, on Property Commonly Known as 315 South Woods Road, Town of Palm Beach, Florida. [H. Paul Brazil, Director of Public Works]

Town Attorney Randolph read Resolution No. 58-09 by title, as printed above.

Motion made by Council Member Diamond, seconded by Council Member Kleid, to approve Resolution No. 58-09. On roll call, the motion carried unanimously.

X. BOARD/COMMISSION ANNUAL REPORT

A. General Employees Retirement Board. [James A. Karmen, Chair and William C. Crouse, Director of Human Resources]

Mr. Jim Karman, Chairman of the General Employees Retirement Board provided an update to the Town Council.

Council President Pro Tem Coniglio asked if the Town should pull away from the 8% benchmark. Mr. Karman suggested that it should be reviewed and looked at more closely. Council Member Diamond asked Mr. Karman what the administrative costs of a merger were. **Council Member Wildrick asked that there be the same standardized format for all three boards.** The fund is down $3.1 million from last year. He noted that the fund is down 9.07 % over the past five years. It is important that everyone knows that the Town tax payers will be required to make up that fund. The Board responsibilities are unique in that the citizens manage a large amount of money. Over the last ten years, for all 3 funds the result is less than 1% profit. The fund for the Town has been over 3%. Council Member Wildrick indicated he hoped to see better results in the future. He will not be easy on people that lose the Town money. He stated that he does not run his companies that way and merely wanted to state that for the record to the taxpayers.

Council Member Kleid noted he had received an e-mail from CUSP over the weekend regarding the Town filing bankruptcy. Mr. Karman stated that the town should not even discuss it as a possibility. Council Member Kleid indicated that he was glad to hear that. Council President Rosow indicated that there should be a standardized report and agreed with Council member Wildrick. The SEC requires 10 years of data and so should the Town. There needs to be more flexible asset allocations. Council President Rosow directed the three committees to have more flexible asset allocations.

Council Member Diamond suggested that all three committees meet together and suggested that they combine resources. Council Member Kleid said that he cautioned against going with the market. Council Member Wildrick stated there are as many types of asset allocations as there are grains of sands. The town will not go bankrupt. The federal government can print money, the state can raise taxes, but towns are restricted. The reason they will not go bankrupt is that the Town has good employees, good reserves and dedicated citizens. He is proud of the Town Manager and the process of the department heads to get the budget in-line.

B. <u>Firefighter Retirement Board. [Sergio de Araujo, Citizen Representative and William Hanes, Pension Administrator]</u>

Council Member Kleid asked of the status of the merger of the Police and Fireman funds. There are still a number of issues that need to be addressed. This could be a cost savings to the Town. Council President Rosow indicated to Council Member Kleid that there was some turf warfare between the two groups. Council President Rosow asked the Town Council if they were in favor of directing the groups to merge.

Town Manager Elwell indicated that there are state statutes that govern what the boards can do. Staff will report back with the barriers of joining the groups. They cannot proceed with consolidation until those barriers are clarified. Council President Rosow stated that the Town Manager should be proactive and work with the committees and on what terms would it take to consolidate. Town Manager Elwell said they should hear from the chairs from all three boards. Council Member Diamond agreed with Council President Rosow and they need to get this moved forward and they need more than a report. Council Member Wildrick said that the reality of the situation was that the Town wanted to look after their employees. When the Town has to make contributions to the funds, taxes need to be raised and then next the employee benefits would get cut. The role of the Town Manager and the Town is to balance it all and preserve a good situation for everyone.

Council President Rosow directed staff to have the three retirement boards come back and report to the Town Council at the September Meeting.

C. Police Officers Retirement Board. [Raymond W. Snow, Chair and William Hanes, Pension Administrator]

Mr. Raymond Snow presented on behalf of the Police Officers Retirement Board. Council Member Wildrick thanked Mr. Snow for his report. For the past ten years, the Town has been putting more into the fund than in past years. The object was to keep a safe and secure environment for the employees. The Town needs to recognize that the trend for the past ten years has been negative.

