TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL MEETING HELD ON TUESDAY, MAY 11, 2010

I. CALL TO ORDER AND ROLL CALL

The Town Council Meeting was called to order on Tuesday, May 11, 2010, at 9:30 a.m., at 355 S. County Road, Palm Beach, Florida 33480, in the Central Fire Station, in the Emergency Operations Center (EOC). On roll call, all 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 Stuart Shulman, Recreation Advisory Commission, From April 2004 Through April 2010.

Following Dr. Coffield, Mayor McDonald recognized Stuart Shulman and presented a plaque to him for his service.

B. Recognition of Timothy G. Coffield, Recreation Advisory Commission, From April 2003 Through April 2010.

Mayor McDonald recognized Dr. Coffield first as he had seniority on the Recreation Advisory Commission and presented him with a plaque for his service.

C. Presentation of Palm Beach Day Academy Scholarship to the Child of a Town Employee. [Dr. Becky van der Bogert, Palm Beach Day Academy]

Dr. Rebecca van der Bogert presented a full scholarship to a Town of Palm Beach employee's child, Christina Caristo.

IV. COMMENTS OF MAYOR JACK McDONALD

Mayor McDonald indicated that he would reserve his comments until the appropriate time on the Agenda.

V. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

President Pro Tem Coniglio commented on several of the following issues:

- Acknowledgement of the Palm Beach Citizens' Association for their efforts to cultivate relationships with the Palm Beach County Board of Commissioners and representatives Senator Atwater and Congressman Klein

- County Commissioner Karen Marcus was setting up a meeting with Town staff and Mrs. Coniglio to discuss Town efforts with the U.S. Army Corps of Engineers (USACE) representatives, dealing with the Port of Palm Beach expansion, and the Sand Transfer Plant.

- County Commissioner Marcus spoke at length regarding an update on the oil spill, emergency measures that the County was enacting, including a forum with subcommittees that included the Town of Palm Beach, as it is an inlet district.

- Palm Beach County Director of Environmental Resources Management Vince Benevento commended Town Manager Peter Elwell, Coastal Coordinator Rob Weber and Emergency Management Coordinator Mike Galvin for their pro-active efforts in emergency measures.

- Mr. Benevento congratulated Coastal Coordinator Robert Weber for contacting the Florida Department of Environmental Protection (FDEP), who will conduct monitoring prior to any possible damage, in order to establish a baseline for response and compensation if needed.

Council Member Kleid reiterated what President Pro Tem Coniglio stated above, and that most of the Town Council was at the Palm Beach Citizens' Association cocktail party and all had an opportunity to talk with several County Commissioners, School Board Members, and candidates for both the Commission and School Board. He noted that the attending County Commissioners were conciliatory and wanted to have a dialogue with the Town. He suggested hosting a workshop to invite County Commissioners and School Board Members to a Sunshine meeting, to discuss common problems.

Town Manager Elwell noted that there was an addition to the Agenda. In last month's action regarding the two coastal matters the budget amendment necessary to fund them was overlooked. A resolution would need to be adopted for each of the two pieces of work, one related to the groins and the other to the sand search. He apologized that it was not on the Agenda, but the action was needed today in order to keep the efforts moving.

Mr. Elwell also indicated that this was the last month that Town Council would be meeting in the Emergency Operations Center (EOC) for the Town Council meetings. The June Town Council meetings will be held in the Town Council Chambers as the Town Hall renovation will be completed.

Mr. Elwell also announced that the June Town Council Meeting will be held on Monday, June 21st and Tuesday, June 22nd, rather than the usual second Tuesday and the following day. He added that the Boards and Commissions will continue to meet at the EOC until June 22nd; after June 22nd, they will meet in the Chambers.

President Rosow indicated there was a letter to the editor of the local newspaper by Wendy Victor regarding the civility of anonymous blogs to various stories. He agreed with her and contacted Joyce Reingold regarding abuse of a comment on a story and it was removed. He wanted to encourage everyone to express their opinion but not to do so behind anonymity.

President Pro Tem Coniglio commented that the golden rule should be used as a benchmark and that negative comments could be made while maintaining dignity.

VI. COMMUNICATIONS FROM CITIZENS- 3 MINUTE LIMIT PLEASE

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

Mrs. McNamara, 422 N. Lakeside Drive, Lake Worth, commented regarding the Royal Poinciana Theater.

