TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL MEETING HELD ON TUESDAY, MAY 12, 2009

I. CALL TO ORDER AND ROLL CALL

The regular Town Council meeting was called to order on Tuesday, May 12, 2009, at 9:30 a.m., in the City of West Palm Beach Commission Chambers. On roll call, all of the elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

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

III. PRESENTATIONS

A. Recognition of Stephen L. Brown, Investment Advisory Committee, From May 2004 Through May 2009.

Mayor McDonald presented a plaque to Mr. Stephen Brown for recognition of his community service on the Investment Advisory Committee.

B. Recognition of Patrick Segraves, Landmarks Preservation Commission, From March 2002 Through March 2009.

Mayor McDonald presented a plaque to Mr. Patrick Segraves for recognition of his community service on the Landmarks Preservation Commission.

C. Recognition of Milissa Agnello, Recreation Advisory Commission, From November 2001 Through April 2009.

Mayor McDonald presented a plaque to Ms. Milissa Agnello for recognition of her community service on the Recreation Advisory Commission.

Post Office Box 2029 • 360 South County Road • Palm Beach, Florida 33480
Telephone (561) 838-5416 • Facsimile (561) 838-5417
E-mail: townclerk@townofpalmbeach.com • Website: www.townofpalmbeach.com

D. Special Presentation by Mayor McDonald.

Mayor McDonald recognized Town Attorney John "Skip" Randolph for receiving the Ralph A. Marsicano Award from the Florida Bar in the Attorney for Local Government Law Section. Attorney Randolph received this award for his thirty-five years of municipal service and has served the Town of Palm Beach for over thirty years.

Town Attorney Randolph spoke of his gratitude and thanked the Mayor for presenting the award. He was humbled and grateful for the award. He indicated that he had received numerous amounts of support from his law firm and associates, many of whom were in the audience. He acknowledged his legal secretary, Sally Matias, for working with him for over 20 years and thanked her for her service and support. He also thanked Town Manager Peter Elwell. Lastly, he thanked his most staunch supporter - his wife, Leslie. He stated that she deserved the award since she had put up with so much through the years.

IV. COMMENTS OF MAYOR JACK McDONALD

There were none

V. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

Council President Rosow announced that the staff truly runs the Town. The Town Council is an arm of the staff. The previous Town Councils had made a decision to diminish the role of staff. The staff is made up of professionals that understand the issues. They should provide options and recommendations to the Town Manager and Council. Council President Rosow wanted to make it clear that staff needs to provide the Town Council and the various Boards and Commissions with items that should be studied. He would like this added as an item to the agenda under New Business.

The second item Council President Rosow wished to discuss was that the Town Attorney works for the Town and over the last several weeks had been asked for legal opinions from residents. He stated that since the Town Attorney is retained by the Town and works for the Town Manager and Town Council, they should direct his activities and his billings, and not be approached by residents for opinions. Council President Pro Tem Coniglio agreed with Council President Rosow. Council member Diamond disagreed and said that the Town Council should be able to speak to staff and not only the Town Manager. The Mayor suggested that this be added as a new item on the agenda as new business.

VI. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

Harold Epstein, 3200 S. Ocean Blvd. spoke regarding Reach 8 and his opposition to the ALJ decision.

Council Member Diamond wanted to discuss the new Reach 8 report. Council Member Diamond asked Town Manager Elwell to try to schedule an Attorney/ Client Session the following day during the Town Council meeting. There was brief discussion among the Council Members and the consensus was to schedule the session for the following day.

Jack Cohen, 3450 S. Ocean Blvd. urges the Town Council to select the Chief of Police from the internal candidates. He felt that there are great candidates with tremendous ability.

Laurel Baker, Palm Beach Chamber of Commerce, thanked the Town Council for what they have done in the business community. She hoped the Town Council would support the assessment on Worth Avenue later today.

President Pro Tem Coniglio responded to Mr. Epstein's comments. She assured him that that Town, Shore Protection Board, Coastal Council and the Florida Beach Association, along with the county and state support the beach and coastal issues.

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

VII. APPROVAL OF AGENDA

Council President Rosow announced the following Time Certain Items:

XI.A.3., Worth Avenue Improvement Project at **2:00 p.m**.