Council Member Wildrick asked Detective Lynch from the Police Department to come forward as he represented the employees on the Board. Council Member Wildrick asked if the employees know that their money is safe and Detective Lynch responded that the employees do understand that. When asked what the concerns of the employees were, Detective Lynch said there did not seem to be many concerns and the officers are fairly comfortable with the Board's decisions. The concerns are that their benefits would be taken away. Detective Lynch said the issues of the merging of the two boards were addressed. He noted that there are 175/185 plans that involve giving up share accounts, and it would not mean only merge what you want. The Police Department does not have share plans like the Fire Department does. There would be merging of some funds and that has been discussed to save administrative costs.

Mr. Snow noted that Mr. Parven and the Civic Association did not contact him at all when Mr. Parven provided his report to the Town Council on the pension funds.

Town Manager Elwell clarified that the new pension consultant that will be hired in July, He urged the cooperation to continue and make it the duty of the consultant to analyze the three boards.

Council President Rosow wanted to address the properties in Palm Beach. Finance Director Jane Struder has been working on spreadsheet and 62% of properties in town (taxable) are valued at under 1 million dollars, and 87% are under 5 million dollars. Palm Beach is not as wealthy as everyone thinks. Palm Beach is a fabulous Town but not everybody can afford a tax increase.

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The meeting was recessed for lunch and reconvened at 2:15pm.

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XI. COMMITTEE REPORTS

A. Public Works Committee Meeting of June 4, 2009. [Gail Coniglio, Town Council President Pro Tem]

President Pro Tem Coniglio gave the summary report for the Public Works Committee. In addition to accepting the report, she asked the Town Council to consider approving $250,000 from the contingency fund to be allocated before October 1, so that there would not be a stoppage of 18 months of paving roads and would you begin in the summer 2009. Fellow Committee Member Diamond agreed to her request.

Motion made by Council Member Kleid and seconded by Council Member Diamond to accept the Public Works Committee Report and take $250,000 out of Contingency Fund for road paving in the summer of 2009. On roll call, the motion carried unanimously.

XII. REGULAR AGENDA

A. Old Business

1. Change to Parking Regulations on Clarke Avenue, Seabreeze Avenue, and Seaspray Avenue. [H. Paul Brazil, Director of Public Works]

Paul Brazil, Director of Public Works, provided an update from last month that staff had worked with the residents on the affected streets and they had come up with a proposed solution. President Pro Tem Coniglio commended Mr. Brazil for resolving the problem as best as he could.

Jeff Greenwald, 128 Seaspray Avenue, spoke in opposition to all of the spaces that were going to be on Seaspray Avenue He offered alternatives for one of the spaces. Mr. Brazil indicated that the one resident would be bearing the brunt of all the parking spaces. Council Member Wildrick asked what the DEP requirement was. Mr. Brazil responded that they needed to have 25 new spaces. Council President Rosow said to put the two spaces in front of the big house and the other on the last house, moving the third space to closer to A1A.

Motion by Council President Pro Tem Coniglio, seconded by Council Member Diamond to accept staff recommendations with the discussed changes on Seaspray Avenue with the stipulation that if there are repercussions, the topic would be brought back to Town Council. On roll call, the motion carried unanimously.

2. Cost and Logistics for Providing Live Audio on Internet from the City of West Palm Beach City Center. [Sarah E. Hannah, Assistant Town Manager]

Assistant Town Manager Sarah Hannah informed the Town Council said that the total costs would be approximately $3000 to obtain live internet. The funds would come from the $20,000 previously allocated budget. The City of West Palm Beach would need to obtain approval from their staff before proceeding.

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Discussion occurred among the Town Council Members over the use of the Emergency Operations Center (EOC) for day one Town Council Meetings. Mayor McDonald indicated that he thought it would be more convenient for residents if they could stay on the island and that the residents would prefer to have the meetings held at the EOC. Town Attorney Randolph stated that there is case law that states there must be a large enough meeting place. He felt the EOC may be too small of a meeting space, depending on the item on the agenda. It was decided the meetings for day one would remain at the City of West Palm Beach.