Several of the Town Council Members and Mr. Elwell responded to Mrs. McNamara's comments

Connie Gasquez, 167 Root Trail, commented regarding Steven White's involvement in Reaches 3 and 4, and the Mid-Town 2006 Beach Renourishment.

Eric Gilberston, 151 Chilean Avenue, commented regarding a conspiracy against him by a former property appraiser, Rebecca Walker, and provided a copy of notes by her for the record.

Laurence McNamara, 422 N. Lakeside Drive, Lake Worth, Treasurer of Preserve Palm Beach, commented regarding the 1979 Agreement and the Royal Poinciana Theater. He submitted a copy of the certified petition into the record.

Council Member Kleid responded to Mr. McNamara's comments.

Leslie Evans, 135 Seminole Avenue, spoke regarding comments made by non-residents of Palm Beach and collecting signatures involving the Town.

President Rosow indicated that according to Florida State Law, the Council was required to hear from any citizen irrespective of where they live.

Patrick Flynn, President of Palm Beach Theater Guild, 2600 N Flagler Drive, commented regarding the collection of 817 Palm Beach voters' signatures for a second referendum regarding the Theater.

VII. APPROVAL OF AGENDA

Council Member Diamond pulled Item VIII.E.1., Receipt of Comcast 2010 Rate Filings and Proposed Rate Order.

The following changes were made to the Agenda:

MOVED: Item VIII.E.1., Receipt of Comcast 2010 Rate Filings and Proposed Rate Order was pulled from the Consent Agenda and MOVED to Item XI.B.8.

ADDED: Item XII.A.2., Resolution No. 57-10

ADDED: Item XII.A.3., Resolution No. 58-10

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

VIII. CONSENT AGENDA

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

A. MINUTES: APRIL 13, 2010 APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

B. MINUTES: APRIL 14, 2010 APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

C. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL COMMISSION AT ITS MEETING ON APRIL 28, 2010.

D. RESOLUTIONS

1. RESOLUTION NO. 52-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Purchase of a Complete Weapons System from B&H Gunrack, Inc., for the Police Department, Sealed Bid 2010-12. [Kirk W. Blouin,

Police Chief]

E. OTHER

1. Receipt of Comcast 2010 Rate Filings and Proposed Rate Order. [Thomas G. Bradford, Deputy Town Manager]

Council Member Diamond pulled this item, VIII.E.1. Receipt of Comcast 2010 Rate Filings and Proposed Rate Order from the Consent Agenda for discussion.

2. Approval of Request from the City of West Palm Beach for Town Sponsorship of the City's Fourth on Flagler Event. [Thomas G. Bradford, Deputy Town Manager]

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

4. Approval of Banking Services Selection Committee. [Jane Struder, Director of Finance]

5. Authorization to Accept Assistance to Firefighters Grant in the Amount of $218,000 for the Purchase of a Mobile Training Tower. [William Amador, Fire-Rescue Chief]

IX. COMMITTEE REPORTS

A. Water Committee Meeting of April 26, 2010. [David A. Rosow, Town Council President]

Council President Rosow provided the Water Committee Report. He recommended to the Town Council that they approve of the City of West Palm Beach's proposed water plan, as they have made great strides and provided an excellent report. He discussed the new billing software, and the Civic Association also made a presentation about the smart irrigation systems. He also mentioned that Denis Coleman, an ex-officio member of the panel, felt the Town should take over the program to manage water consumption.

Town Manager Elwell and City of West Palm Beach Assistant City Administrator Eduardo Balbis were directed to come up with a plan on how to manage the program. When that recommendation is ready, it will come back to the Town Council.

The Committee also discussed ordinances with respect to water conservation. Council Member Diamond had suggested a new ordinance to require smart irrigation systems on new construction and any re-model over 50%.

There was discussion about water usage and the creation of a subsidiary water advisory board to monitor what the City is doing.

Council President Pro Tem Coniglio congratulated the Water Committee on all its hard work, since she is the new member. She felt that the residents do need to be responsible with water consumption. The point was conveyed to Mr. Balbis that if the Town reduces its usage, it should not be penalized. Town Manager Elwell indicated that the Town of Palm Beach accounts for 30% of the revenue stream for West Palm Beach but was uncertain of the percentage of water usage of the system. Council Member Wildrick asked about water trends based on the past ten years.

Motion to accept the Water Committee Report of April 26, 2010 was made by Council Member Diamond, seconded by Council Member Kleid. On roll call, the motion carried unanimously.