XI.B.1., Municipal Underground Utilities Consortium (MUUC) Activity Update and Funding Request at **10:00 a.m.**

XI.B.2., Flagler Memorial Bridge at **11:00 a.m**.

Council President Rosow announced the following New Items to be added under New Business:

XI.B.9., Discussion of Staff Roles

XI.B.10 Communications with Town Attorney

Items pulled from the Consent Agenda:

Council Member Diamond pulled item VIII. G. 1. Approval of CCNA Selection Committee for Coastal Engineers from the Consent Agenda and was placed under New Business as item XI.B.11.

President Pro Tem Coniglio pulled item VIII.G.2. Authorization to Commence Study of Town's Sanitary Sewage Force Mains and Pump Stations North of Sloan's Curve. [H. Paul Brazil, Director of Public Works] from the Consent Agenda and was placed under New Business as item XI.B.12.

Mayor McDonald pulled item VIII. F. 3. RESOLUTION 48-09 from the Consent Agenda and was placed under New Business as item XI.B.13.

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

VIII. CONSENT AGENDA

A. MINUTES: APRIL 14, 2009

APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

B. MINUTES: APRIL 14, 2009

APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING

C. MINUTES: APRIL 15, 2009

APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

D. MINUTES: APRIL 27, 2009

APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING

E. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE

ARCHITECTURAL COMMISSION AT ITS MEETING ON APRIL 22, 2009.

F. RESOLUTIONS

1. RESOLUTION NO. 46-09 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Assessing a Lien Against the Property at 112 Caribbean Avenue, Palm Beach, Florida 33480, in the Amount of $4,634.80, Together with Interest in Eight Percent Compounded Unless Paid Within Thirty Days after Publication of this Resolution; Providing an Effective Date. [John C. Randolph, Town Attorney]

2. RESOLUTION NO. 47-09 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding RFP No. 2009-15 to PFM Asset Management LLC., for Investment Services for the Town's Surplus Funds, and Authorizing the Town Manager to Execute an Agreement on Behalf of the Town. [Jane Struder, Director of Finance]

3. RESOLUTION NO. 48-09 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Concession Agreement for the Town of Palm Beach Tennis Facilities Between the Town of Palm Beach and Netresults Tennis, LLC and Authorizing the Town Manager to Execute the Same on Behalf of the Town. [Jay Boodheshwar, Director of Recreation]
[Removed from Consent Agenda and added to the Regular Agenda as Item XI.B.13]

4. RESOLUTION NO. 49-09 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to Murray Logan Construction, Inc. for Renovation of the Lake Worth Inlet Sand Transfer Plant. [H. Paul Brazil, Director of Public Works]

5. RESOLUTION NO. 50-09 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Purchase Order to Dee Griffin Earthworks for D-15 Discharge Pipe Improvements for the Town of Palm Beach. [H. Paul Brazil, Director of Public Works]

G. Other

1. Approval of CCNA Selection Committee for Coastal Engineers. [H. Paul Brazil, Director of Public Works]

[Removed from Consent Agenda and added to the Regular Agenda as Item XI.B.11]

2. Authorization to Commence Study of Town's Sanitary Sewage Force Mains and Pump Stations North of Sloan's Curve. [H. Paul Brazil, Director of Public Works]

[Removed from Consent Agenda and added to the Regular Agenda as Item XI.B.12]

3. Authorization for the Town Manager to Effect Demolition of Fire Damaged Home at 416 Brazilian Avenue. [John S. Page, Director of Planning, Zoning, and Building]

4. Authorization to Hire Permitting Consultant for Joint Effort with Palm Beach County and Port of Palm Beach to Initiate Locally Controlled Inlet Dredging. [H. Paul Brazil, Director of Public Works]

President Pro Tem Coniglio asked about a correction to the April 15, 2009 Minutes. The Town Clerk responded that the minutes had been corrected.

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

IX. BOARD/COMMISSION ANNUAL REPORT

A. Code Enforcement Board. [Timothy Hoffman, Chair and Richard F. Howe, Acting Police Chief]

Timothy Hoffman, Chairman of the Code Enforcement Board, presented the Annual Report. His recommendation was to hire an additional code enforcement officer to replace the vacancy. Town Manager Elwell indicated that staffing needs would be addressed during the budget process. Captain Szarszewski informed the Town Council that $312,373 had been collected in fines last year. Council Member Wildrick stressed that he did not want to micromanage the department. Council President Rosow stated that Code Enforcement does a great job and complimented the Board for their purpose.

