TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL MEETING HELD ON TUESDAY, MAY 10, 2011

I. CALL TO ORDER AND ROLL CALL

The Regular Town Council meeting was called to order on Tuesday, May 10, 2011 at 9:30 a.m. in the Town Council Chambers. On roll call, all of the elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

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

III. PRESENTATIONS

A. Legislative Summary Presented by Representative Pat Rooney.

Representative Rooney provided a summary of this year's legislative session. He reported that there were some tough decisions, but the state budget was reduced without increasing taxes or fees. Beach nourishment was initially scheduled to be without funds; however, we were able to save $60 million for projects in South Florida. None of these projects will be in Palm Beach this year, but we will be placed on top of the priority funding list for next year. We were able to maintain current funding levels for libraries. Funds were able to be transferred so that funding for cancer research and people with disabilities could continue. New growth management legislation took away a lot of state oversight and put it back into the hands of local governments. State employee pension contributions were set at 3%. New pill mill legislation was passed regulating pain clinics, giving more enforcement power to law enforcement, and establishing a drug monitoring database. One of his bills, which allows counties to enter into short-term commercial leases, passed. Another bill he introduced, but did not pass, encouraged schools to hire certified athletic trainers. Next year he plans on looking at alternate methods to travelling back and forth from Tallahassee, allowing pharmacies to fill as many prescriptions as public employees need, providing incentives for incoming corporations to partner with local charities, and addressing mortgage fraud and the renting of foreclosures.

Representative Rooney reported that he was able to get House Resolution 9047, which recognizes the Town of Palm Beach for its Centennial Celebration, into the House Journal.

Mayor Coniglio asked Representative Rooney to explain how the new homestead exemption bill would affect residents. He stated that the intent of this bill was to keep residents' taxable value from rising if their market value falls. Mayor Coniglio asked about any fallout, such as unfunded mandates and forcing local governments to provide additional services, which may result from the Smart Cap legislation. Representative Rooney responded that he understands the Town's view. The state has the same concerns when the federal government passes responsibilities down to the states. The intent of the Smart Cap is to protect the state from spending too much when times are good, so that we don't end up in the situation we are in now. The Mayor expressed her disappointment that the 175 and the 185 pension funds that already exist were not filtered down to the local governments. Representative Rooney replied that he would voice her concerns next year. Mayor Coniglio expressed her disappointment that, with all of the devastating cuts to the budget and to human services, that $43 million was pledged to one college in one Representative's district. Representative Rooney agreed that, in times like these, it creates a bad perception.

Council Member Diamond asked Representative Rooney if anything was being done regarding the Everglades Restoration Project, and for him to touch on the changes to Medicaid. Representative Rooney responded that the federal government has not lived up to its obligations regarding the Everglades. The state went above and beyond for many years. We did have to make a cut to that budget this year; but, we have gotten some assurances from the federal government that they will pick up their part and we will be able to continue the restoration that we were promised. Medicaid and Medicare are a tremendous issue in the state. What they are proposing to do is divide the state into 11 zones, and create managed care/HMO-type programs that can be dealt with on a zone-by-zone basis.

B. Recognition of Bill Bone for Service as Chairman of the Centennial Commission.

Mayor Coniglio recognized Mr. Bone for his service as Chairman of the Centennial Commission.

C. A Proclamation of the Mayor of the Town of Palm Beach in Honor of the Palm Beach Centennial.

Mayor Coniglio presented the proclamation to the Town.

D. Recognition of Henry P. Jamison, IV, Recreation Advisory Commission, From April 2004 Through April 2011.

Mayor Coniglio recognized Mr. Jamison for his service on the Recreation Advisory

Commission.

E. Recognition of Danielle Moore, Recreation Advisory Commission, From May 2005 Through April 2011.

Mayor Coniglio recognized Ms. Moore for her service on the Recreation Advisory Commission.

F. Scholarship Provided by The Palm Beach Civic Association and The Citizens' Association of Palm Beach. [Ned Barnes, Palm Beach Civic Association and Rita Taca, The Citizens' Association of Palm Beach]

Mr. Ned Barnes, of the Palm Beach Civic Association, and Rita Taca, of the Citizens' Association of Palm Beach presented Samantha Pollack with their annual scholarship award. Samantha will be attending Carnegie Mellon for her Bachelor of Fine Arts Degree in Theatrical Scenic Design.

IV. COMMENTS OF MAYOR GAIL L. CONIGLIO

Mayor Coniglio reported that she has been successful in obtaining $300,000 from the County for the operation and maintenance of the sand transfer plant, which is critical to our coastal management program. She also encouraged the Council to reconsider joining the Florida League of Cities and stated the benefits thereto.

V. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

Council President Pro Tem Wildrick spoke regarding the state of the economy and home values within Palm Beach. He requested that the Mayor continue to look after our financial interests in her discussions with the County so that we get can our fair share of funds.

Council Member Pucillo spoke regarding the vote taken at the April 21, 2011 Impasse Hearing. He stated that there were seven separate issues that merited more discussion and separate decisions. On two of the issues, Management was even willing to accept the Union's proposed language. He further suggested that the Council consider each issue separately if there is another such hearing.

Council President Rosow echoed Council President Pro Tem Wildrick's comments and spoke further regarding the differences in property values the last few years and how properties are assessed.

Council Member Kleid concurred with Council Member Pucillo's comments regarding the April 21, 2011 Impasse Hearing vote.