Motion to direct staff to develop an Ordinance for first reading requiring smart irrigation systems on new construction made by Council Member Diamond, seconded by Council President Pro Tem Coniglio. On roll call, the motion carried unanimously.

B. Ordinances, Rules, and Standards Committee Meeting of April 29, 2010. [William J. Diamond, Town Council Member]

Council Member Diamond presented the ORS report.

He highlighted the main proposed changes:

- Decided not to recommend any changes in the closing hours of entertainment establishments
- The Town will propose a 75 decibels noise limit on lawn maintenance equipment.
- Eliminated the word "secretary" from the Boards and Commissions Code
- Eliminated the limitation of selling alcohol during Sunday mornings and increased by an hour each week day
- Discussed letter from Former Mayor "Deedy" Marix regarding telephone participation at meetings in the new chambers

Council President Pro Tem Coniglio had comments about the minutes in the Report, and asked that in the future, more detailed information be presented. It was requested of staff that when the actual Ordinances are brought forth to the Town Council, a black-lined version be provided. Staff was also directed to add a one sentence bullet on the actual change being proposed or accepted.

Council President Pro Tem Coniglio also in addition to Publix only selling beer and wine, wondered if the ordinance should address hard liquor sales as well. Town Manager Elwell indicated he did not know what the State Law said. It could be researched and reviewed at the next ORS meeting.

Town Manager Elwell addressed the concerns with the minutes and noted that the back-up and staff recommendations are linked to the minutes and agenda. By the time the actual proposed ordinance would be brought forth to the Town Council, Town Manager Elwell indicated that each item would have proper back-up for discussion and have attention to detail.

Council President Pro Tem Coniglio commended Deputy Town Manager Tom Bradford for all of his leadership and Council Member Diamond commended Town Attorney Randolph for all of his hard work.

Motion to accept the ORS report of April 29, 2010, made by Council Member Diamond, seconded by Council President Pro Tem Coniglio. On roll call, the motion carried unanimously.

C. Administrative and Personnel Committee Meeting of May 4, 2010, and May 5, 2010. [Richard M. Kleid, Town Council Member]

Council Member Kleid presented the Administrative and Personnel Committee Report regarding the two-day hearing of Keith Munyan.

He noted that the Committee agreed on many findings but disagreed on the punishment. He proposed the two recommendations from the Committee for the Town Council to consider:

- Allow the termination to stand but allow Mr. Keith Munyan to resign after the date his pension vested and sign an agreement of no lawsuits against any Town employee, Department of the Town or the Town.
- Terminate Mr. Munyan.

Council President Rosow explained his recommendation for termination. He cited:

- Mr. Munyan made comments based upon serious infractions (molestation of a minor).
- The possession of several driver licenses and ID cards
- The obscene note that was a part of a screenplay and he was appalled that it was available for others to see. It was so obnoxious and filthy; he was appalled that it was created by an employee.
- Threats against employees of the Police Department to be "taken down one by one"
- Despite the stress of an investigation, a police officer who carries a weapon, was trained to hold emotions in check, and demonstrated an unstable side.
- All of the evidence together justified the termination.

Council Member Kleid commented by saying that the original complaint allegation of sexual misconduct of a minor was unfounded and the comments about the screenplay were previously ruled unfounded. He was concerned about the cascading events. There was mitigation for prior incidents and he did not agree with Committee Member Rosow. He noted that anyone who was

accused of misconduct of a minor certainly could cause unbearable stress on a person. He added that the termination was justified but he asked that the fellow Council Members think of consequences of their action. If Mr. Munyan was terminated, there was no doubt he would ever be able to work a job in law enforcement again and his future employment at any job would be jeopardized.

Council Member Kleid quoted John Milton's book *Paradise Lost* "that one should temper justice with mercy" and that is what he asked the Town Council to do. Council President Rosow said the obscene note was unfounded because the note was not directed at the supervisor.

Eugene Gibbons, attorney for Mr. Munyan, noted that Council Member Kleid had recommended discipline but not termination. Something less or lesser punishment should be given. He advocated for his client to be permitted to collect his pension and give him his job back. He asked that the Town Council have compassion and reminded them that the initial investigation charge was unfounded. He stated that Mr. Munyan had been promoted to Sergeant and was a good officer.