As a side note, Assistant Town Manager Sarah Hannah was directed to obtain higher microphones for the renovations in the new Council Chambers, as it was difficult to hear the speakers in the West Palm Beach City Chambers.

Motion made by Council Member Kleid and seconded by Council President Pro Tem Coniglio to accept the report. On roll call, the motion carried unanimously.

X. COMMITTEE REPORTS

A. Water Committee Meeting of April 21, 2009. [David A. Rosow, Town Council President]

1. Feasibility Analysis for Construction of Potable Water Reverse Osmosis Treatment Facilities on Town Owned Property. [H. Paul Brazil, Director of Public Works]

Paul Brazil, Director of Public Works presented the Water Committee Report at the request of Council President Rosow. He indicated that the Town was looking at longer range sources of water. Some of the options are: Constructing a Reverse Osmosis plant on the city site, building a desalination plant near the FPL plant in Riviera Beach, or using Town property such as the Quadrille site or Phipps Park as alternatives. These areas were studied 10 years ago. Mr. Brazil asked the Town Council for approval to conduct a feasibility study for the construction of potable water reverse osmosis treatment facilities by Kimley Horn & Associates in the amount of $46,000.

Motion made by Council Member Kleid, seconded by Council President Pro Tem Coniglio for Kimley Horn to conduct the feasibility analysis not to exceed $46,000. On roll call, the motion carried unanimously.

There was further discussion among the Town Council and the Mayor regarding water issues in the Town. President Rosow continued with the Water Committee Report and how they discussed that perhaps condo associations could install their own RO plants on their property to conserve water. He noted that the Civic Association is working with the town to develop a water conservation plan. He added that some of the Committee Members were installing smart technology as test cases to determine if water usage is impacted. **He would like a report at the**

next Water Committee meeting on the costs the Town incurs when the water usage is decreased by regulators from 10 million gallons per day to 4 million gallons per day.

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

B. Finance and Taxation Committee Meeting of April 27, 2009. [Robert N. Wildrick, Town Council Member]

1. RFP for a Pension Benefits Consultant. [Jane Struder, Director of Finance]

Finance Director Jane Struder stated that Town Advisor Mr. Al Parven had suggested obtaining an RFP for a Pension Benefits Consultant to study pensions for the three retirement boards. The Selection Committee would be comprised of Council Member Wildrick, Finance Director Jane Struder, Human Resources Director William Crouse, and Police and Fire Pension Administrator William Hanes. Council President Pro Tem Coniglio was in favor of obtaining the consultant and of selection committee.

Council Member Diamond asked for the cost of the consultant and was informed it would be between $40-60,000 plus the actuarial costs. Finance Director Struder stated that they would not know for sure until the proposals are received. This would occur during the fall. Town Manager Elwell stated that they could ask what the timeframe would be in proposal and could be a factor to consider. The results would be announced at the July Town Council meeting. This would allow for citizen comments at the June Town Council Meeting, according to Council Member Wildrick.

Motion made by Council Member Wildrick and seconded by Council Member Diamond to issue an RFP for a Pension Benefits Consultant. On roll call, the motion carried unanimously.

Mayor McDonald asked if the Town was using too many consultants. **Council Member Diamond indicated that there can always be Special Town Council Meetings to obtain a consultant if necessary and asked staff to provide a report of the consultant expenditures to date this year at the next Town Council meeting.**
Council Member Wildrick thanked the seven advisors to the Town that offered assistance with the citizen review of the Town Budget. He also complimented staff and their hard work. He outlined that the problem is the current rate of revenue plus expenditures. The Town is facing a huge deficit and the pension plan is growing at a higher rate than revenue. It is clear that something must be done. Council Member Wildrick announced that the next Finance and Taxation Committee Meeting will be held on June 16, 2009.

Motion made by Council Member Kleid, seconded by Council President Pro Tem Coniglio to accept the Finance and Taxation Committee Report. On roll call, the motion carried unanimously.

