TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL MEETING
HELD ON TUESDAY, MAY 13, 2008

I. CALL TO ORDER AND ROLL CALL

The Regular Town Council Meeting was called to order on Tuesday, May 13, 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 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
Kirk Blouin, Administrative Police Captain
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
Jane Day - Historical Preservation Consultant
Tim Frank - Planning Administrator
Charles Langley - Public Works Assistant Director
John Page - Planning, Zoning and Building Director
Michael Reiter - Police Chief
Jane Struder - Finance Director

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Rob Walton - Chief Code Compliance Officer
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. $3,000 College Scholarship Provided by the Palm Beach Civic Association and the Citizen's Association of Palm Beach to Benefit a Child of a Town Employee, Presented This Year to Emily Nowacki, Daughter of Elizabeth Nowacki of the Fire-Rescue Department.

Mayor McDonald, Stanley Rumbaugh of the Palm Beach Civic Association, and Madelyn Greenberg of the Citizen's Association of Palm Beach presented a $3,000 College Scholarship Award to Emily Nowacki, daughter of Elizabeth Nowacki of the Fire-Rescue Department.

B. Recognition of Richard A. Raffo, Code Enforcement Board, From April 2002 Through April 2008.

Mayor McDonald gratefully recognized Richard A. Raffo for his service on the Code Enforcement Board, from April 2002 through April 2008.

C. Recognition of Michael Dennis, Medical Care Commission, From November 2005 Through April 2008.

Mayor McDonald gratefully recognized Dr. Michael Dennis for his service on the Medical Care Commission, from November 2005 through April 2008.

D. Recognition of Robert Friedman, Medical Care Commission, From November 2005 Through April 2008.

Mayor McDonald gratefully recognized Robert Friedman for his service on the Medical Care Commission, from November 2005 through April 2008.

E. Recognition of Norman Goldblum, Medical Care Commission, From February 2006 Through April 2008.

Mayor McDonald gratefully recognized Norman Goldblum for his service on the Medical Care Commission, from February 2006 through April 2008.

F. Recognition of Michael Stein, Medical Care Commission, From November 2005 Through April 2008.

Mayor McDonald gratefully recognized Michael Stein for his service on the Medical Care Commission, from November 2005 through April 2008.

G. Recognition of Norman Traverse, Medical Care Commission, From November 2005 Through April 2008.

Mayor McDonald gratefully recognized Dr. Norman Traverse for his service on the Medical Care Commission, from November 2005 through April 2008.

H. Recognition of Dr. Michael Andrews, Recreation Advisory Commission, From April 2003 Through April 2008.

Mayor McDonald gratefully recognized Dr. Michael Andrews for his service on the Recreation Advisory Commission, from April 2003 through April 2008.

I. Recognition of Kenneth Schechet, Recreation Advisory Commission, From April 2006 Through April 2008.

Mayor McDonald gratefully recognized Kenneth Schechet for his service on the Recreation Advisory Commission, from April 2006 through April 2008.

J. Recognition of Michael Spaziani, Recreation Advisory Commission, From April 1999 Through April 2008.

Mayor McDonald gratefully recognized Michael Spaziani for his service on the Recreation Advisory Commission, from April 1999 through April 2008.

IV. COMMENTS OF MAYOR JACK McDONALD

There were none.

V. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

President Pro Tem Coniglio made the following requests:

- An update on the parking kiosks and electronic chalking.
- Consideration given to changing the hours of parking to two hours in the commercial districts.
- Consideration of a warning on first violation, so that residents and visitors would be aware of the new policy.

President Kleid indicated that the items listed above would be added to the June 10, 2008 Town Council Agenda.

President Pro Tem Coniglio addressed the editorial in the Sunday *Palm Beach Daily News* from Mr. Goldberg regarding the use of the sand that was being dredged and pumped onto the north end, and why it could not be used further south.

Town Manager Elwell responded regarding the permitting process and the efforts made to work with the U.S. Army Corps of Engineers regarding the project.

President Kleid made the following comments:

He noted that when he read some of the letters to the editor in the *Palm Beach Daily News*, the letters were not based on fact. He suggested that it would be advisable for anyone wishing to complain about activities in the Town, to first contact a Town Council Member, or the Mayor, or the Town Manager, to verify the facts.

VI. COMMUNICATIONS FROM CITIZENS- 3 MINUTE LIMIT PLEASE

(Another opportunity for communications from citizens will be offered immediately after the lunch break.)

William Cooley, 8 Windsor Court, commented regarding a letter he had written to Gene Lawrence, a member of the Planning and Zoning Commission, regarding a conflict of interest on the part of Mr. Lawrence, as a member of the Planning and Zoning Commission. Mr. Cooley noted that he also had written a letter to the Town Council regarding the reduction in the number of conflicts of interest before removing a member of a board or commission. He requested verification of receipt of the letter, and whether any action would be taken.

President Kleid responded that the letter had been received, and it would not be added to an Agenda unless it was requested by one of the Town Council Members.

Council Member Markin requested that Mr. Cooley's letter regarding conflicts of interest be added to the June 10, 2008, Town Council meeting Agenda.

Mike Spaziani, 322 Seaspray Ave., commented regarding the Palm Beach Day School and the status of the chiller and drainage, as his home cabana had been recently flooded. He requested that the Town Council provide assistance in protecting the neighbors from damage to their properties. He also expressed concern with the parking issues.

Town Manager Elwell advised that at this point in time, there was active pursuit of addressing the issues; however, the solutions had not yet been implemented. He indicated that he believed the Palm Beach Day School would be back to the Town Council later this summer regarding the parking issue.

Discussion took place regarding the Declaration of Use Agreement. Zoning Administrator Paul Castro advised that the chiller was to be removed by July 15, 2008; the applicant had until May 22, 2008, to submit an application for the July 15, 2008, Town Council meeting.

Follow-up by staff was requested regarding:

- The issue of non-conformance with valet parking. If violations occur, the School should be brought before the Code Enforcement Board.
- Update to be provided by Planning, Zoning, and Building (PZB) Department following the meeting scheduled for tomorrow with the Palm Beach Day

School.

Jere Zenko, 232 Tangier Avenue, commented regarding:

- The incompatibility of "S" tile roofing with the rest of the architecture in the Town, and her recommendations for solutions.
- The high level of service expected by residents, and the lack of complaints by residents as a result of the Town operating with fewer employees.

VII. APPROVAL OF AGENDA

The following modifications were made to the Agenda:

ADDED Item XII.B.6. - Discussion of One-Day versus Two-Day Town Council Meetings.

ADDED AND RE-NUMBERED THE AGENDA Item XIV.A. - Modified Site Plan Review #20-2007 With Special Exception And Variances.

ADDED Item XIV.B. - Consideration of ARCOM Request for a Code Amendment to Prohibit Artificial Turf.

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

VIII. CONSENT AGENDA

A. MINUTES: APRIL 7, 2008
APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

B. MINUTES: APRIL 8, 2008
APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

C. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL COMMISSION AT ITS MEETING ON APRIL 23,

2008, WITH THE EXCEPTION OF ARCOM DECISION NO. B10-08 AND ARCOM DECISION NO. B22-08/VE5-08, WHICH ARE THE SUBJECT OF APPEALS.

D. RESOLUTIONS

1. RESOLUTION NO. 25-08 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving an Interlocal Agreement Between the Town of Palm Beach and Palm Beach County for the Transfer of Old South Ocean Boulevard Right-of-way and Authorizing and Directing the Mayor to Execute Said Interlocal Agreement on Behalf of the Town; Providing an Effective Date. [John C. Randolph, Town Attorney]

2. RESOLUTION NO. 32-08 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to Chaz Equipment Company, Inc. for D-8 Collection System Improvements for the Town of Palm Beach. [H. Paul Brazil, Director of Public Works]

3. RESOLUTION NO. 33-08 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to D.S. Eakins Construction Corp. For Sanford Avenue Storm Sewer Improvements for the Town of Palm Beach. [H. Paul Brazil, Director of Public Works]

4. RESOLUTION NO. 34-08 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to Dee Griffin Earthworks, Inc. for South Woods Road Storm Sewer Improvements for the Town of Palm Beach. [H. Paul Brazil, Director of Public Works]

E. OTHER

1. Approval of Lease Agreement Between the Town and Rosarian Academy for Use of Town Property in Downtown West Palm Beach for Physical Education Programs.