Council Member Diamond stated that he questioned the timing since Mr. Munyan was eighteen days from being vested. Police Chief Kirk Blouin responded that the timing was of no consideration when he took the termination action. It was a matter of when the investigation ended, and it had been delayed due to Mr. Munyan being on FMLA. Council Member Diamond supported the decision of the Police Chief.

Council Member Wildrick noted that he had read the 500+ pages of transcript and listened to the hearings and spent the entire weekend reading the report. He felt that the termination should stand due to:

- Mr. Munyan made the statements to another officer that started the discussion of sexual misconducts
- Threats to another individual are unacceptable, particularly by a trained person who carries a gun.
- Lying on an application was wrong and asked what else he would lie about.
- Withholding of evidence was wrong.
- The disgusting comments and the pattern of profane comments towards co-workers were unprofessional and unacceptable.
- A Police Officer must be above reproach.
- The argument that he was a good officer because he was promoted was a phony argument- he said to look at Bank Presidents who have failed and are now in jail.

Council Member Wildrick felt the dismissal should be upheld. No gift or reward for bad behavior should be tolerated. It would send the wrong messages to Town employees by saying that bad behavior is rewarded and a department head is not the final authority. The Town Council should support the decision of the Police Chief. He commended Police Chief Blouin for maintaining integrity and courage within the department, as well as the employees that testified against Mr. Munyan. He felt those employees should be recognized for their integrity and

honesty. He asked to make a motion at the appropriate time to commend the employees in the investigation for their honesty and integrity.

Council President Pro Tem Coniglio said the decision was going to be difficult. Her sense as a mother and having read the transcript, she believed that Mr. Munyan did violate the employee manual and had wrongdoings. She proposed a third option, which was resignation without pension and release on litigation. She did not want him to be prevented from making a living. However, she was not comfortable with him serving as a law enforcement officer.

She supported the leadership of Chief Blouin and felt it must be upheld. Council Member Kleid said if he saw more support to submit a resignation in lieu of termination but no pension, he would change his recommendation. Mayor McDonald clarified that Chief Blouin terminated Mr. Munyan on a date specific. Police Chief Kirk Blouin stated that his role within town policy was to conduct the investigation and decide the discipline. The facts in the investigative report led to his decision to terminate Mr. Munyan. It was not within his authority to make a determination on pension vestment.

Motion was made by Council Member Diamond, that the Town Council support, based on all of the evidence presented to the Administrative and Personnel Committee, the decision made by Police Chief Kirk Blouin to terminate Mr. Keith Munyan's employment from the Town of Palm Beach. The motion was seconded by Council Member Wildrick.

Mayor McDonald said he was not at the hearings, but conveyed a story about the eagle and the dove and the conflicting roles they have. He made comments that we start adult life and have an eagle and a dove. The eagle is strong and decisive while the dove is peaceful and nurturing. As adults they merge into one and are compassionate and fearless. The Mayor noted that a termination would prohibit him from employment in law enforcement and would be correct, but would also destroy Mr. Munyan's life in the future. He agreed with the termination but taking his pension as well was too much.

On roll call, the motion carried 4-1, with Council Member Kleid dissenting.

Council Member Wildrick stated that the Mayor was being overly dramatic. In his private career, any one of the offenses was enough to terminate Mr. Munyan. He destroyed his own life by not following the rules and regulations that he was well aware of. The Town has a fiduciary responsibility to protect the taxpayer. If the Mayor felt so strongly, he should wisely create a foundation, take collections and provide Mr. Munyan with additional income. Council Member Wildrick added that they should not use tax dollars and have someone who violates the rules, and then reward them for the next thirty or more years with a pension. People with this history of action throughout the years, are a disservice and Mr. Munyan finally got caught. He strongly disagreed with Mayor McDonald.

Mayor McDonald responded by asking Council Member Wildrick if he recalled the last time the Town terminated an employee and allowed vesting. Council Member Wildrick said he remembered it, but he was not on the Town Council at that time.

X. BOARD/COMMISSION ANNUAL REPORT

A. Code Enforcement Board. [Timothy Hoffman, Chair and Kirk W. Blouin, Police Chief]

Annual Town Council Code Presentation 2010

Mr. Hoffman, Chairman of the Code Enforcement Board, provided an update to the Town Council. Captain John Maio, Support Services, provided a snapshot of Code Enforcement in a Power Point Presentation. A copy was submitted into the record.