XI. REGULAR AGENDA

A. Old Business

1. Status of Town Request for PB Cats Repayment of $37,500. [Sarah E. Hannah, Assistant Town Manager]

Assistant Town Manager Sarah Hannah reported that a letter requesting reimbursement of the $37,500 had gone unanswered from Palm Beach Cats. Island Cats Representative Alan Mason indicated that they have not received the medical and vaccination records from Palm Beach Cats and time was of the essence. Assistant Manager Hannah was asking for formal approval to attempt to retrieve the monies and the records. Council President Pro Tem Coniglio offered her assistance in the meeting negotiations.

Council President Rosow asked Bill Cooley his thoughts on the matter since he was a negotiator between Island Cats and Palm Beach Cats.

Bill Cooley, 8 Windsor Court, and cat negotiator, informed the Council that he had spoken to "Brian" from Palm Beach Cats and repeated that he had said they would turn over the records. Mr. Cooley indicated that Palm Beach Cats does not have the funds for repayment and the Town should write that off as a loss.
Directive: Assistant Town Manager Hannah and Council President Pro Tem Coniglio are to work together with Palm Beach Cats to retrieve the medical and vaccination records, as well as the monies due the Town.

2. Procedures for Appointing Members of Town Boards and Commissions. [John C. Randolph, Town Attorney]

Town Attorney Randolph described the rules and process of appointing the commissions. He detailed the vote from last month's Town Council meetings where the vote for the Planning & Zoning Commission resulted in a 2-1-1-1 vote. This did not comply with the Town Charter of having a majority. The consensus of the Town Council was to re-vote and the ballots were distributed. There was discussion as to whether the votes should be announced, and the Town Council decided to keep the same procedure, but would ratify the votes with a motion when a majority was reached. Town Attorney Randolph indicated that a second issue was a vote in which an applicant applied for two committees and that person chose one committee, and the runner-up on the other committee only had one vote and not a majority. This also occurred last month with the Recreation Advisory Committee ballots. The Recreation Advisory Applications have been re-opened and re-advertised for consideration at the June Town Council meeting.

Town Manager Elwell announced that the results were: 2 votes for Martin Klein and 2 votes for James Ryan. New ballots were provided to break the tie. The results from the second round were: 3 votes for Mr. Klein, and 2 votes for Mr. Ryan. Mr. Ryan will still continue to serve as alternate.

President Pro Tem Coniglio asked about applying to two boards at the same time. She suggested that there should only be one board appointment per month to eliminate that from happening it again. If there are two applications at any time, the applicant must choose which board they wish to serve upon.

Motion to keep the policy the same made by Council Member Wildrick, seconded by Council President Rosow. On roll call, the motion was defeated 2-3.

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

Motion made by Council President Pro Tem Coniglio, seconded by Council Member Diamond to confer with applicant if there are two pending applications at the same time, and have the applicant decide which ballot he would like to submit to. On roll call, the motion passed 4-1 with, Council President Rosow dissenting.
Motion to ratify the Planning and Zoning Commission appointments made by Council Member Diamond, seconded by Council Member Wildrick. On roll call, the motion passed 3-2.

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

Next, the Town Council ratified the recreation Advisory Commission Appointments from last month, at the advice of the Town Attorney. The two applicants, Tim O'Hara and Pamela McIver, each received a majority vote.

Motion to ratify the Recreation Advisory Commission appointments made by Council President Pro Tem Coniglio, seconded by Council Member Diamond. On roll call, the motion carried unanimously.

There was discussion regarding the elimination of having Board alternates. It was decided that it was best to leave policy as it was.

Steve Brown, 84 Bradley Place, from the Civic Association spoke in support of keeping alternates on the Boards and Commissions.

3. Worth Avenue Improvement Project. [Thomas G. Bradford, Deputy Town Manager]

TIME CERTAIN: 2:00 P.M.

a. Review of Proposed Interim Financing.

Deputy Town Manager Bradford presented the item and verified with Town Clerk Cunningham the proof of publication of the Ordinance. He asked the Town Council for approval of the financing for the Worth Avenue Improvement Project.

Attorney Harvey Oyer, on behalf of the Worth Avenue Restoration Association, answered questions from the Town Council concerning the project. He addressed the issue of theoretical risk. He indicated he had met with each Town Council Member to go over the details.
Mr. John Ripley, Preservation Foundation supported the project.