[Thomas G. Bradford, Deputy Town Manager]

2. Approval of Payment for Biological Monitoring of Reach 7 Beach Restoration Project. [H. Paul Brazil, Director of Public Works]

3. Approval of Relocation of the Ilyinsky Memorial in Lake Drive Park. [Jay Boodheshwar, Director of Recreation]

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

IX. PUBLIC HEARINGS

A. <u>RESOLUTION NO. 35-08</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Ratifying and Confirming the Determination of the Landmarks Preservation Commission That the Property Known as 200 Via Bellaria Meets the Criteria Set Forth in Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach; and Designating Said Property as a Town of Palm Beach Landmark Pursuant to Ordinance 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach. [John S. Page, Director of Planning, Zoning, and Building]

Planning Administrator Tim Frank, presented Resolution No. 35-08, noting that the subject property, located at 200 Via Bellaria, had met the necessary criteria for designation as a Landmark in the Town of Palm Beach by the Landmarks Preservation Commission, and that this was a voluntary designation.

Historical Preservation Consultant Jane Day presented the Designation Report regarding the property at 200 Via Bellaria, noting that it was the conclusion of the season for landmarked designations.

Town Attorney Randolph read Resolution No. 35-08, by title, as printed above.

Motion made by President Pro Tem Coniglio, seconded by Council Member Coleman to approve Resolution No. 35-08, designating 200 Via Bellaria as a Landmark of the Town of Palm Beach, on the basis that it met the criteria set forth in Ordinance

No. 2-84, also known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach and accepted the Designation Report. On roll call, the motion carried unanimously.

B. <u>RESOLUTION NO. 36-08</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Ratifying and Confirming the Determination of the Landmarks Preservation Commission That the Property Known as 212 Australian Avenue Meets the Criteria Set Forth in Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach; and Designating Said Property as a Town of Palm Beach Landmark Pursuant to Ordinance 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach. [John S. Page, Director of Planning, Zoning, and Building]

Town Attorney Randolph read Resolution No. 36-08, by title, as printed above.

Planning Administrator Frank, presented Resolution No. 36-08, noting that the subject property was located at 212 Australian Avenue, and the master builder was Ernest Benjamin Walton, Sr. The Landmarks Preservation Commission had reviewed and found that the property met the necessary criteria for designation as a Landmark in the Town of Palm Beach, and that this was a voluntary designation.

Historical Preservation Consultant Day presented the Designation Report regarding the property located at 212 Australian Avenue.

Motion made by President Pro Tem Coniglio, seconded by Council Member Coleman to accept the Designation Report for 212 Australian Avenue. On roll call, the motion carried unanimously.

Motion made by President Pro Tem Coniglio, seconded by Council Member Rosow to approve Resolution No. 36-08, designating 212 Australian Avenue as a Landmark of the Town of Palm Beach, on the basis that it met the criteria set forth in Ordinance No. 2-84, also known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach. On roll call, the motion carried unanimously.

X. BOARD/COMMISSION ANNUAL REPORT

A. Code Enforcement Board. [Timothy Hoffman, Chair and Michael S. Reiter, Chief of Police]

Timothy Hoffman, chair of the Code Enforcement Board, addressed the Town Council regarding the effective transition of Code Enforcement from the Planning, Zoning, and Building Department to the Police Department and he reviewed the objectives of the Board.

Chief of Police Reiter provided a PowerPoint presentation of the Board's annual report. He noted that the compliance level had increased dramatically.

XI. COMMITTEE REPORTS

A. Water Committee Meeting of April 10, 2008. [David A. Rosow, Chair]

Council Member Rosow presented the following report and reviewed the recommendations made by the Water Committee meeting held on April 10, 2008. Both Chair Rosow and Committee Member Coleman attended the meeting.

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REPORT OF THE WATER COMMITTEE MEETING
HELD ON APRIL 10, 2008, @ 3:00 P.M.

I. CALL TO ORDER AND ROLL CALL

The Water Committee Meeting was called to order at 3:00 p.m. in the Town Council Chambers. On roll call, Chair David A. Rosow and Committee Member Denis P. Coleman were found to be present. Also present for all or a portion of the meeting were:, Mayor Jack McDonald, Town Council President Pro Tem Gail Coniglio, Town Manager Peter B. Elwell, Assistant Town Manager Sarah E. Hannah, Town Attorney John C. Randolph, Director of Planning, Zoning and Building John Page, Director of

Public Works H. Paul Brazil, Town Engineer James Bowser, and Town Clerk Susan Eichhorn. The following were present from the City of West Palm Beach: Mayor Lois Frankel, Eduardo Balbis, Assistant City Administrator, Richard Williams, Fiscal Services Director, and Randy Sherman, Finance Director

II. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Chair Rosow.

III. APPROVAL OF AGENDA

The Agenda was approved as printed.

IV. PRESENTATION BY WEST PALM BEACH MAYOR LOIS FRANKEL AND CITY STAFF REGARDING FRANCHISE AGREEMENT AND PLANS FOR FUTURE WATER SUPPLY

V. CONSIDERATION OF PROPOSED WATER RATE INCREASE

Richard Williams, Fiscal Services Director responded to the recent water rate increase, advising that the increase was due to operation and maintenance deficits incurred because of reduced water sales. He produced a slide presentation indicating the expenses that the rate increase would cover.

Mayor Frankel explained that the rate increase was very general; the City had experienced the same or increased costs, but less revenues, because of last year's drought restrictions.

Richard Williams explained that the City looked at the sales flow numbers, and in 2005, there was a 26 million gallons per day average; this year the average was 22.1 million gallons per day.

Chair Rosow pointed out that the fees were being increased 50%, yet the actual reduction in water used was 25%.

Richard Williams produced a slide that indicated all of the reasons for the rate increase. He explained that the City provided a rate consultant with the actual operating expenses, and any forecasted budgets. The City had provided them with the 2007 budget, and all of the prior expenses from 2000 through 2006. Based on that information, they forecast out, and run it through the rate model, and the rate increase is then calculated.

In response to the question regarding the 25% reduction in water usage, Mr. Williams explained that there were conservation rate blocks, and it depended upon where those sales were being lost – if they were being used on the high end rate blocks, more money was lost than if the sales were lost on the first rate block. It was the proportionality of where the water sales had declined. In the case of the Town of Palm Beach, it was 30% less today than it was two years ago.

Committee Member Coleman asked if the revenues had equaled the expenditures in 2005-2006, and asked if there was a catch up involved?

Mr. Williams responded that there was a catch up on reserves; by bond resolution the City must have a certain amount in reserves. The City had gone from an excess of $15 million in reserves for water and sewer to $1.1 million as of today. The City had been operating in a deficit, funding through the reserve fund for the past three years. He produced a schedule that indicated the balance in water and sewer reserves starting in 2001. He noted that the requirement in the bond resolution stated that the City must operate on a break even or better basis, and meet debt service coverage. The only way that has been done was by using the prior year surplus to fill in the monthly deficits.

In response to Chair Rosow's question regarding the monies from the PILOT (Payment In Lieu of Taxes) Fund, Mayor Frankel stated that a 1993 bond resolution authorized the issuance of various utility system revenue bonds, and the utility system was permitted to make payment in lieu of taxes. There was an ordinance adopted in 1995, which established the PILOT. There were about 14,000+ acres of West Palm Beach land that were off of the tax rolls, and were serviced by the City, including police, fire, public works, etc. The PILOT represented a payment for those services and for our lost tax revenue from the water system. It was a common charge used by utility systems around the country. The number was arrived at through a formula determined in 1995, and had not changed since that time. Otherwise, the people in the City of West Palm Beach would pay disproportionately.

Chair Rosow suggested that the City revisit the issue, because the City services were also provided to churches and schools and those entities were not charged a PILOT fee.

Mayor Frankel responded that one of the things that would be reviewed would be the potential to redevelop the area where the water plant was located, perhaps having a smaller plant there, or being able to redevelop the property. That would be a good time to revisit the issue. She noted that the PILOT was in effect in 1995, and the agreement with the Town of Palm Beach was not until 1999.

Chair Rosow commented that the PILOT program was about $4 million per year, and the deficit had basically arisen as a result of the funding of the PILOT program.

Mayor Frankel responded that the City must provide the services. She stated that she wanted to be fair, and look at everything, and that she was open minded. This was a very tough time to ask any City to take $4 million out of their general revenue; someone must provide the services to the water system. She stated that she was here in the spirit of friendship.