Council Member Diamond asked about unpaid fines. Captain Maio and Police Chief Blouin responded that collection agencies are used and liens placed on properties. **Council Member Diamond asked that an agenda item be added to the next Ordinances Rules & Standards Committee agenda to discuss collection remedies for unpaid fines for non-property owners.**

Council Member Kleid queried whether we have restrictions on building contractors and landscape contractors working in the Town who continually violate our rules and he was advised that the Town did have such contractors.

Council Member Wildrick praised the Code Enforcement department. He commented that the code enforcement function is what keeps getting better in the community and the staff uses excellent judgment, they work with citizen, and that was how things should be run. He noted that the Police Department was doing well and he congratulated all of them.

Council President Pro Tem Coniglio stated that the revenue has been reduced because code enforcement was doing such a good job. She informed the public that the ORS Committee has taken action regarding abandoned properties. There will be a new ordinance to give the Town additional options for compliance on foreclosed properties. Town Attorney Randolph said that the Town Manager could exercise judgment and order that a property be cleaned up by the Town, after notifying the homeowner, and the costs charged to the homeowner. Florida Law prohibits the foreclosure of a homesteaded property.

Motion to accept the Code Enforcement Board Report made by Council Member Diamond, seconded by Council Member Kleid. On roll call, the motion carried unanimously.

Motion made by Council Member Wildrick, seconded by Council Member Diamond, to have the Town Manager place commendations in the permanent files of the Police Chief, the Captains, the Sergeants, police officers and employee involved in the disciplinary hearings, because the integrity within the Police Department was extremely high and the courage to take on the investigation of a co-worker was exemplary and showed the willingness to do the right thing in a very tough situation showed the high caliber of people

that the Town was blessed with. On roll call, the motion passed 4-1, with Council Member Kleid dissenting.

Town Manager Elwell would consult with Police Chief Blouin to determine the appropriate recipients.

XI. REGULAR AGENDA

A. Old Business

1. Casa Bendita Gazebo-Potential Reconstruction or Demolition. [Jay Boodheshwar, Acting Director of Public Works]

Jay Boodheshwar, Acting Public Works Director, announced this item was deferred from last month. They have not received any correspondence from the neighbors that have an interest in the decision. The Preservation Foundation had comments. The Town owns the gazebo but it is in poor condition and needs renovation. The original offer from a donor to assist with the renovation had been withdrawn. Acting Director Boodheshwar noted there were no funds in the budget for the renovation and the Landmarks Commission did not feel it was worthy of landmarking.

Council President Pro Tem Coniglio felt more time was needed and wanted to delay the decision. The gazebo was not visible from the road but she did not want to lose it. It was a small piece of history in Palm Beach. Council Member Diamond asked the cost of demolition and was informed that it would likely be less than $15,000. He was opposed to spending more money for the restoration of the structure.

Motion made by Council Member Wildrick, seconded by Council Member Kleid to defer the item until the October Town Council Meeting to allow the residents and the Preservation Foundation to secure funding for the maintenance and rehabilitation of the gazebo.

John Mashek, Preservation Foundation, felt strongly that the gazebo was a worthy piece of architecture that needed to be saved. He stated that the neighbors received notices from the Town on April 12th and most have left for the summer. He asked if the Town Council would defer the item until the fall when the residents return. He noted that there currently was no irrigation and to renovate it, they should do everything properly. The neighbors want to save it.

Council President Rosow asked if the gazebo posed a hurricane hazard. Town Manager Elwell said it was a legitimate concern and the degree of hazard would depend upon the severity of the storm. The rehabilitation would occur in the summer. Mayor McDonald asked the Town Attorney if the gazebo was on Town right of way and it was.

On roll call, the motion carried unanimously.

2. RESOLUTION NO. 55-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Providing for the Appointment of a County Budget Task Force to Review the Palm Beach County Budget for the 2010/2011 Fiscal Year; to Encourage Fiscal Responsibility by County Officials; and to Make Recommendations to the Town Council; Providing an Effective Date. [Peter B. Elwell, Town Manager]

Town Attorney Randolph read Resolution 55-10 by title, as printed above.

Council President Pro Tem Coniglio received a letter from Bruce McAllister regarding the process. There was lengthy discussion among the Council members regarding the Sunshine laws and if this was strictly a fact-finding group working outside of public meetings. Town Attorney John Randolph opined that the task force's fact-digging can occur outside of the Sunshine law, but said that any recommendations or conclusions reached by the body should occur in a public meeting

Deputy Town Manager Tom Bradford was directed to provide leadership and staff support to the task force which would be headed by Mayor Jack McDonald. In addition to Mayor McDonald, the task force would have six members, one of whom was appointed by the Mayor, and the remainder would be appointed by the Town Council.