Mr. Paul Leone, The Breakers - also supported the project and said even though his hotel is not on Worth Avenue, the project was important for the entire town.

Motion made by Council Member Wildrick, seconded by Council President Pro Tem Coniglio, to approve the proposed interim financing for the Worth Ave Improvement Project. On roll call, the motion carried unanimously.

b. RESOLUTION NO. 51-09 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida (the "Town"), Approving the Form and Authorizing the Execution and Delivery of a Loan Agreement; Authorizing and Approving the Issuance of a Note by the Town in Connection with Said Loan Agreement Relative to Financing the Preliminary Costs of the Worth Avenue Commercial District Improvement Project; Pledging Designated Revenues to Repay the Note; Authorizing the Proper Officials of the Town to Do All Other Things Deemed Necessary or Advisable in Connection with the Loan Agreement and Said Revenue Note; and Providing for an Effective Date.

Town Attorney Randolph read Resolution No. 51-09 by title, as printed above.

Motion to approve Resolution No. 51-09 made by Council President Pro Tem Coniglio, seconded by Council Member Kleid. On roll call, the motion carried unanimously.

c. ORDINANCE NO. 10-09 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Providing for an Amendment to the Town's Capital Fund Budget Adopted for the Fiscal Year Commencing October 1, 2008, Providing an Effective Date. [SECOND READING]

Town Attorney Randolph read Ordinance No. 10-09 by title, as printed above.

Motion to approve Ordinance No. 10-09 made by Council Member Kleid, seconded by Council Member Diamond. On roll call, the motion carried unanimously.

There was discussion on creating an Ad Hoc Committee regarding this project.

Motion made by Council President Pro Tem Coniglio, seconded by Council Member Diamond to create an Ad Hoc Review Board with Members from both ARCOM and the Landmarks Preservation Commission. On roll call, the motion carried unanimously.

B. New Business

1. Municipal Underground Utilities Consortium (MUUC) Activity Update and Funding Request. [Thomas G. Bradford, Deputy Town Manager]

TIME CERTAIN: 10:00 A.M.

Motion made by Council Member Kleid, seconded by Council President Pro Tem Coniglio to approve the funding request. On roll call, the motion carried unanimously.

2. Flagler Memorial Bridge.

TIME CERTAIN: 11:00 A.M.

a. Presentation of Conceptual Design Alternatives [Paul Cherry, Kimley Horn]

Mr. Paul Cherry from Kimley Horn presented a power point to the Town Council. A copy of the presentation was submitted into the record. It outlined the conceptual design alternatives for the Flagler Memorial Bridge

Mr. Cherry asked the Town Council if they had any preference or could provide any direction.

Mr. John Ripley, Preservation Foundation, assisted with project and thanked the committee and the Florida Department of Transportation for their cooperation. He stated that the two options were the best options presented, but Option B is better for the location. Discussion ensued regarding the two proposed options. It was the consensus of the Town Council that Option B-1, which was similar to, but not identical to the Royal Park Bridge would be their recommendation.

b. Landscape Maintenance Agreement. [H. Paul Brazil, Director of Public Works]

Paul Brazil, Director of Public Works, presented the item regarding the Landscape Maintenance Agreement. Florida Department of Transportation would install the landscaping at their expense but the Town would be responsible for the maintenance afterwards. This is similar to many other DOT agreements.

Motion made by Council Member Wildrick and seconded by Council Member Kleid to approve the Landscape Maintenance Agreement. On roll call, the motion carried unanimously.

3. Modification of Parking Regulations to Comply with FDEP Requirements for State

Funding Assistance at Clarke Avenue Beach. [H. Paul Brazil, Director of Public Works]

Paul Brazil, Director of Public Works presented the item regarding the modification of parking spaces on Clarke Avenue. He noted that the residents affected were notified by hand delivery late last week. The affected residents did not have enough time to respond.

Sue Strickland, 145 Seaspray Avenue, announced that Seaspray is permit-only parking. Clarke Avenue is 2-hour parking. She was opposed to the parking changes.

Jeff Greenwald, 128 Seaspray Avenue, was also opposed to the parking spaces on Seaspray.

Julie Heiberlein, 200 S. Ocean Blvd, indicated that she sent a letter to the Town Council regarding the parking on Seabreeze and Seaspray. She stated that the Clarke Avenue residents knew when they bought their property that the parking was for public beach access.