Eduardo Balbis advised that this morning the South Florida Water Management District (SFWMD) received the proposal from staff to move portions of the system from Phase III to Phase II water restrictions. Originally, the staff recommendation was to maintain the City of West Palm Beach area on Phase III, due to the fact that the order with the SFWMD with emergency water supply depended upon Phase III. The initial vote was to comply with staff's recommendation. The City had made a request to have the City placed on Phase II also, so that it could alleviate 10% of the surcharge as placed, and SFWMD revisited the issue in the afternoon, and had confirmed that they were now reducing the restrictions for the West Palm Beach system to Phase II, as of April 18, 2008. The surcharge would then go down 10%.

Mayor Frankel explained that rate increase now would get the City back whole, because so much revenue had been lost over the past year.

Eduardo Balbis advised that the surcharge at Phase III water restrictions was at 30%; at Phase II water restrictions it was at 20%; at Phase I water restrictions it was at 10%.

Committee Member Coleman commented that the purpose of increasing the revenues was to bring the system to a break-even point, and then to bring the reserve account back up to the target 15% number.

Richard Williams responded that $1.3 million would go back into reserves, if sales were on target.

Committee Member Coleman asked what would happen in 2029 if there were $20-25 million in the reserve account, and the bonds were defused.

Town Manager Elwell advised that there was a specific reserve within their family of reserves that was specific to the improvements that would be made on the Island. If there was any money left in it at the time the assets were to be transferred in 2029, it would go back to the City. Between the two staffs, that pot of money was managed, and went to pay for improvements that were done on the Island. It would be the Town's job to be sure that staff was working together with the City as 2029 approached, to be sure to spend every penny.

Mayor Frankel noted that the money had been put aside for the Town. She explained that the sensitivity on raising the rates was as great, if not greater, in the City of West Palm Beach as it was in the Town of Palm Beach. She noted that for some City residents, just a few dollars of additional cost was unbearable. The political reality was that the City did not like to raise the rates.

Richard Williams explained that the rate study contemplated no surcharge during 2009; that was why it was 48%. If it had continued, the 48% would have gone lower. He was hopeful that by September 30, 2008, the entire Phase I, II and III would be eliminated.

Mayor Frankel commented that every time a rate increase was put off, the City went further into the hole, which meant that the next rate increase had to go up even more. She noted that she had proposed a rate increase about three months ago, and the Commission had taken a step backward – because of that, the increase went up even more. She suggested that the surcharge going down would decrease everyone's bill.

Richard Williams responded that the rate study had been calculated based upon water consumption remaining at the reduced level, but no additional revenues were put into the rate study for the surcharge. It was assumed that the Commission would undo the surcharge by September 30, 2008. A major rate study was done every four or five years. In that study, there were escalators for years two, three, four and five. The escalator for water was 9.75% per year.

Chair Rosow referred to the contract, section four, rates, Item B: Covenant Not To Surcharge. He maintained that the plain reading of that is that the City could not charge a surcharge.

Mayor Frankel advised that there had been very contentious negotiations between the Town of Palm Beach and West Palm Beach in 1999 on the water rates. One of the things that was occurring at the time was that the City of West Palm Beach was putting a surcharge on the rates of the nonresidents; that was permitted under F.S. 180.191, which allowed a municipality to do that. The City did concede that they would not charge their nonresident customers differently than the resident customers. She explained that the surcharge that was being billed now was a surcharge to all the customers; it was called a "drought bonus." She referred to the section referenced by Mr. Rosow, and clarified that what was meant was that the City would not charge the Town any more than any other customer, and the City had honored that.

Committee Member Coleman clarified that the volume surcharge went to every customer in the system, and since Town residents consume more per capita, the bills would be higher.

Bill Diamond, 220 Wells Road, commented that the PILOT money was supposed to go to normal infrastructure repairs and upgrading of City facilities, and instead, he understood that some of it went to other items, like the City Center.

Mayor Frankel responded that the PILOT was established in 1995. The PILOT money went into general revenue to pay for services that the City provided to all property owners.

Committee Member Coleman suggested that the Town Finance Department review the formula for the PILOT charge.

Marty Millar, South Palm Beach Council Member, representing South Palm Beach, commented that residents in South Palm Beach did not have big lawns, only condominiums, and the rates had been raised. He maintained that South Palm Beach did not use a lot of water. He remarked that he had turned the shower on, and at times it would trickle, and other times it would pour out. He called West Palm Beach, and asked for more water, and they did. He questioned why some days there was no water coming out of the shower, and other days there was lots of water.

Mayor Frankel replied that the Utilities Department would be happy to respond to complaints.

Bill Diamond commented that many people in the Town of Palm Beach were concerned about the amount of new construction planned in the City. He asked how that would affect the supply and quality of water, and the infrastructure?

Mayor Frankel replied that planning for the future was being done, and part of the whole planning process was to look at the demands on the infrastructure.

Chair Rosow reminded Mayor Frankel that she had said, about a month ago, that everything was on the table.

Mayor Frankel responded that meant that she was very open minded, and was always open to listening to new and better ideas; she was for the greater good, and did not come here with any absolute, close-minded position. She urged presentation of any options. Not only the quantity of the water, but the source of the water was important.

Chair Rosow asked if the Town came to the City in the near future with a proposal for the Town to be water independent, would that be something that would be entertained?

Mayor Frankel replied that she would consider whatever would be for the greater good. She urged that the Town go through its own deliberative process and feel free to present a proposal for a better or different way. She suggested moving forward in the spirit of friendship; there were two members of Palm Beach and South Palm Beach who were on the Water Advisory Committee, and the City was very transparent about their planning.

Harvey Popell, town resident, remarked that in the business world, when sales were down, top executives looked to cut expenses, and he asked what was being done to manage expenses at the same time that rates were being raised?

Mayor Frankel replied that a lot more money was being put into the facility; the system must be as efficient as possible, and the Health Department and the Florida Department of Environmental Protection mandated certain things. She requested that Gary Deremer, who was running the Water Plant, provide a response.

Gary Deremer advised that an efficiency audit of the facility was being done. There were a number of critical items that needed to be in place, since reliability, redundancy of equipment, and the public health and welfare was at stake. With that in mind, an efficiency study was being done to look at items such as power, chemical usage, and labor. Some cost reduction measures for ongoing operation and maintenance expenses had already been put into place. The City would have a report available that could be reviewed to compare operating expenses within 60-90 days.

Harvey Popell referred to the pricing for the residents of Palm Beach, and pricing to other customers and the tier system. The sales deficit of 18% somehow translated into a 48% price increase, because of the tiering and because the drop in sales occurred at higher price points. He asked whether the tiers had changed materially since the Town water contract was signed.

Richard Williams clarified that there were six rate blocks that the City of West Palm Beach used since 1993, and the City was contractually obligated, under the franchise agreement, never to change the proportionality of those rate blocks.

VI. PRESENTATION BY DR. PAT GLEASON, Ph.D., VICE PRESIDENT OF CAMP, DRESSER & McKEE ON DIFFERENT WATER SUPPLY OPTIONS AVAILABLE

Dr. Pat Gleason and Dave Collins with Camp, Dresser & McKee (CDM) provided a power point presentation regarding reverse osmosis and desalinization. Mr. Collins stated that CDM had been commissioned to do a report for SFWMD, which looked at costs for different sources of supply for water. Dr. Gleason discussed alternative water supplies, water treatment plants, and water usage demands. He provided information regarding costs for various water plants, using alternative water supplies, such as brackish water and sea water. He explained the method used for arriving at costs for SFWMD:

- Costs were developed at the request of SFWMD for 5, 10, 15 and 20 million a gallon per day plants; these costs were not to include the disinfection, onsite generation of chlorine, land, water storage tanks or the high service pumping costs, or new power that may be necessary.

- Alternative water supplies used more power than conventional treatment

- Total production costs represented dollars per thousand gallons.

- Some of the general assumptions were that there would be no unusual conditions, that the raw water sources would be close by, that the source of power would be close by, and that power costs would be $10 per kilowatt hour. At the time the report was done, the costs of oil were not as high as today. The plants were very sensitive to petroleum costs.

Dr. Gleason discussed deep injection wells, which disposed of waste products from brackish water. The option to try to discharge the waste out to sea had not been very successful. He reviewed capital costs and production costs. He noted that sea water was about twice the capital cost of Floridan Aquifer reverse osmosis. The production costs would follow the same trend; brackish water reverse osmosis on a dollars per thousand basis was much less than sea water reverse osmosis. He emphasized that if there were some way that the Town of Palm Beach and the City of West Palm Beach could work together to build one plant, rather than two separate plants, there were significant economies of scale.