Council Members Richard Kleid and Gail Coniglio said town residents wanted the council to become more proactive about addressing the county tax and budget issue. Councilman Robert Wildrick said the town must persuade its various groups to come together and speak to the county with a common voice. In the past, there had been too many groups and individuals asking for different things. He suggested, instead of trying to cut the budget, they should try to obtain more services. He gave the analogy of using a shotgun and a rifle. You need to take aim, but you will reach the target better if you are more focused.

Lewis Crampton, S. Ocean Blvd., offered his thoughts on hiring a professional to conduct studies and collect information.

Mayor McDonald appointed Tim Moran to the board after Council Member Wildrick declined to serve. Town Attorney Randolph read the language in the body of the Resolution that needed to be changed and instructed the Council that they could still vote on it as amended, as the title had not changed. The new language was:

Section 2. The County Budget Task Force shall consist of not more than seven (7) members. The Mayor shall serve as a member and Chair of the Task Force and shall appoint an additional member. The remaining five (5) members shall be appointed by the Town Council. Appointees are required to be registered electors in the Town.

Motion to approve Resolution No. 55-10 as amended made by Council Member Diamond, Seconded by Council Member Kleid. On roll call, the motion carried unanimously.

B. New Business

1. Comprehensive Annual Financial Report for FY2009. [Jane Struder, Director of Finance]

Jane Struder, Finance Director introduced Mr. Mark Vale, presented the report and sought direction on the financial annual report. Mark Vale, Auditor from Caler, Donten, Levine,Porter & Vale, P.A. provided a brief report for FY 2009. After that, Ms. Struder sought acceptance of the financial report for FY 2009, and also sought direction on printing of the Annual Financial Report.

Mr. Vale noted that the CAFR is divided into four sections and he briefly reviewed each section:

- Introductory Section
- Financial Section
- Statistical Section
- Compliance Section

Council President Rosow asked about the Governmental Activities- Internal Service Funds (page 22 of CAFR) for insurance and claims. He thought that the cost of $5,394,203 was excessive. He was informed that this line item included property and casualty risk, health insurance risk and the equipment replacement fund. Council President Rosow indicated that per employee that worked out to $13,500 per employee. Town Manager Elwell indicated that was incorrect because it was a combination of the different types of insurance, not all of it was health related and include retirees. Town Manager Elwell indicated that there would be a better breakdown when they go through the budget process. They also discussed the contracts without bids.

Council President Rosow asked why the auditors did not catch the recent deception by a Town employee. Mr. Vale responded that they make sure the auditing policies are followed. He noted that those instances where contracts were awarded, Resolutions were approved by the Town Council. What they would not see was the kickback. He advised that you would not have detected that in the control process.

Council President Pro Tem Coniglio was concerned with the management letter and what actions were being taken to prevent the following from occurring next year:

- Internal control over financial reporting
- Grant Awards and the tracking of funds
- Recording purchases of Inventory and supplies
- Purchasing requirements for Construction projects
- Performance Bonds

Council President Pro Tem Coniglio noted she was appreciative of the efforts of Director Struder and Town Manager Elwell for keeping the AAA bond rating, and financial health of the Town top quality. Finance Director Struder responded with changes in tracking software, EDEN upgrades, but she also noted that her department is currently short-staffed.

Council Member Wildrick stated as a point of information, that there were approximately four different auditing procedures going on right now: police dept forensic audit, internal, forensic audit by Crowe Horwath for policies and how they relate and thirdly ongoing internal audit function. Report forthcoming. It identifies problems but also solutions.

Motion to accept the FY 2009 CAFR made by Council Member Diamond, seconded by Council president Pro Tem Coniglio. On roll call, the motion carried unanimously.

With regard to the printing of the Annual Report, Finance Director Struder advised the Town Council it would cost approximately $9,000.00 to print and distribute. The Consensus of the Town Council was not to print it but to provide the document on the Town Website and to the various civic associations.

Motion to not spend the money on printing of the Annual Financial Report and provide the document electronically was made by Council Member Diamond, seconded by Council president Pro Tem Coniglio. On roll call, the motion carried unanimously.