Motion made by Council Member Diamond, seconded by Council President Pro Tem Coniglio to approve the $3000 to have live internet in the City of West Palm Beach Commission Chambers. On roll call, the motion carried unanimously.

B. New Business

1. Consideration of Scheduling an Attorney/Client Session Regarding Town of Palm Beach, Florida vs. United States of America, Civil Action No. 09-64 L, in the United States Court of Federal Claims, to Discuss this Matter to Begin on June 10, 2009, at 2:30 p.m. in the City of West Palm Beach Flagler Gallery. Attorney/Client Session Attendees: Mayor Jack McDonald; Town Council President David A. Rosow, Town Council President Pro Tem Gail Coniglio, Town Council Members William J. Diamond, Richard M. Kleid, and Robert N. Wildrick; Town Manager Peter B. Elwell; Attorney Jerry Stouck, Attorney John C. Randolph; and Court Reporter from Ley & Marsaa Court Reporters, Inc. [John C. Randolph, Town Attorney]

Motion made by Council Member Diamond, seconded by Council Member Kleid to approve the scheduling of an Attorney Client Session for June 10, 2009 at 2:30 p. m. On roll call, the motion carried unanimously.

2. Mayor McDonald's Veto of Ordinance No. 3-09 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 2, Administration, Article III, Officers and Employees, Division 1, Generally, to Include a New Section 2-141, Titled Prohibited Conduct after Termination of Employment or Office with the Town, So as to Prohibit Employees or Elected Officials from Personally Representing Another Person or Entity for Compensation Before the Town for a Period of Two Years Following Termination of Employment or Elected Office with the Town; Providing for Penalties; 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 gave a public apology to the Town Manager and to the Town Council for embarrassing them by providing poor legal advice. He discovered that there already was a provision in State law that prohibited soliciting. The Mayor's veto should remain. Town

Attorney Randolph also noted that Steve Brown of the Civic Association had contacted an ethics attorney and he offered that a new Ordinance be drafted to be in effect Sept 30, 2009.

There was discussion among the Town Council with a few minor changes being made to the Ordinance. Town Attorney read the new first reading of Ordinance No. 3-09 into the record as printed below:

> AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 2, ADMINISTRATION, ARTICLE III, OFFICERS AND EMPLOYEES, DIVISION 1, GENERALLY, TO INCLUDE A NEW SECTION 2-141, TITLED PROHIBITED CONDUCT AFTER TERMINATION OF EMPLOYMENT OR OFFICE WITH THE TOWN, SO AS TO PROHIBIT EMPLOYEES OR ELECTED OFFICIALS FROM PERSONALLY REPRESENTING ANOTHER PERSON OR ENTITY BEFORE THE TOWN FOR A PERIOD OF TWO YEARS FOLLOWING CESSATION OF EMPLOYMENT OR ELECTED OFFICE WITH THE TOWN; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Motion made by Council Member Kleid, seconded by Council Member Diamond, to approve Ordinance 3-09 on first reading. On roll call, the motion carried unanimously.

3. Holiday Ornament Recommendations from ARCOM. [H. Paul Brazil, Director of Public Works]

TIME CERTAIN: 4:00 p.m.

Public Works Director Paul Brazil presented ARCOM's recommended approval for decorations.

Council President Rosow stated that this project started when the Town Council thought the town should do something more with holiday decorations and wanted lights on the trees on Royal Palm Way and Royal Poinciana Way. What was presented was not Palm Beach - it was too far over the top.

It was the consensus of the Town Council to not approve the decorations that were presented.

Town Staff was directed to reevaluate the cost of installing electrical boxes in the medians to have the capability of installing white lights on the palm trees. Public Works Director Paul Brazil would report back to the Town Council at the July meeting.

The Preservation Foundation could not get involved with the project this year economically. The Garden Club felt the decorations were not in keeping with Palm Beach.

4. Proposed Retirement Health Savings Program. [William C. Crouse, Director of Human Resources]

Danielle Olson, Human Resource Analyst, presented the Retirement Health Savings Plan Power Point to the Town Council. She said the program was unique in that it was tax free in and tax free out, but with restrictions.