In response to Chair Rosow, Town Engineer Jim Bowser referred to his memorandum, dated April 1, 2008, regarding reverse osmosis treatment facility costs, in which he had estimated that a town facility would be 16.5 mgd. He explained that he had taken the peak demand in 2006, of 9.5 mgd on average, and put a peaking factor of 1.6 on the water supply capacity, and arrived at 16.5 mgd. He advised that was an engineering analysis and was fairly standard for the industry.

In response to Committee Member Coleman, Mr. Collins advised that the sources of water were generally regulated by the SFWMD; the Florida Department of Environmental Protection (FDEP) regulated deep injection wells, and the Palm Beach County Health Department. He explained that taste normally came from organics that were in the water, and taste would not be an issue with reverse osmosis facilities. Dr. Gleason added that membranes did a wonderful job of removing pharmaceuticals, personal care products, and inorganics.

Regarding irrigation, Dr. Gleason advised that SFWMD would not provide any more fresh water. The Floridan Aquifer was too salty to use for irrigation, and a reverse osmosis process would be needed to use that for irrigation. If a pipeline from the mainland was going to be built to bring some sort of less treated water to the Town of Palm Beach, that might be an option for consideration. That pipeline had been thought about lots of times, and the waste water would be coming from the ECR plant, which was quite a distance inland.

Regarding the economies of scale, Dr. Gleason advised that the curve started to flatten at 10 mgd.

Regarding the regulation of Floridan Aquifer use by the SFWMD, Dr. Gleason agreed that restrictions may be in the future. Basically, SFWMD had been pushing utilities to go to the Floridan Aquifer, but eventually there would be so many utilities using it, that it would become another regulated aquifer. Right now, the selling point had been that if the Floridan Aquifer (brackish water) was used, there would not be restrictions, if that was the only source being used. He noted that it was difficult to see how that was going to last for a long time. There was no water available from the Biscayne Aquifer, nor from Lake Okeechobee – everyone was being pointed to go to the Floridan Aquifer right now, however, in a few years down the road, there may not be wide-opened, unlimited usage. SFWMD did not regulate sea water, and SFWMD had an exemption for its permitting process, if there was 100% usage of sea water. For such a plant, the FDEP and Palm Beach County Health Department would be involved in the permit. Injection wells were regulated by FDEP.

Bill Diamond, 220 Wells Road, questioned whether there was any worldwide business that built plants and assumed the capital costs.

Mr. Collins replied that there had been examples of design, build, operate contracts, which may be composed of a combination of companies. Proposals would need to be gathered and then negotiations.

Chair Rosow thanked Dr. Gleason, Mr. Collins, Mayor Frankel and all staff from the City of West Palm Beach.

VII. ANY OTHER MATTERS

There were none.

VIII. ADJOURNMENT

There being no further business, the Water Committee Meeting of April 10, 2008, was adjourned at 4:30 p.m.

David Rosow, Chairman
Denis P. Coleman, Committee Member

End of Water Committee Report

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There was discussion among the Town Council and staff regarding the City of West Palm Beach's PILOT program, cost allocation study, surplus funds, desalinization plant, and other alternatives.

Motion made by President Pro Tem Coniglio, seconded by Council Member Markin to accept and approve the Report of the Water Committee. On roll call, the motion carried unanimously.

B. Finance and Taxation Committee Meeting of April 10, 2008.
[Denis P. Coleman, Chair]

Council Member Coleman presented the following report and reviewed the recommendations made by the Finance and Taxation Committee meeting held on April 10, 2008, which was attended by both Chair Coleman and Committee Member Rosow.

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REPORT OF THE FINANCE AND TAXATION COMMITTEE MEETING HELD ON APRIL 10, 2008

I. CALL TO ORDER AND ROLL CALL

The Finance and Taxation Committee meeting was called to order at 4:30 p.m. in the Town Council Chambers. On roll call, Committee Chair Denis Coleman and Committee Member David Rosow were found to be in attendance. Others present for all or a portion of the meeting were: Town Manager Peter B. Elwell, Finance Director Jane Struder, Town Council President Pro Tem Gail Coniglio, and Town Clerk Susan Eichhorn.

II. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Chair Coleman.

III. APPROVAL OF AGENDA

The Agenda was approved as printed.

IV. REVIEW OF DRAFT ANNUAL REPORT

Chair Coleman observed the following:

- Page views must be consistent.
- Total property tax bill pie chart - 19.99% should be further highlighted.
- Note on debt millage rate - Town Manger Elwell explained that GO debt was a separate debt millage rate. There was not a debt millage rate included, because the Town pays existing outstanding debt through operating costs (only through revenue bonds).
- Page entitled "General Fund Revenue and Expenditure Analysis" -
  Chair Coleman made the following recommendation:
  Break it out to have medical and pensions removed from individual departments, so that people could do percentage increases by departments within what we have discretionary control over each year. For someone to say that compensation expense has gone up by "x" percent over the year – would be a totally inadequate analysis, because it would be overwhelmed by what was going on in the pension line. To produce a separate pension line or separate medical benefits line would permit someone to see what was going on in pensions, but to also see what the actual percentage changes had been.

Committee Member Rosow: This coming year, the Town pension contribution would be lower than the previous year. If that line was not extracted, it would look like the compensation costs went down, when in fact, the straight salaries and wages would actually have gone up slightly.

Town Manger Elwell explained that to try to do what was being described within the one chart would become burdensome to the resident to try to see it at a glance. The intent had been to give that page the full picture snapshot, with a detailed breakout on the following pages.

Chair Coleman suggested that the page have two lines added to it: pensions and medical expenses, with those expenses taken out of each of the other departments. If the resident wanted to see the allocation by department, they would see that as they progressed through the document. He explained that there was a major discussion last budget season about the increase.

Mr. Elwell commented that he thought that had been addressed through the pages of department specific summaries.

Chair Coleman responded that the department specific summaries would not need to be changed, because that showed how it was added back and still foots.

Finance Director Struder explained that those figures would not foot to the page in question, because she did not include every single expense – the request had been for capital over $50,000 and contractual over $50,000.

Committee Member Rosow responded that it would foot if you added two lines for compensation – one to say pension benefits and one to say medical benefits. It could be noted that the figures did not foot – that these were the overall costs.

Chair Coleman suggested that there then be three lines: pension, medical, and discretionary, and then it would foot.

Mr. Elwell clarified that as he understood it, there would be two different changes:

- On the General Fund Revenue and Expenditure Analysis page, the two major benefit costs (pension and health) would stand alone as single line items. There would be a subtotal, and then there would be the same grand total as was shown.

- In the department specific clusters in the next several pages, that would be left as is, however, instead of "employee benefits" each different department would have shown "pensions," "medical," and "other employee benefits."

Chair Coleman and Committee Member Rosow agreed.

Chair Coleman commented on other items affecting the general fund: when the Town switched to replacement costs depreciation, there was a jump from FY06 to FY07 to FY08, and he suggested that deserved a very strong footnote to explain the increase – because of a deliberate decision to provide more conservative expensing. Mr. Elwell agreed that a footnote would be applied.

Mr. Elwell addressed one other item regarding the general fund cluster of items: the OPEC trust contribution should be reflected, relating again to benefit costs. Ms. Struder advised that she could call it "retiree health care."

Committee Member Rosow commented on the first page, where the term "Annual Report" was used and there was also the term "Citizens Financial Report," and that the language should be consistent throughout the document.

Committee Member Rosow commented on the "Undesignated Fund Balance/Retained Earnings Summary" page, and noted that he had discussed his concerns with Ms. Struder earlier today.

Ms. Struder commented that there were the cash balances, and there was also the capital project balance, which was not included on that page, but which she could add to the bottom of that chart. She stated that she hesitated to say "cash balances" because the cash balance fluctuates wildly, depending upon when the Town received its property tax money. She explained that the fund balance was the reserve of the general fund. She stated that she would add the chart showing the capital project balances, which would be included in the chart that already existed.

Committee Member Rosow suggested that in the general fund, where there were required reserves, a footnote should be added to FY07, with the dollar amount of the required reserve and the percentage noted.

