

TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE SPECIAL TOWN COUNCIL MEETING HELD ON THURSDAY, JUNE 8, 2006, AT 2:30 P.M.

I. CALL TO ORDER AND ROLL CALL

The Special Town Council meeting of June 8, 2006, was called to order in the Town Council Chambers at 2:30 p.m. by Town Council President Denis Coleman. On roll call, the following members of the Town Council were found to be in attendance:

Mayor Jack McDonald
President Denis Coleman
President Pro Tem Richard Kleid
Town Council Member William Brooks
Town Council Member Susan Markin
Town Council Member Allen Wyett.

Also in attendance were: Town Manager Peter Elwell, Deputy Town Manager Thomas Bradford, Town Attorney John Randolph, Director of Planning, Zoning & Building Veronica Close, and Town Clerk Susan Eichhorn.

II. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by President Coleman.

III. APPROVAL OF AGENDA

The Agenda was approved through motion of Council Member Brooks, seconded by President Pro Tem Kleid. On roll call, the motion carried unanimously.

IV. Consideration of Voluntary Dismissal of Town of Palm Beach vs. Barry Small. (In the Event That the Mayor or Any Member of the Town Council Wishes to Discuss this Matter Prior

STC 6-8-06/se

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to Acting Upon the Proposed Dismissal of this Case, Then the Town Attorney Will Request the Scheduling of an Attorney/Client Session Case No. 50 2006 CA 3502 XXX MB AH, Fifteenth Judicial Circuit Court, Palm Beach County, Florida, to Discuss this Matter Immediately Following the Special Meeting of the Town Council Scheduled for 2:30 P.M. on Thursday, June 8, 2006, in the Town Council Chambers, 360 South County Road, Palm Beach, Florida. Attorney/Client Sessions Attendees:

Jack McDonald, Mayor
Denis P. Coleman, Town Council President
Richard M. Kleid, Town Council President Pro Tem
William J. Brooks, Town Council Member
Susan Markin, Town Council Member
Allen S. Wyett, Town Council Member
Peter B. Elwell, Town Manager
John C. Randolph, Town Attorney
Court Reporter from Ley and Marsaa Court Reporters, Inc.

Town Attorney Randolph advised that he needed the advice of the Town Council in regard to pending litigation, and requested a Closed Door Attorney/Client Session in regard to Case No. 50 2006 CA 3502 XXX MB AH, Fifteenth Judicial Circuit Court, Palm Beach County, Florida

Motion made by President Pro Tem Kleid to approve scheduling of an Attorney/Client Session regarding Case No. 50 2006 CA 3502 XXX MB AH, Fifteenth Judicial Circuit, Palm Beach County, Florida. The motion was seconded by Council Member Brooks. On roll call, the motion carried 4/1, with President Pro Tem Kleid, Council Member Brooks, Council Member Markin, and Council President Coleman casting affirmative votes; Council Member Wyett casting a dissenting vote.

Town Attorney Randolph read the scheduling of the attorney client session into the record - Case No. 50 2006 CA 3502 XXX MB AH, Fifteenth Judicial Circuit Court, Palm Beach County, Florida to discuss this matter immediately following the Special Town Council Meeting scheduled for 2:30 p.m., on Thursday, June 8, 2006, in the Town Council Chambers, 360 South County Road, Palm Beach Florida, Attorney/Client Session attendees:

Jack McDonald, Mayor
Denis P. Coleman, Town Council President
Richard M. Kleid, Town Council President Pro Tem
William J. Brooks, Town Council Member
Susan Markin, Town Council Member
Allen S. Wyett, Town Council Member
Peter B. Elwell, Town Manager
John C. Randolph, Town Attorney

Court Reporter from Ley and Marsaa Court Reporters, Inc.

- V. Consideration of Authorizing the Town Manager to Enter Into a Settlement Agreement with Frank and Maureen Wilkins Regarding the Case of Frank and Maureen Wilkins vs. Town of Palm Beach. (In the Event That the Mayor or Any Member of the Town Council Wishes to Discuss this Matter Prior to Acting Upon the Proposed Settlement of this Case, Then the Town Attorney Will Request the Scheduling of an Attorney/Client Session Case No. 50 2006 CA 0000 XXX MB AY, Fifteenth Judicial Circuit Court, Palm Beach, Florida, to Discuss this Matter Immediately Following the Special Meeting of the Town Council Meeting Scheduled for 2:30 P.M. on Thursday, June 8, 2006, in the Town Council Chambers, 360 South County Road, Palm Beach, Florida. Attorney/Client Session Attendees:

Jack McDonald, Mayor
Denis P. Coleman, Town Council President
Richard M. Kleid, Town Council President Pro Tem
William J. Brooks, Town Council Member
Susan Markin, Town Council Member
Allen S. Wyett, Town Council Member
Peter B. Elwell, Town Manager
John C. Randolph, Town Attorney
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Town Attorney Randolph explained that the Wilkins' had applied for a variance to allow improvements to structures on their property that were within 50 feet of the bulkhead line. Staff had indicated that the Wilkins' would need a variance, as their seawall lacked 22 ½ feet of extending the full width of their property. The Wilkins' tried to get a permit from the Florida Department of Environmental Protection (FDEP) to add the 22 ½ feet to the seawall, but were unsuccessful. After that, they came to the Town Council and asked for a variance to make the improvements, even though they did not receive permission to construct that portion of their seawall. The Town Council denied the variance, and subsequently, the Wilkins' filed a petition for Writ of Certiorari, or an appeal, from that decision. A response has not yet been filed to that appeal.

Town Attorney Randolph advised that subsequent to the denial, and upon request of the applicant, the staff had taken another look at the application, and without going into a great deal of detail, staff had determined that because the height of the dune east of the Wilkins' property was the height required by statute, and because all of the improvements were located directly west of the seawall that existed, that it was not necessary that the seawall be extended the entire width of the property in order for them to make their improvements. All that was required was that the existing seawall be raised to 14.34 feet, which the Wilkins' were willing to do and for which they would

apply for a permit to do. It was the determination of staff that a variance was not necessary, and in light of that, Town Attorney Randolph recommended that the Town Council approve and authorize Town Manager Elwell to execute a settlement agreement, subject to final approval by him and Attorney Randolph; the agreement would recite the facts that had been stated today. Town Attorney Randolph advised that he had been working with Attorney Ron Kolins in preparing such an agreement, which so far appeared to be in good form. The agreement releases each of the parties from any and all claims relating to this matter, and it seemed that a settlement would be in order. The settlement would mean that the Wilkins would drop their appeal with prejudice.

Council Member Brooks moved approval of authorization of Town Manager Elwell to enter into a settlement agreement with Frank and Maureen Wilkins.

In response to President Pro Tem Kleid, Town Attorney Randolph advised that he was in agreement with staff that a variance was not required in this matter.

The motion of Council Member Brooks was seconded by Council Member Kleid. On roll call the motion carried unanimously.

VI. ADJOURN TO REVIEW UNDERGROUND UTILITY FACILITIES WITH LLWYD ECCLESTONE

- A. PHIPPS' ESTATES IN THE TOWN OF PALM BEACH
- B. LOST TREE VILLAGE AT THE EAST END OF PGA BOULEVARD
NEAR NORTH PALM BEACH AND PALM BEACH GARDENS
- C. PGA NATIONAL IN THE CITY OF PALM BEACH GARDENS

Town Manager Elwell explained that the Town Council would now adjourn, at 2:50 p.m., for the tour to review the underground utility facilities with Llwyd Ecclestone. The Town Council would return to the Town Council Chambers at the conclusion of the tour, in order to attend the announced Attorney/Client Session regarding Case No. 50 2006 CA 3502 XXX MB AH, Fifteenth Judicial Circuit Court, Palm Beach County, Florida - Town of Palm Beach vs. Barry Small.

The site tour of underground utility facilities was hosted by Llwyd Ecclestone, with representatives in attendance from Florida Power & Light (FP & L) and BellSouth. All elected officials were in attendance. Also in attendance were: Town Manager Peter B. Elwell, Deputy Town Manager Thomas G. Bradford, Town Clerk Susan A. Eichhorn, reporters from the Palm Beach Daily News, and several residents. The tour began with the Phipps Estates, where the location and sizes of transformers and switch cabinets were pointed out. The tour commenced to Lost Tree Village. It was noted that switch cabinets were placed every so often, and were calculated on demand of the homes in the area. It could take care of several hundred, and was based on load. It

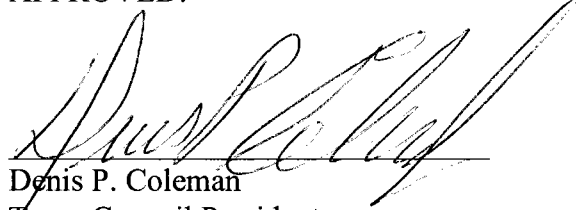
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was noted that FP & L was looking into putting the cabinets totally underground. Mr. Ecclestone responded to questions that were asked by some of those attending the tour.

VII: ADJOURNMENT

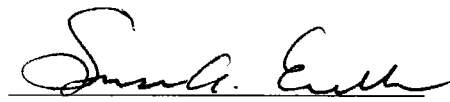
There being no further business, the Special Town Council meeting was adjourned at 4:25 p.m.

APPROVED:



Denis P. Coleman
Town Council President

ATTESTED:



Susan A. Eichhorn
Town Clerk