Motion made by Council President Pro Tem Coniglio to direct staff to work with the neighbors to resolve the parking issue on all three affected streets. Motion seconded by Council Member Kleid. On roll call, the motion carried unanimously.

4. Request by Shore Protection Board to Allow Four Unexcused Absences During 2009. [Peter B. Elwell, Town Manager]

Town Manager Elwell explained to the Town Council the reasons for requesting additional absences in the first year of the Shore Board.

Jerry Frank, 2780 S. Ocean Blvd., also a member of the Shore Protection Board, explained how they are having at least two meetings a month, and sometimes on short notice.

Motion to approve four unexcused absences in the first year made by Council Member Kleid, seconded by Council President Pro Tem Coniglio. On roll call, the motion carried unanimously.

5. Code Enforcement Board Recommendation to Initiate Foreclosure Action at 110 Angler Avenue. [Richard F. Howe, Acting Police Chief]

Acting Police Chief Richard Howe presented the item. Staff recommended foreclosure action.

Motion made by Council Member Diamond, seconded by Council Member Kleid to initiate foreclosure action at 110 Angler Avenue. On roll call, the motion carried unanimously.

6. Code of Conduct for Elections. [John C. Randolph, Town Attorney]

Bill Cooley, 8 Windsor Court, said that communities that have this code draws the attention away from the campaign and to the code of conduct and suggested to "scrap it".

Steve Brown 94 Bradley Place - disagreed with Bill Cooley – and stated he likes the idea and many residents would agree. He suggested add language both during campaign and in while in an elected position.

Council Member Diamond has no objection - but wanted to add language regarding public records or crimes if you had proof of that.

Council Member Wildrick stated that he ran a civil campaign and felt that this would be a violation of the first amendment. He stated it was misguided and an entrenchment. Generally, those who supported a pledge created a most disruptive process. Voters decide and candidates will face the voters on their own conduct. People say things and need to have a thick skin. Council Member Wildrick states he would refuse to sign one and it was a waste of time. Focus is wrong and gets to be the issue instead of the issues of the Town.

Council Member Kleid disagreed with Mr. Cooley and said the campaigns have been a lot of dirty tricks - individual put in a newspaper ad and no chance for rebuttal - last campaigns sending flyers to condos as an endorsement anonymously. People should stand up and sign a code of conduct. President Pro Tem Coniglio said this is a start and is a public statement of respect and courtesy. Mayor McDonald said the PACS can control issues and would not benefit from signing the pledge. Council President Rosow said it was unenforceable. Residents will vote against the candidate because of the candidate conduct.

Motion by Council Member Kleid to adopt the pledge, seconded by President Pro Tem Coniglio. On roll call the motion was defeated 2-3.

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

Motion by Council Member Diamond to amend pledge to have official public records of convictions be allowable as official proof. Motion died for lack of a second.

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

Assistant Town Manager indicated that she did not have the information from Comcast and the City of West Palm Beach to provide a cost estimate for live audio. She indicated that there would be costs of approximately $30.00 per hour to City of West Palm Beach Staff to use their cable feed.

Town Manager Elwell announced that monies allocated for off-site meetings had been spent on the portable audio equipment and every effort is being made to place the audio on the website far sooner than 48 hours.

Staff was directed to respond as quickly as possible with the cost estimates of providing live audio at each location.

8. Planning and Zoning Commission Appointments. [John S. Page, Director of Planning, Zoning, and Building]
[*This item was discussed under Item XI.A.2]*

9. Role of Staff

After discussion, there was consensus of the Town Council to abide by the roles outlined in the Town Charter and to encourage staff to provide the Town Council with recommendations. Council President Rosow stated that Town Manager Elwell is a very competent and able manager. No action was taken.

10. Use of Town Attorney for resident Information Requests

President Rosow indicated that many Town residents are contacting the Town Attorney directly and requesting information and legal opinions. The Town then gets billed for this. He suggested that the Town Staff respond to the inquiries as long as everything is transparent. There was discussion that the residents should contact their Council Representative directly, and the Council Member would obtain the information. Town Manager Elwell indicated that he would also assist the Council in responding to inquiries.