Committee Member Rosow suggested that statistics be provided for what had been accomplished by Planning Zoning and Building, Police, Public Works, Fire-Rescue.

Ms. Struder noted that all of that information was included in the budget. For each program, there were statistics included within each department.

Mr. Elwell interjected that he had believed that the annual report was intended to focus on financial information, and that descriptive things were more well-suited to the budget document.

Committee Member Rosow requested that the most critical statistics for each department should be included – just a few lines for each department.

Mr. Elwell commented that in the full term text of the budget document, there are much more precise figures and statistics. He expressed concern that picking out just a few statistics here and there would be confusing.

Chair Coleman suggested that a stronger statement be included in the Annual Report that this was an abbreviated report, and did not reconcile to the exact budget.

Mr. Elwell suggested that a table be included that would refer citizens to all of the other documents that were available for information regarding Town government and Town finances.

Chair Coleman and Committee Member Rosow agreed.

Town Council President Pro Tem Coniglio addressed the Committee, stating that it would be helpful to provide percentage changes for departmental budget histories, from year to year.

Mr. Elwell replied that the difficulty of that was two-fold: the full story was not told, because those were the more relevant pieces that people were concerned with; there could be a column that showed percentage increases, however, showing multiple years at a glance would really clutter the document.

Chair Coleman recommended that the narrative include language that said there had been a purposeful attempt to reduce this year, and that the Town was opened to and sought suggestions.

Mr. Elwell advised that would all be blended into the table that referred citizens to other relevant documents.

Committee Member Rosow addressed the costs of $12,500, which included mailing to all residents and business. He suggested that perhaps the Civic Association could pay for the costs, with a notation made on the front page.

In response to Chair Coleman, Mr. Elwell advised that when a letter mailing was done to everyone in Town, the cost was approximately $5,000.

Ned Barnes, Palm Beach Civic Association, advised that the Civic Association would consider the possibility of picking up the costs of mailing, however, he was not sure that the Town would want the notation that the costs of the report were paid for by the Palm Beach Civic Association.

Chair Coleman brought up the issue of early voting, and the idea of the Palm Beach Civic Association paying for that.

Former Mayor Marix, 1570 North Ocean Blvd., commented that she was not sure mailing the annual reports to everyone was necessary, and that there must be ways that it could be indicated that the reports would be available.

Chair Coleman suggested that perhaps it could be published in the Palm Beach Daily News.

Mr. Elwell reminded all that the intent was to streamline the annual report and send it to everyone, because conversation had been held regarding whether posting it on the website or putting it on the counter in Town Hall would be sufficient.

Former Mayor Marix further commented that a letter could be mailed to everyone, indicating the documents that were available regarding the budget.

Mr. Elwell commented that it would cost the same to mail the annual report document as it would to mail such a letter, since the bulk mail rate was used.

Former Mayor Marix commented that she was all in favor of making early voting possible in the Town.

Committee Member Rosow suggested that the Palm Beach Civic Association, in conjunction with the Citizens' Association, work to enable early voting.

Mr. Barnes suggested that it was a high priority, and that he was open to any and all requests, however, there would need to be a formal request.

Chair Coleman made a formal request that Mr. Barnes bring the issue before the board of the Palm Beach Civic Association.

Mr. Elwell advised that if a letter was received by May 1st, it would be added to the May agenda, and the Town Council would discuss it at that time.

Gerry Frank, resident, commented that he thought early voting was a great idea, and questioned the statistical percentages of early voting in other municipalities.

Chair Coleman suggested that it be tried one time.

Committee Member Rosow stated that somewhere in the annual report it must be advertised that everyone could register with the Town via email.

Mr. Elwell advised that such a notice would blend together nicely into the first page.

Mr. Elwell advised that it was his understanding that there was not the need to wait until the May Town Council meeting to confirm the revised format of the annual report. The annual report would be published as soon as possible. If the report was not published in mid to late May, many residents would not be in Town. He stated that he would check with each Town Council member that was not present today.

V. ANY OTHER MATTERS

There were none.

VI. ADJOURNMENT

There being no further business, the Finance and Taxation Committee Meeting was adjourned at 5:05 p.m.

Denis P. Coleman, Chairman
David A. Rosow, Committee Member

End of Finance and Taxation Committee Report

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Responding to President Kleid, Town Manager Elwell gave his assurance that the time that the Committee meeting was called to order would be corrected to coincide with the time of adjournment.

Motion made by Council Member Markin, seconded by President Pro Tem Coniglio to accept and approve the Finance and Tax Committee Report as amended. On roll call, the motion carried unanimously.

Town Manager Elwell and the Town Council discussed the options available for the distribution of the Annual Report. It was the consensus of the Town Council to:

- Collect email lists from other various institutions;
- Place a request in the document for residents to sign up for the Town's email list;
- Make an announcement on the internet and the *Palm Beach Daily News* of

the current availability of the Annual Report via the internet and the availability of hard copies by request; and

- Mail the Annual Reports the first week of December, with a note explaining the timing.

XII. REGULAR AGENDA

A. Old Business

1. Results of the University of Miami School of Architecture Studio Project Viewing the Royal Poinciana Area Through a Landmark Preservation Lens. [John Ripley, Executive Director, Preservation Foundation of Palm Beach]

John Ripley, executive director of the Preservation Foundation of Palm Beach, provided a PowerPoint presentation of the University of Miami School of Architecture's Studio Project. He added that the Foundation did not give out their email list, out of respect for their members, but would be happy to send email for the Town.

Discussion occurred among the Town Council members and Mr. Ripley regarding the pump station at Bradley Park; preparation of a resolution recognizing all participants involved in the Studio Project; the costs associated with the Project; incorporation of the University of Miami's report with the Treasure Coast Regional Planning Council's report; the addition of Landmarks Preservation Commission, the Architectural Commission, and Planning and Zoning Commission's participation; and the completion of the University of Miami's report by the June 10, 2008, Town Council meeting.

Staff was directed to prepare a Resolution recognizing the University of Miami School of Architecture, the faculty, the students, and the Preservation Foundation, for their contributions.

The University of Miami's report would be compiled as a document to be formally submitted at the June 10, 2008, Town Council Meeting.

It was the consensus of the Town Council to include the University of Miami's report with the Treasure Coast Regional Planning Council's report of the Royal Poinciana area.

Staff was directed to assist the Preservation Foundation in scheduling a presentation of the University of Miami's project report, during the next month, at a combined meeting with the Architectural Commission, Landmarks Preservation Commission, and the Planning & Zoning Commission.

Bill Diamond, 220 Wells Road, commented on the University of Miami's report and the reconsideration of the delay of landmarking the Royal Poinciana Plaza.

Town Attorney Randolph advised that the current landmarking season had passed and the Royal Poinciana Plaza could not be reconsidered until October 2008.

2. Potential Charter Amendments.
[John C. Randolph, Town Attorney]

Town Attorney Randolph provided an overview of potential charter amendments.

Discussion occurred among the Town Council members and staff regarding the charter amendments, the qualification schedule, campaign fundraising, term limits, and running at large.

Mayor McDonald commented that he was in favor of having experienced members on the Council and was not in favor of term limits. Term limits did not seem necessary, as the Council consisted of volunteers.

Yvelyne D.Marix, 1570 N. Ocean Blvd., commented on the cost of campaigns, encouraging residents to run for office; using the Council Chambers for forums; term limits; and running at large. She requested the opportunity to address the Town Council at the time of discussing the Mayor's role.

Motion made by Council Member Markin to eliminate the issues of running at large,
and the cap on campaign fundraising from further consideration of potential Charter Amendments. Motion seconded by Council Member Rosow. On roll call, the motion carried 4-1:

Council Member Markin	**Yes**
Council Member Rosow	**Yes**

Council Member Coleman	**Yes**
President Kleid	**Yes**
President Pro Tem Coniglio	**No**

Staff was requested to provide additional information at the June 10, 2008, Town Council meeting regarding moving the election date from February to March, and changing the qualification schedule. It was the consensus of the Town Council to discuss various options at next month's meeting.

It was the consensus of the Town Council to hold a discussion regarding term limits in November, when there would be more citizens in Town.

Responding to Town Attorney Randolph, President Kleid indicated that the provision relating to eliminating the roll call vote would not be added to a referendum, as it was important that the public understand how each member voted.

B. New Business

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

Town Manager Elwell indicated that the Washington lobbyist, Phil Bangert, of Patton Boggs, was unable to attend today, but would attend the June 10, 2008, Town Council meeting.