2. Funding and Scope of Engagement for Forensic Auditing and Administrative Investigation. [Peter B. Elwell, Town Manager]

Council President Rosow announced that this item was not to discuss the audit, but a request to increase the funding for the audit.

Town Manager Elwell announced that the amount requested was not to exceed $48,000.00

Motion to approve the funding and scope for the forensic audit made by Council Member Diamond, seconded by Council Member Wildrick. On roll call, the motion carried unanimously.

3. Status Report and Recommendations for Engineering Projects. [Jay Boodheshwar, Acting Director of Public Works]

Acting Director of Public Works Jay Boodheshwar was asked several questions by Council President Pro Tem Coniglio and other Town Council Members on:

- Pendleton Avenue Drainage Project regarding cost and construction time.
- Cost estimate and design proposal expected next month
- Lift Station 22
- Flashing beacon at North Fire Station
- Sanitary sewage force main installation delays and the impact of failing sections of the system
- Disconnecting from the Lake Worth Wastewater System as soon as possible
- Reach 8, dune enhancement, and beach re-nourishment funding

Jere Zenko, 232 Tangier Ave., expressed her opposition to the flashing traffic lights at the North Fire Station.

Council Member Wildrick asked further questions about the liability at the North Fire Station in relation to a previous employee error incident where the fire apparatus rolled out of the station. He also asked about the bond issue and if the Town would be penalized if there were construction delays. Town Manager Elwell responded that as long as they spend at least 85% of the proceeds within three years, then they would be restricted only to the investment return on the bond yield.

Motion to accept the status report and recommendations for Engineering Projects made by Council Member Diamond, and seconded by Council President Pro Tem Coniglio. On roll call, the motion carried unanimously.

a. RESOLUTION NO. 50-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Increasing the Contract Amount for Dune Restoration Permitting by Applied Technology Management, Inc. [Jay Boodheshwar, Acting Director of Public Works]

Town Attorney Randolph read Resolution No. 50-10 by title, as printed above.

Motion to approve Resolution No. 50-10 made by Council Member Diamond, and seconded by Council President Pro Tem Coniglio. On roll call, the motion carried unanimously.

b. RESOLUTION NO. 53-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Purchase Order to Kimley-Horn and Associates, Inc., for D-9 Storm Water Pump Station Construction Phase Services, Establishing a Budget for Said Services, and Authorizing the Town Manager to Take Actions Necessary to Complete Said Services. [Jay Boodheshwar, Acting Director of Public Works]

Town Attorney Randolph read Resolution No. 53-10 by title, as printed above.

Motion to approve Resolution No. 53-10 made by Council Member Diamond, and seconded by Council Member Kleid. On roll call, the motion carried unanimously.

Council President Pro Tem Coniglio added that she had been informed by Public Works, that in addition to the Coordinator from Kimley-Horn, there would also be a coordinator designated from Public Works as well.

4. Preparations for Potential Impacts of Oil Spill in the Golf of Mexico. [Jay Boodheshwar, Acting Director of Public Works]

Acting Director of Public Works Boodheshwar and Town Manager Elwell indicated that the back-up provided full detail of the communications that have been undertaken, which are all preliminary and very prospective to make sure the town is ready to take actions if any conditions arise along our coastline.

a. RESOLUTION NO. 56-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, awarding a contract to Tetra Tech, Inc. for the annual 2010 Mid-Town and Phipps Ocean Park biological monitoring services of offshore natural and artificial resources, per FDEP and USACE permit requirement. [Jay Boodheshwar, Acting Director of Public Works]

Town Clerk Cunningham read Resolution No. 56-10 by title, as printed above.

Motion to approve Resolution No. 56-10 made by Council Member Diamond, and seconded by Council Member Wildrick. On roll call, the motion carried unanimously.

Council President Pro Tem Coniglio commended Coastal Coordinator Rob Weber and thanked him for being so pro-active. Council President Pro Tem Coniglio stated that it was so important to have the monitoring identified prior to any impacts in order to have a baseline and she really appreciated his extraordinary homework in getting the work done. Council Member Wildrick added that it was very smart and well done.

5. Request for Increase in the Par 3 Golf Course Maintenance Labor Contract. [Alan Brown, Acting Director of Recreation]

Acting Director of Recreation Alan Brown presented the item.