11. Approval of CCNA Selection Committee for Coastal Engineers. [H. Paul Brazil, Director of Public Works]

Item pulled from Consent Agenda by Council Member Diamond. Council Member Diamond was informed that the CCNA Committee would consist of the Shore Protection Board Chairman and Town Council.

Motion made by Council Member Diamond, seconded by Council Member Kleid to approve of the Selection Committee for Coastal Engineers. On roll call, the motion carried unanimously.

12. Authorization to Commence Study of Town's Sanitary Sewage Force Mains and Pump Stations North of Sloan's Curve. [H. Paul Brazil, Director of Public Works]

Item pulled from Consent Agenda by Council President Pro Tem Coniglio. She commended Public Works Director Paul Brazil on his report.

Motion made by Council President Pro Tem Coniglio, seconded by Council Member Diamond to authorize a study of the Town's Sanitary Sewage Force Mains and Pump Stations North on Sloan's Curve. On roll call, the motion carried unanimously.

13. RESOLUTION NO. 48-09 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Concession Agreement for the Town of Palm Beach Tennis Facilities Between the Town of Palm Beach and Netresults Tennis, LLC and Authorizing the Town Manager to Execute the Same on Behalf of the Town. [Jay Boodheshwar, Director of Recreation]

Mayor McDonald asked Recreation Director Jay Boodheshwar if the Tennis professionals undergo a background check, since they are in contact with children. Mr. Boodheshwar indicated that all Town employees are required to have a background check, including the subcontractors.

Motion made by Council Member Diamond, seconded by Council President Pro Tem Coniglio to adopt Resolution No. 48-09. On roll call, the motion carried unanimously.

XII. ORDINANCES

A. Second Reading

1. ORDINANCE NO. 3-09 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 2, Administration, Article III, Officers and Employees, Division 1, Generally, to Include a New Section 2-141, Titled Prohibited Conduct after Termination of Employment or Office with the Town, So as to Prohibit Employees or Elected Officials from Personally Representing Another Person or Entity for Compensation Before the Town for a Period of Two Years Following Termination of Employment or Elected Office with the Town; Providing for Penalties; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date. [John C. Randolph, Town Attorney]

Town Attorney Randolph read Ordinance No. 3-09 by title, as printed above.

There was discussion among the Council Members whether to include elected officials or not.

Mr. Bill Cooley, 8 Windsor Court suggested excluding the elected officials. Residents Mr. Steve Brown and Mr. Jerry Frank were not opposed to the Ordinance.

Motion made by Council Member Kleid, seconded by Council President Rosow after passing the gavel to Council President Pro Tem Coniglio, to adopt Ordinance 3-09. On roll call the motion passed 3-2.

Council President Rosow	**Yes**
Council President Pro Tem Coniglio	**No**

Council Member Diamond	**No**
Council Member Kleid	**Yes**
Council Member Wildrick	**Yes**

Mayor McDonald announced he was veto-ing Ordinance 3-09. The item will be heard at the June 9, 2009 Town Council Meeting.

2. ORDINANCE NO. 4-09 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 18 of the Town Code of Ordinances, Buildings and Building Regulations, at Article Ii, Administration of Planning, Zoning and Building, Division 1, Section 18-36, Penalties, and by Creating a New Division 5, Providing at Section 18-112 for a Prohibition on Demolition for the Period of the Year Beginning November December 15 and Ending January February 15 of the Following Year; Providing for Exceptions; Providing for Notice; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date. [John C. Randolph, Town Attorney]

Town Attorney Randolph read Ordinance No. 4-09 by title, as printed above.

President Pro tem Coniglio asked if the date could be changed to December 1st. Other Council Members discussed the dates and the consensus was to have it be from December 1 – March 1. The Town Attorney re-read the Ordinance with the new dates inserted, and the Ordinance would be prepared for second reading again next month.

Motion made by Council President Pro Tem Coniglio, seconded by Council Member Diamond, to approve Ordinance No. 4-09 with the dates of prohibition being December 1 – March 1. On roll call, the motion carried unanimously.