Joe McCann, of Smith and Ballard, reported on the services that had been provided to the Town and the current issues that were being addressed.

It was the consensus of the Town Council to accept Joe McCann's report.

Responding to Council Member Markin, Mr. McCann, indicated that he would, if desired, schedule a meeting with another party associated with a project, in order to address any concerns, such as developmental issues in other municipalities that may affect the Town.

President Kleid thanked Mr. McCann for attending and speaking to the Town

Council.

2. Par 3 Restoration-Update and Request for Town Funding Commitment. [Jay Boodheshwar, Director of Recreation]

Recreation Director Jay Boodheshwar provided a presentation of the Par 3 Restoration-Update and Request for Town Funding Commitment.

Motion made by Council Member Markin, seconded by Council Member Coleman to approve the recommendations of staff as set forth in the back-up memorandum, without explicitly identifying how the Town's pledge of $2,000,000 would be met.

Discussion occurred among the Town Council and staff regarding: funding for maintenance in order to protect the capital improvement investment on the golf course; incremental revenue from the clubhouse; the donor recognition plan; grant applications; the Town's $2 million pledge over a multi-year period; the reserve fund; concern regarding subsidizing a Par 3 golf course for non-residents; expense of a new clubhouse; sub-contracting for a new golf course; opportunity to improve and protect, with the community's commitment in dollars; and long term commitment.

Jere Zenko, commented regarding raising the rates on the dockage; raising funds for Town Hall; cash operations; and that 80% of usage on the golf course was by non-residents.

Steve Hall, 230 El Dorado Lane, co-chair of Par 3 group, commented regarding ongoing maintenance and the sustainability of the golf course; donors; the hard cost in the $4 million range; setting up an endowment; that the golf course is running at a break even pace; improvements with less maintenance; and financials.

Upon roll call, the motion carried unanimously.

3. Seaview Park Recreation Center Improvements. [Jay Boodheshwar, Director of Recreation]

a. RESOLUTION NO. 30-08 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Pre-construction Services Contract to the Collage Companies for Seaview Tennis Center Improvements for the Town of Palm Beach, RFP Number 2008-13. [H. Paul Brazil, Director of Public Works]

Director of Public Works Paul Brazil advised that Resolution No. 30-08 addressed the reconstruction of the Seaview Tennis Courts. There were three components:

1. Staff had received RFPs for this work from several contractors. A selection committee had ranked three short listed firms: Collage Companies; Welch Tennis Courts, Inc.; and the Weitz company, LLC.

The goal was to have the courts reconstructed and back open by November 3, 2008. Towards that end, the following two components would need to be approved:

2. Authorize the Town Manager to enter into an agreement for pre-construction services with The Collage companies in the amount of $10,000. The actual construction contract would be approved at a later date. A preliminary proposal had been submitted in the amount of $1.166 million, with a $90,000 contingency. Staff felt confident that negotiations would result in an amount below the anticipated budget of $1.4 million.

3. Authorize the Town Manager to enter into a construction contract not to exceed $1.2 million, so it would not be necessary to spend another 30 days in negotiation, and then come back to the Town Council again.

Town Manager Elwell read Resolution No. 30-08 by title, as printed above.

President Pro Tem Coniglio moved adoption of Resolution No. 30-08. The motion was seconded by Council Member Markin. On roll call, the motion carried unanimously.

b. RESOLUTION NO. 37-08 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County,

01/29/2010

Florida, Approving an Interlocal Agreement with the School Board of Palm Beach County, Florida, for Improvements to the Multipurpose Field Located at the Seaview Park Recreation Center and the Palm Beach Public School.
[Jay Boodheshwar, Director of Recreation]

Recreation Director Boodheshwar provided an overview of Resolution No. 37-08. To proceed with the plan improvements of the Seaview Park field renovations, this additional agreement with the School Board was necessary in order to receive the permission to improve their section of the field. Approximately 70 feet of the western edge of the multi-purpose field was school owned. The improvement design took this into consideration, and incorporated that section into its design, along with the turf and irrigation, to ensure consistency.

Town Attorney Randolph read Resolution No. 37-08, by title, as printed above.

Motion made by Council Member Rosow, seconded by President Pro Tem Coniglio to approve Resolution No. 37-08. Upon roll call, the motion carried unanimously.

c. Palm Beach Day Academy Cost Sharing for the Multipurpose Field Turf Replacement Project.
[Jay Boodheshwar, Director of Recreation]

(See Resolution No. 31-08)

d. <u>RESOLUTION NO. 31-08</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to Green Construction Technologies, Inc. of Wilton Manors, Florida in the Amount of $226,165.67 for Seaview Multi-purpose Field Turf Replacement for the Town of Palm Beach, Sealed Bid Number 2008-11; Approving the Transfer of $74,400 from the FY2008 Recreation Fund Contingency to the Applicable Project Account; Authorizing the Town Manager to Execute the Contract on Behalf of the Town; and Authorizing the

01/29/2010

Town Manager to Take Further Action Necessary to Effectuate the Project.
[H. Paul Brazil, Director of Public Works]

Public Works Director Brazil provided an explanation of Resolution No. 31-08, advising that it concerned the construction end of the turf replacement. The lowest responsible bidder was Green Construction Technologies, Inc., and their bid was $226,165.67. Staff anticipated a total budget of $268,400. The existing balance in the budget was $194,000; it would be necessary to transfer $74,400 into the Seaview Park Improvement budget. The above resolution awarded the contract to Green Construction and transferred the necessary funds.

Town Attorney Randolph read Resolution No 31-08 by title, as printed above.

Motion made by Council Member Markin, seconded by Council Member Coleman to approve Resolution No. 31-08. Upon roll call, the motion carried unanimously.

4. Shore Protection Board.
[Denis P. Coleman, Town Council Member]

Council Member Coleman advised that this subject had been discussed previously. At that time, Mayor McDonald had stated that he would veto a proposed ordinance to establish a permanent Shore Protection Board, and the issue had been continued. Mayor McDonald had indicated that his objections were related to not providing for the necessary staff before appointing a Shore Protection Board. Mr. Coleman expressed that shore protection was going to an ongoing issue, and a critical issue. It was important, especially for public perception, to have safeguards: an independent board to review the issues, act as a fiduciary for the citizens, and maintain a knowledge base. He encouraged favorable consideration of establishing a permanent Shore Protection Board.

Town Manager Elwell advised that four qualified candidates for the position had dropped out for a combination of professional and personal reasons. Staff recognized the extreme priority to hire a qualified person, and would pursue any recommendations of qualified people. Staff was receiving recommendations of people to contact and contacting people within the industry. Additional energy would be needed to generate additional opportunities, as it was a small community of people who were qualified both on the technical side and who were also plugged in to the necessary agencies.

President Pro Tem Coniglio urged that a decision regarding the Shore Protection Board be made today.

Town Manager Elwell noted that the tabled ordinance (Ordinance No. 1-08) could come back for second reading next month, if it was the consensus of the Town Council. If the ordinance was adopted in June, the Town Council would make the decision as to when appointments would be made.

Council Member Coleman moved that Ordinance No. 1-08 be removed from being tabled, and come back for second reading next month. The motion was seconded by President Pro Tem Coniglio.

Council Member Markin suggested that both the approval of the ordinance and the board appointments take place in the fall, in order that the coastal coordinator could be hired in the interim.

Council Member Coleman urged that the ordinance be approved today, and the appointments wait until the fall.

Discussion continued regarding the timing.

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**

5. Evaluation of the Performance of Town Manager Peter B. Elwell.

   a. Potential Salary Adjustment Based on Evaluation of Performance for 2007-2008.

President Pro Tem Coniglio moved approval of a three percent (3%) salary increase for Town Manager Elwell. The motion was seconded by Council Member Markin. On roll call, the motion carried unanimously.

b. Adoption of Annual Performance Goals for 2008-2009.

Town Manager Elwell referred to the three annual performance goals:

- Achieve Mayor and Town Council's Five Top Priority goals for FY2009.
- Improve Process for Town Council Adoption of Annual Goals.
- Maintain Healthy Labor/Management/Resident Relations

Council Member Rosow commented that many residents complain about how much time it takes to obtain a building permit.. He suggested that a goal be added that the Town Manager would ensure that the staff and employees were Town serving, through the following:

- Improve communication between the staff and residents.
- Speed up decision making.
- Enforce the building code, but use common sense.
- Work collaboratively with residents; have inspectors work with contractors, and lose the stigma of being the worst Town in America for building.