Motion made by Council Member Diamond, seconded by Council Member Wildrick, to approve the staff recommended Retirement Health Savings Program. On roll call, the motion carried unanimously.

5. Request by the City of West Palm Beach for Town Participation in Sponsorship of the City's Fourth on Flagler Event. [Sarah E. Hannah, Assistant Town Manager]

Assistant Town Manager Sarah Hannah asked for approval of a $10,000 donation from the general fund, to the City of West Palm Beach to become a sponsor of the Fourth on Flagler Annual Event.

Motion made by Council Member Kleid, seconded by Council President Pro Tem Coniglio to approve the $10,000 donation to the City of West Palm Beach. On roll call, the motion carried unanimously.

6. Architectural Review Commission Appointments. [John S. Page, Director of Planning, Zoning, and Building]

Council President Rosow announced that Ken Karakul was appointed to Regular Member and Nikita Zukov was appointed an Alternate Member.

7. Code Enforcement Board Appointments. [Kirk Blouin, Police Chief]

Council President Rosow announced that W. Anthony Dowell was appointed as an Alternate Member.

8. Investment Advisory Committee Appointments. [Jane Struder, Director of Finance]

Council President Rosow announced that Dr. Michael Andrews, Mr. Benton Bohannon, and Mr. Heinz Gundlach were appointed as Regular Members.

9. Recreation Advisory Commission Appointments. [Jay Boodheshwar, Director of Recreation]

Council President Rosow announced that Mr. Donald Singer was appointed as an Alternate Member.

Motion made to ratify all of the Board and Commission appointments by Council Member Diamond, seconded by Council Member Wildrick. On roll call, the motion carried unanimously.

Council Member Wildrick announced to Town Manager Elwell that the appointment of Mr. Dowell to Code Enforcement today would create an opening at Planning and Zoning. Town Manager Elwell indicated that a new advertisement asking for applicants would be issued.

10. Cancellation of July 16, 2009, Special Town Council Meeting Regarding the Proposed FY2010 Budget. [Peter B. Elwell, Town Manager]

Council President Pro Tem Coniglio had pulled the item from the Consent Agenda. She stated that the Finance and Taxation Committee has done a great job. There was a Finance and Taxation Committee meeting scheduled for June 16th and she requested that the entire Town Council attend and change it to a Special Town Council budget meeting. Council Member Wildrick said it was a good idea.

Motion made by Council Member Wildrick to cancel the Finance and Taxation Committee Meeting and have a full Special Town Council budget meeting on June 16, 2009 at 9:30 a.m., seconded by Council Member Diamond. On roll call, the motion carried unanimously.

11. Authorization to Begin Dune Restoration Permitting for Reaches 3, 4, 7, and 8. [H. Paul Brazil, Director of Public Works]

Council President Rosow had pulled the item from the Consent Agenda. The maximum cost to the Town without receiving any FEMA reimbursement would be $5.5 million Council President Rosow directed staff to consider planting sea grasses on the beaches as an erosion preventative.

Council Member Kleid stated that the Shore Protection Board spoke in favor of appropriating the money and paying the entire cost regardless of receiving any FEMA reimbursement. Town Manager Elwell stated that he had informed the Shore Board that he would convey their opinion.

Motion made by Council President Pro Tem Coniglio, seconded by Council Member Kleid to authorize the Dune Restoration Permitting Process for Reaches 3, 4, 7 and 8. On roll call, the motion carried unanimously.

12. Approval of a New One-Year Lease Agreement Between the Town and Rosarian Academy for the Use of Town Property in Downtown West Palm Beach for Physical Education Programs. [Thomas G. Bradford, Deputy Town Manager]

Council President Rosow had pulled this item from the Consent Agenda. He asked if any of the terms of the lease had changed and they would not.

Motion made by Council President Pro Tem Coniglio, seconded by Council Member Diamond. On roll call, the motion carried unanimously.

XIII. ORDINANCES

A. Second Reading

1. ORDINANCE NO. 4-09 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 18 of the Town Code of Ordinances, Buildings and Building Regulations, at Article II, Administration of Planning, Zoning, and Building, Division 1, Section 18-36, Penalties, and by Creating a New Division 5, Providing at Section 18-112 for a Prohibition on Demolition for the Period of the Year Beginning December 1st and Ending March 1st of the Following Year; Providing for Exceptions; Providing for Notice; 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. 4-09 by title, as printed above.