3. ORDINANCE NO. 9-09 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 82 of the Code of Ordinances Relating to the Retirement System; Amending Section 82-98 to Amend Subsection (c) Paragraph 3 Providing for Member Choice Between System Investment Method and Self-directed Investment Method after Vesting in Share Account Benefit; Amending Section 82-98(d) Paragraph 5 to Delete the Language Providing for No Interest on Withdrawals Before September 30 to Conform to the Practice; Amending Section 82-99 by Changing Subsections (a) and (d) Providing for Member Choice Between System Investment Method and Self-directed Investment Method for Drop Accounts; Amending Section 82-99(d)(5) to Allow Drop Assets to Stay in Plan after Firefighter Termination of Employment; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date. [William J. Hanes, Pension Administrator]

Town Attorney Randolph read Ordinance No. 9-09 by title, as printed above.

Motion made by Council Member Diamond, seconded by Council Member Wildrick, to adopt Ordinance No. 9-09. On roll call, the motion carried unanimously.

B. First Reading

1. ORDINANCE NO. 13-09 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Code of Ordinances of the Town of Palm Beach at Chapter 2, Administration, Article IV, Boards and Commissions, Division 2, Planning and Zoning, Section 2-328, to Amend the Definition of Excessive Conflicts of Interest to Include Three or More Conflicts of Interest in Any One Calendar Year, Providing for Automatic Removal in the Event of Excessive Conflicts of Interest and Deleting Language Relating to Commission Members Making Presentations Before Their Commission; Amending Chapter 2, Administration, Article V, Code Enforcement Division 2, Code Enforcement Board, Section 2-402, So as to Provide a Definition of Excessive Conflicts of Interest and Providing That a Board Member Shall Be Automatically Removed from the Board in the Event of Three or More Conflicts of Interest in Anyone Calendar Year; Amending Chapter 2, Administration, Article VI, Finance, Division 6, Investment Advisory Committee, Section 2-567 Relating to Conflicts of Interest in the Manner Set Forth Above; Amending Chapter 18, Buildings and Building Regulations Article Iii, Architectural Review, Division 2, Architectural Commission, Section 18-170 Relating to Conflicts of Interest in the Manner Set Forth Above; Amending Chapter 54, Historical Preservation, Article II, Landmarks Preservation Commission, Section 54-38, Amending the Section Relating to Conflicts of Interest in the Manner Set Forth Above; Amending Chapter 74, Parks and Recreation, Article I, in General, Section 74-1 to Amend the Definition of Conflicts of Interest in the Manner Set Forth above and Deleting Certain Language Relating to Presentations Before One's Own Commission; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date. [John C. Randolph, Town Attorney]

Town Attorney Randolph described the changes that had been made to the earlier drafts of the Ordinance. Council President Pro Tem Coniglio read the motion from the April 14th Town Council meeting minutes and asked the Town Council if they were accurate. The Town Council affirmed that the minutes were correct.

The Town Council directed the Town Attorney to redraft Ordinance 13-09 to be clear that Board and Commission Members are entitled to three conflicts per year and then on the 4th they are out.

XIII. ANY OTHER MATTERS

1. Consideration of Scheduling an Attorney/Client Session Regarding Surfrider Foundation, Inc., et al vs. town of Palm Beach, Department of Environmental Protection, and Board of Trustees of the Internal Improvement Trust Fund, respondents, State of Florida Division of Administrative Hearings, DOAH Case no. 08-1511 to discuss this Matter to Begin at 1:15pm Immediately Following this Regular Town Council Meeting in the City of West Palm Beach Mayor's Administrative Conference Room, 401 Clematis Street, West Palm Beach, Florida. Attorney/Client Session Attendees: Mayor Jack McDonald; Town Council Members David A. Rosow, Gail Coniglio, William J. Diamond, Richard M. Kleid, and Robert N. Wildrick; Town Manager Peter B. Elwell; Attorney Reginald Bouthilier, Attorney John C. Randolph; and Court Reporter from Ley & Marsaa Court Reporters, Inc. [John C. Randolph, Town Attorney]

Motion made by Council President Pro Tem Coniglio, seconded by Council Member Kleid, to schedule an Attorney/Client Session for 1:15 p.m. on May 13, 2009 immediately following the Town Council meeting. On roll call, the motion carried unanimously.

XIV. ADJOURNMENT

There being no further business, the regular Town Council meeting of May 12, 2009 was adjourned at 4:27 p.m.

APPROVED:

David A. Rosow
Town Council President

ATTEST:

Joanna Cunningham
Town Clerk