President Kleid noted the incidence of contractors that say permits were put in on certain dates, when they were not actually put in on that date.

Council Member Coleman commented that he was in favor of increasing information technology, in order to bridge the gap between what the contractor represented and what was fact. He expressed his disappointment in how misinformed many citizens were.

Council Member Markin recalled the work done through the Public Works Committee meetings, where contractors had pointed out areas where improvements could be made, and brought up issues where they themselves needed to improve. The contractors had indicated, almost across the board, that the Town staff was easier to work with than West Palm Beach and Wellington, by far. She noted that some of the resident complaints may not be based on fact, but on frustration.

Council Member Markin recommended an addition to goal number three: to maintain healthy labor/ management/resident relations.

Afer discussion, Council Member Rosow withdrew his suggestion of an additional goal related to the building permit process.

President Pro Tem Coniglio moved adoption of the three annual performance goals for 2008-2009, with the inclusion of the word "residents" on the third goal. The motion was seconded by Council Member Rosow. On roll call, the motion carried unanimously.

6. Discussion of One-Day versus Two-Day Town Council Meetings.

Discussion took place regarding the two-day versus one-day Town Council meetings. It was the consensus of the Town Council that two-day meetings would be preferable, as opposed to very long one-day meetings. In addition, the consensus was that the Town Council would like be relieved of some of the obligations of Development Review items.

Town Manager Elwell suggested that the Town Council declare that a one-day meeting scheduled would be adhered to for July 8, 2008. When the issue was revisited in June, the future meeting schedule, beyond July, could be reviewed. He opined that the delegation of development review items should include site plan reviews, variances, and special exceptions.

Town Attorney Randolph noted that site plan reviews attached to something – they were normally attached to variances or special exceptions. If the Town Council decided to delegate only variances, for example, then staff could direct variances and their connected site plans to whichever body was chosen. From a quasi-judicial standpoint he would review the certiorari aspect brought up by Council Member Coleman. He suggested that, on the appeal aspect, only a divided vote would allow the appeal to come to the Town Council, but anything else would not come back to the Town Council, but would go straight to court. He explained that the Town Council would have the opportunity to discuss the issue until the decision went through the Planning & Zoning Commission, because the zoning ordinance would need to be changed if delegation was changed.

Robert Moore, former director of Planning, Zoning & Building, commented that there were many variances attached to special exceptions, and site plan reviews were automatic with a special exception. He agreed that Town Manager Elwell was correct in his opinion that all development review matters should be assigned, if it was determined that they would be delegated to another group.

Council Member Coleman suggested a division between residential/commercial. Council Member Markin suggested that any precedent setting variances remain with the Town Council, until such time as some other system was perfected. President Kleid suggested that it would not be prudent to only look at one part of development review items – the entire picture must be considered.

Town Manager Elwell clarified that staff could address types of development review items, the scale of the project, commercial districts vs. residential districts, etc.

It was the consensus of the Town Council to direct staff to return at the June 10, 2008, Town Council meeting with a matrix of categories of development review item items for consideration of delegation to another governmental body. The matrix would include material from the past two years, and projects that fell within all three categories (variances, special exceptions, site plan reviews), or the two categories or only one category, so that the Town Council could see all of them at one time, and make a better decision going forward.

Town Manager Elwell advised that staff would provide a matrix, as suggested, and it was hopeful that it would be presented at the June 10, 2008, Town Council meeting, however, staff may require additional time and would then make the presentation at the July 8, 2008, Town Council meeting.

Council Member Markin urged that discretion be used in preparing the agenda for the July 8, 2008 meeting, as to items which could be placed on the agenda in the following month, since the budget meeting would also be held in July.

XIII. ORDINANCES

A. Second Reading

1. <u>ORDINANCE NO. 17-08</u> An Ordinance of the Town Council of the

Town of Palm Beach, Palm Beach County, Florida, Amending the Investment Policy of the Town at Section VIII, Performance Benchmark; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date. [Jane Struder, Director of Finance]

Town Attorney Randolph read Ordinance No. 17-08 by title, as printed above.

Council Member Rosow moved adoption of Ordinance No. 17-08. The motion was seconded by President Pro Tem Coniglio. On roll call, the motion carried unanimously.

2. ORDINANCE NO. 18-08 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Rescinding Ordinance No. 8-08 Relating to Amendments to the Town's Budgets; Providing an Effective Date. [Jane Struder, Director of Finance]

Town Attorney Randolph read Ordinance No. 18-08 by title, as printed above.

President Pro Tem Coniglio moved adoption of Ordinance No. 18-08. The motion was seconded by Council Member Rosow. On roll call, the motion carried unanimously.

B. First Reading

None

At this time, Town Clerk Eichhorn administered the oath to all those who would be providing testimony.

XIV. DEVELOPMENT REVIEWS

A. Modified Site Plan Review #20-2007 With Special Exception And Variances (Deferred from May 12, 2008, Town Council Meeting to the May 13, 2008, Town Council Meeting).

MODIFIED SITE PLAN REVIEW #20-2007 WITH SPECIAL EXCEPTION AND VARIANCES The application of 215 Brazilian Holding, LLC, Aby Rosen, Manager; relative to a property described as Lot 5 and the West 85 feet of Lot 6, Block E of REVISED MAP OF ROYAL PARK ADDITION TO PALM BEACH, FLORIDA, according to the plat thereof as recorded in Plat Book 4, Page 1 Public Records of Palm Beach County, Florida; commonly known as 215 Brazilian Avenue; located in the R-C Zoning District. The applicant requests to modify the previously approved site plan (SPR#7-2005) as follows: (a) add a 424 square foot porte-cochere to the front entrance of the hotel for passenger drop off and pick up; (b) expand the previously approved third floor footprint by 905 square feet on the east side of the hotel building; (c) relocate previously approved pool 47.8 feet to the north and reduce size from 1,032 square feet to 906 square feet, and add pool bathrooms/pavilions west of the pool; (d) increase size of previously approved loggia and second and third floor balcony on the west side of the previously approved hotel building from 147 square feet to 642 square feet; reduce the amount of balcony space from 1,653 square feet to 842 square feet; (e) reconfigure the number of previously approved 59 parking spaces in the sub-basement/garage to provide 73 parking spaces by using tandem/valet parking; (f) add administrative offices, traditional "back of house" functions, a generator room and storage areas in sub-basement/garage for a total of 6,389 square feet. The variances requested to accomplish the modifications to the site plan are as follows: (a) a front yard setback of 4.5 feet for the porte-cochere in lieu of the 28.4 feet minimum required and the 25 feet previously approved in SPR#7-2005; (b) three story additions on the east and west side of the proposed building in lieu of the two story maximum allowed; (c) to allow the proposed third story changes with the previously approved height of 28.4 feet in lieu of the 23.5 foot maximum allowed; (d) to allow the previously approved overall height of 36.5 feet in lieu of the 28.5 foot maximum allowed; (e) east side yard setback for the third floor addition to be the previously approved 20 feet in lieu of the 28.4 feet minimum required; (f) a variance to allow the parking spaces to be situated in contradiction to the maneuvering requirements in Section 134-2172; that section provides that required parking be designed so as to not require the movement of another vehicle in order to remove another vehicle from a required parking space.

The application is proposing stacked parking which requires the shuffling of vehicles in order to remove vehicles from required parking spaces; (h) east side yard setback of 5 feet for the proposed basement modifications in lieu of the 28.4 feet minimum required and 20 feet previously approved in SPR#7-2005; (I) front yard setback of 7.1 feet for the proposed basement modifications in lieu of the 28.4 feet minimum required and the 25 feet previously approved in SPR#7-2005; (j) rear yard setback of 5 feet for the proposed basement modifications in lieu of the 30 feet minimum required and the 5 feet previously approved in SPR#7-2005; (k) lot coverage of 44.09% for the proposed basement modifications in lieu of the 30% maximum allowed and the 38.09% previously approved in SPR#20-2005; (l) landscaped open space of 15.1% for the proposed basement modifications in lieu of the 35% minimum required and the 21% previously approved in SPR#2-2004; (m) to allow the proposed basement modifications to exceed the requirement that at least 51% of its floor area be outside the confines of the main portion of the building located above the basement; (n) to allow construction of the hotel to be four (4) years in lieu of the two (2) year maximum completion time from implementation date of October 25, 2007.