Motion to approve the request for increase in the Par 3 Golf Course Maintenance Labor Contract in the amount of $47,000 made by Council president Pro Tem Coniglio, and seconded by Council Member Diamond. On roll call, the motion carried unanimously.

6. Request for Waiver of Townwide Hiring Freeze to Allow the Hiring of Certain Civilian Personnel in the Police Department. [Kirk W. Blouin, Police Chief]

Council President Rosow indicated that there would be a savings of $90-100,000 a year.

Motion to approve the Request for Waiver of Townwide Hiring Freeze to Allow the Hiring of Certain Civilian Personnel in the Police Department made by Council Member Diamond, seconded by Council Member Wildrick. On roll call, the motion carried unanimously.

7. RESOLUTION NO. 54-10 A Resolution of the Town Council of the Town of Palm Beach,

Palm Beach County, Florida, Expressing Opposition to the Proposed Palm Beach County 1% Fire Rescue Sales Surtax; Memorializing the Town Council's Decision to Decline Participation in a Proposed Interlocal Agreement with Palm Beach County; Providing an Effective Date. [Peter B. Elwell, Town Manager]

Town Attorney Randolph read Resolution No. 54-10 by title, as printed above.

Motion to approve Resolution No. 54-10 made by Council President Pro Tem Coniglio, seconded by Council Member Diamond.

Council President Rosow indicated that if there was any money on the table, the Town wanted some of it. His concern was that should this become a referendum and passed, he wanted to be assured that the Town of Palm Beach would get its Pro Rata share of the money. Town Manager Elwell assured him that by voting against it, the Town was not opting out, should it become law.

Council Member Wildrick stated that it would be difficult for the County to exclude Palm Beach but wanted a legal opinion. Town Attorney Randolph agreed with Council Member Wildrick. Council Member Wildrick also said the Town should take a leadership position on this issue.

Council Member Diamond felt this was the most dreadful measure, and the Town should take the bull by the horns and oppose it. If the Town does not stop this, next the sales tax will go to the police departments, and then transportation and Towns will lose control over their budgets. Council President Pro Tem Coniglio and Council Member Kleid agreed.

On roll call, the motion carried unanimously.

8. Receipt of Comcast 2010 Rate Filings and Proposed Rate Order. [Thomas G. Bradford, Deputy Town Manager]

This item was pulled from the Consent Agenda by Council Member Diamond.

Council Member Diamond asked Deputy Town Manager Bradford if the Town would have to hire someone to oppose the rate increase. He responded that the last time the Town opposed it was the early part of the prior decade, and it cost approximately $40,000. Council member Diamond withdrew his objection.

Motion made by Council Member Diamond and seconded by Council President Pro Tem Coniglio to receive the proposed Comcast 2010 Rate Filings and Proposed Rate Order. On roll call, the motion carried unanimously.

XII. ORDINANCES

A. Second Reading

1. ORDINANCE NO. 10-10 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Providing for an Amendment to the Town's Comprehensive Coastal Management Project Fund Budget and the General Fund Budget Adopted for the Fiscal Year Commencing October 1, 2009, as Amended March 9, 2010, Providing an Effective Date. [Jane Struder, Director of Finance]

Town Manager Elwell read Ordinance No. 10-10 by title, as printed above.

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

2. RESOLUTION No. 57-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, awarding a contract to Coastal Technology Corporation to perform a groin analysis.

Town Manager Elwell read No. 57-10 by title, as printed above. He noted that the contract amount was not to exceed $195,000.

Motion to approve Resolution No. 57-10 made by Council member Diamond, seconded by Council President Pro Tem Coniglio. On roll call, the motion carried unanimously.

3. RESOLUTION NO. 58-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, awarding a contract to Applied Technology & Management, Inc. to perform an offshore sand search investigation and borrow area development at the northern end of Town, including the Lake Worth Inlet vicinity.

Town Manager Elwell read No. 58-10 by title, as printed above. He noted that the contract amount was not to exceed $495,000.

Motion to approve Resolution No. 58-10 made by Council member Diamond, seconded by Council President Pro Tem Coniglio. On roll call, the motion carried unanimously.

B. First Reading

None

XIII. ANY OTHER MATTERS

There were none.

XIV. ADJOURNMENT

There being no further business, the Tuesday, May 11, 2010, Town Council Meeting was adjourned at 1:06 p.m.

APPROVED:

David A. Rosow
Town Council President

ATTEST:

Joanna Cunningham
Town Clerk