Motion to adopt Ordinance No. 4-09 made by Council Member Diamond, seconded by Council President Pro Tem Coniglio. On roll call, the motion carried unanimously.

B. First Reading

1. ORDINANCE NO. 13-09 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Code of Ordinances of the Town of Palm Beach at Chapter 2, Administration, Article IV, Boards and Commissions, Division 2, Planning and Zoning, Section 2-328, to Amend the Definition of Excessive Conflicts of Interest to Include Three or More Conflicts of Interest in Any One Calendar Year, Providing for Automatic Removal in the Event of Excessive Conflicts of Interest and Deleting Language Relating to Commission Members Making Presentations Before Their Commission; Amending Chapter 2, Administration, Article V, Code Enforcement Division 2, Code Enforcement Board, Section 2-402, So as to Provide a Definition of Excessive Conflicts of Interest and Providing That a Board Member Shall Be Automatically Removed from the Board in the Event of Three or More Conflicts of Interest in Any One Calendar

Year; Amending Chapter 2, Administration, Article VI, Finance, Division 6, Investment Advisory Committee, Section 2-567 Relating to Conflicts of Interest in the Manner Set Forth Above; Amending Chapter 18, Buildings and Building Regulations Article III, Architectural Review, Division 2, Architectural Commission, Section 18-170 Relating to Conflicts of Interest in the Manner Set Forth Above; Amending Chapter 54, Historical Preservation, Article II, Landmarks Preservation Commission, Section 54-38, Amending the Section Relating to Conflicts of Interest in the Manner Set Forth Above; Amending Chapter 74, Parks and Recreation, Article I, in General, Section 74-1 to Amend the Definition of Conflicts of Interest in the Manner Set Forth above and Deleting Certain Language Relating to Presentations Before One's Own Commission; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date. [John C. Randolph, Town Attorney]

There was discussion among the Town Council Members regarding the number of conflicts that should be permitted. Council Member Diamond did not want to weaken the Ordinance and still wanted zero conflicts. Council Member Wildrick said they should not reinvent this ordinance since it has been brought before them several times already and if they are going to redraft it again, he would not support it. Council President Pro Tem Coniglio expressed her opinion that the commissioners will drop like flies off of the boards. Council Member Kleid felt the Town would be penalizing the residents that donated their time. Council Member Diamond said they just appointed many applicants that morning and there were more applicants than open positions. There are enough people to serve in Town that would not line their own pockets.

Council Member Wildrick stated that the Council was happy with the five conflicts originally and now it was three. Mayor McDonald asked Council Member Wildrick where he stood on this Ordinance. Council Member Wildrick responded that he was happy with the three conflicts with the clause of automatic removal so that there is no embarrassment in front of the Town Council. Council Member Diamond said that was acceptable. The Ordinance proposed was three strikes and you are off the Board/Commission.

Council Member Kleid wanted a clause added to the Ordinance that was in the Town Attorney's Memo that would require removal from the chambers. Town Attorney Randolph read the Ordinance by title, as printed above.

Motion made by Council Member Kleid, seconded by Council Member Diamond, to approve first reading of Ordinance 13-09 with the added provision to leave the chamber for each declared conflict, and have each board and commission policy be uniform. On roll call, the motion passed 4-1, with Council President Pro Tem Coniglio dissenting.

Council Member Kleid announced he would change his vote. The motion passed 3-2.

Council President Rosow	**Yes**
Council President Pro Tem Coniglio	**No**
Council Member Kleid	**No**
Council Member Wildrick	**Yes**

Council Member Diamond **Yes**

XIV. ANY OTHER MATTERS

There were none.

XV. ADJOURNMENT

There being no further business, the regular Town Council meeting of June 9, 2009, was adjourned at 4:27 p.m.

APPROVED:

David A. Rosow
Town Council President

ATTEST:

Joanna Cunningham
Town Clerk