Attorney Maura Ziska, on behalf of the owner of 215 Brazilian Avenue, reported that after the Town Council meeting yesterday, May 12, 2008, she had gone back to the principals of the company and they had agreed to reduce the room count to 24 rooms, in lieu of the 50 rooms originally approved. The application would be modified in accordance. The applicant would still be asking for the front yard setback for the porte cochere, the third floor bump out, the 73 cars in the basement garage, the time extension to 2011 to complete the project, and the other modifications to the site plan. The applicant continued to agree with the conditions as outlined by Attorney Ray Royce.

Sharon Wiggins, 228 Brazilian Avenue, addressed the Town Council in opposition to the project. She stated that she was speaking on behalf of some of the neighbors who could not attend today, and that she was speaking in opposition to the variances that were being proposed today, relative to the following issues:

- Parking in the 38 spaces.

- The applicant had tripled the size of the back of the house usage

- The use of the special function room. She presented guidelines for consideration on the use of the special function room.

- Both self park and valet parking should be offered, so that parking would not occur directly in front of residences.

Attorney Ziska responded that the applicant had considered that valet parking would be beneficial, because that would allow more cars to be parked in the garage. There was permit parking on the street, so hotel parking would not be allowed on the street. There would not be any late night activity or noise. The Declaration of Use Agreement covered the function room restrictions with noise; there would never be more than 134 seats for any function.

Zoning Administrator Castro noted that supplemental offsite parking was not permitted in a residential district. Supplemental offsite parking was also not allowed until the parking needs of the uses on a property were met; a variance from the parking requirements would be required in order to have supplemental parking.

Attorney Ziska advised that the applicant agreed with the conditions as set forth by Attorney Ray Royce.

Architect Ed Oliver, of Oliver, Glidden, Spina & Partners, pointed out the current plan that had been approved. It showed a lobby and an entry sequence on the southwestern corner of the building, and an area that could be utilized for a function, tables for dining, a bar and a kitchen on the southeastern quadrant. There was a folding partition in between the function room and the dining room; there was not a solid wall.

Zoning Administrator Castro noted that a function could not exceed 134 people, or the applicant had the flexibility to do a maximum of 90 seats in the function room, and still maintain the dining room, which was all set forth in the Declaration of Use Agreement.

Frederick Keitel, 237 Brazlian Avenue, and 12 Brazilian Avenue, commented that granting all of the variances would cause a hardship to the neighbors in changing the character of the residential community. He stated that two or three nights per week car parkers were racing around cars in the 400 block of Brazilian Avenue. He stated that the hardship was on the residents. There was no available parking on the street when there was a function held. He suggested that there was no hardship for the variances, and a granting would be appealed.

Attorney Ziska noted that the applicant had an approval for a hotel – 59 parking spaces in the garage, a 90 seat function room, 44 seat dining room (38 seats for tables, 6 seats in the bar). The room count had just been reduced to 24, and the only variances left on the table were the porte cochere, and the third floor bump out on the east side. The basement request was 1900 sf above what was previously approved; it was completely underground, and had to do with squaring off; the foundation permit had been obtained.

Zoning Administrator Castro commented that staff recommended that the basement circulation remain as it was originally approved and that the applicant look at the porte cochere over the ramp, which did provide an aesthetic standpoint to the basement area. In addition, the applicant was also requesting approval to move the swimming pool and some fountains further to the north, which staff agreed was a good change. Part of the site plan modifications included adding pool restrooms, small pool pump area, and the third floor bump out. As a condition of any approvals granted by the Town Council, staff recommended modification of the Declaration of Use Agreement to provide stiffer remedies for violations listed in the existing Agreement; in addition, the Declaration of Use Agreement should specifically address the function room.

Mayor McDonald commented that the residents made some very cogent points, and suggested that the whole project should be reviewed, since it intensified a commercial use in the neighborhood.

In response to Mayor McDonald, Attorney Ziska advised that the applicant would try to shuttle employees in from West Palm Beach, and would continue to try to find parking elsewhere in Town.

Town Attorney Randolph advised that the Town Council was being given the opportunity to impose conditions today, which were not imposed on the previous approval, if an approval was granted today.

Attorney Ziska explained that the basement variance, which was all underground, would exceed the prior configuration by 1900 sf.

Council Member Markin suggested that a finalized plan should be submitted before approval, with all parking concerns, shuttling of employees, etc., addressed.

Council Member Rosow pointed out that the number of rooms had been reduced from the original approval, and that the applicant was agreeing to now reduce parking, and add restrictions to the function room. In return, the applicant was asking for a porte cochere, a third floor bump out, and additional square feet in the basement.

Town Manager Elwell pointed out that in order for permit parking to be instituted on a street, the law required that the negative impacts must occur before permit parking was imposed.

Attorney Ray Royce commented that the conditions he had proposed yesterday (May 12, 2008) would be included in any approval granted. He advised that he also endorsed a new Declaration of Use Agreement. He suggested more specificity with the use of the function room.

President Kleid suggested that the applicant work out with the staff and with the neighbors a modified Declaration of Use Agreement, which would include all that was discussed today. The applicant could then return to the Town Council next month for consideration of the request.

Zoning Administrator Castro commented that there was an antiquated section of the Town Code that said once a variance was obtained, there was one year for the applicant to implement it, and two years to complete it. The Building Code provided that large projects have to come back to the Town Council to get approval of the time frame – yesterday, this project was approved to October 27, 2011. The applicant had simply had to get relief because of that antiquated section of the Code, which staff would recommend would be modified to be consistent with the Building Code.
He recommended that the applicant come back to the Town Council with a modified Declaration of Use Agreement, and that the applicant present modified plans that indicate exactly what was proposed. Staff thus recommended a deferral of this application, to July 8, 2008, so that those things could be accomplished.

Council Member Markin moved deferral of Site Plan Review #20-2007, With Special Exceptions and Variances, to the July 8, 2008, Town Council Meeting, for presentation of a modified Declaration of Use Agreement and modified plans. The motion was seconded by Council Member Rosow. On roll call, the motion carried 3/2:

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

Leslie Evans, 214 Brazilian Ave., addressed the Town Council regarding the parking on Brazilian Avenue, and the possibility of constructing a parking garage behind the Sunoco Gas Station in the Town owned parking lot.

President Pro Tem Coniglio expressed concern that the developer would, at some point, walk away with the approvals they already had in hand.

In response to Ms. Wiggins, Mayor McDonald clarified that today was her notice of the modified application, Site Plan Review #20-2007, With Special Exception and Variances, to be heard on July 8, 2008.

Council Markin requested that, if in fact the Town owned the parking lot behind the Sunoco Gas Station, at some future meeting there be brought forth some sort of specifications as to how many cars could be parked in a two or three story garage, what the costs may be, and the opportunity for a joint public/private venture. She requested that the issue be brought forth some time during the summer.

B. Consideration of ARCOM Request for a Code Amendment to Prohibit Artificial Turn [John S. Page, Director of Planning, Zoning, and Building]. (Deferred from May 12, 2008, Town Council Meeting to the May 13, 2008, Town Council Meeting).

Council Member Rosow moved that the artificial turf issues be added as a Zoning-in-Progress item. The motion was seconded by Council Member Markin. On roll call, the motion carried unanimously.

Town Attorney Randolph clarified that the artificial turf matter would be a zoning study item.

Town Manager Elwell clarified that he had understood that staff was directed to study the artificial turf issue in all aspects, because the Town Council was concerned about the potential precedent that the artificial turf issue at 434 Seaspray may set in the broader issue. When the Town Council had all of the information, it could establish the rules of the Town as related to artificial turf.

President Pro Tem Coniglio pointed out that the definition of "natural materials" as part of the landscaped open space needed to be included in the study.

Town Manager Elwell clarified that he understood that was one of the things to be considered when zoning was in progress.

XV. ANY OTHER MATTERS

In response to President Pro Tem Coniglio, Town Manager Elwell clarified that there would be a joint advisory commission meeting during the next month or so in regard to discussion relative to the Treasure Coast Regional Planning Council (TCRPC) report and University of Miami School of Architecture's Studio Project, and a month from now the Town Council would be apprised of the status.

XVI. ADJOURNMENT

There being no further business, the Town Council Meeting of May 13, 2008, was adjourned at 3:05 p.m.

APPROVED:

Richard M. Kleid
Town Council President

ATTEST:

Susan A. Eichhorn
Town Clerk