Council President Rosow stated that, when he heard Management was willing to concede on two issues, he asked Special Counsel to draft a new omnibus motion that included the Union's language on the two issues. The Union did not agree to those terms before or during the hearing.

VI. COMMUNICATIONS FROM CITIZENS

Eric Gilbertson, 151 Chilean Ave, requested that Code Enforcement come and re-inspect his privacy fence.

James Weiner, 150 Bradley Pl, spoke in opposition of closing the u-turn on Royal Poinciana Way between County Road and Bradley Place.

Deborah Robinson, 217 Clarke Ave, spoke against how the April 21, 2011 Impasse Hearing was handled. She also spoke regarding the allocation of residents' county tax dollars outside of the Town and another resident's suggestion that we hire retired firefighters.

VII. APPROVAL OF AGENDA

Motion was made by Council Member Diamond and seconded by Council Member Pucillo to approve the Agenda as printed. On roll call, the motion carried unanimously.

VIII. CONSENT AGENDA

Motion was made by Council Member Diamond and seconded by Council Member Pucillo to pull Item VIII.I.3 (Resolution No. 51-11) from Consent, and to approve the Consent Agenda as amended. On roll call, the motion carried unanimously.

Clerk's Note: Resolution No. 51-11 to be heard as Item X.B.7

A. MINUTES: APRIL 6, 2011 APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING-LONG TERM FINANCIAL PLAN

B. MINUTES: APRIL 12, 2011 APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

C. MINUTES: APRIL 12, 2011 APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING CLOSED-DOOR SESSION-PRESERVE PALM BEACH PAC VS TOWN OF PALM BEACH

D. MINUTES: APRIL 13, 2011 APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

E. MINUTES: APRIL 19, 2011 APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING-PLANTING OF SEA OATS AT

PHIPPS OCEAN PARK

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F. MINUTES: APRIL 21, 2011 APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING-IAFF IMPASSE HEARING

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G. MINUTES: MAY 2, 2011 APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING CLOSED-DOOR SESSION-TOWN OF PALM BEACH VS USA

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H. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL COMMISSION AT ITS MEETING ON APRIL 27, 2011.

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I. RESOLUTIONS

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1. RESOLUTION NO. 38-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Purchase of Five (5) Vehicles in the Total Amount of $135,610 as Previously Considered and Approved by the Town Council During the FY2011 Budget Process and Included in the Town's Equipment Replacement Program.
[Kirk W. Blouin, Police Chief and Acting Fire-Rescue Chief]

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2. RESOLUTION NO. 48-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding Contracts for $32,799 to Community Asphalt Corporation, and for $184,823 to Florida Highway Products, Inc., for the Annual Roadway Paving and Resurfacing, Establishing a Total Budget of $261,108 for Said Improvements, and Authorizing the Town Manager to Take Actions Necessary to Complete Said Improvements. [H. Paul Brazil, Director of Public Works]

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3. RESOLUTION NO. 51-11 – ***Pulled and heard as X.B.7.***

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J. OTHER

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1. Authorization to Extend Display Time Frame for Centennial Street Signs. [Jay Boodheshwar, Director of Recreation]

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2. Authorization to Fill Vacant Records Information Systems Position Due to Retirement.
[Kirk W. Blouin, Police Chief and Acting Fire-Rescue Chief]

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3. Authorization to Fill Vacant Crime Scene Evidence Unit (CSEU) Position Due to Retirement.

[Kirk W. Blouin, Police Chief and Acting Fire-Rescue Chief]

4. Authorization to Continue Membership and to Pay Dues to the Florida League of Cities. [Jane Struder, Director of Finance]

IX. BOARD/COMMISSION ANNUAL REPORT

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

Timothy Hoffman, Chair of the Code Enforcement Board, presented a summary of the Code Enforcement Board Annual Report.

Clerk's Note: This Item was heard after Item X.A.1.

X. REGULAR AGENDA

A. Old Business

1. Update Regarding Alternatives for Mid-Town Public Beach and Clarke Avenue Public Beach.

Town Manager Elwell summarized the status of this issue.

a. Clarke Avenue Parking Waiver from Florida Department of Environmental Protection (FDEP). [James Green, Esq.]

Attorney James Green summarized the status of this issue.

Council consensus was to take no further action on the waiver at this time.

b. ~~RESOLUTION NO. 50-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to Kimley-Horn and Associates, Inc., for Design Services in the Amount of $9,600 and Establishing a Design Budget of $11,000 for Establishing Parking on South County Road Between Clarke Avenue and Barton Avenue.~~
~~[H. Paul Brazil, Director of Public Works]~~ – **Item not Heard**

Clerk's Note: Based upon the discussion, this item was no longer relevant and was not heard.

c. Mid-Town Restroom Alternative.
[H. Paul Brazil, Director of Public Works]

Adele Kahn, House of Kahn Estate Jewelers, 231 Peruvian Ave, spoke in opposition of the restroom option.

Susan Ross, 172 S. Ocean Blvd, spoke in support of the restroom option.

Steve Greenwald, 128 Seaspray Ave, spoke in support of the restroom option.

Alan Goldboro, 2500 S. Ocean Blvd, spoke regarding automated systems for cleaning restrooms.

Mary Frances Smoak-Walde, 141 Barton Ave, spoke in opposition of the restroom option, and in favor of sharing the parking burden.

Sherry Frankel, Sherry Frankel's Melangerie, 256 Worth Ave, spoke in support of the restroom option.

John Eubanks, 1209 N. Olive Ave, representing Pamela and Wayne Garrison, 212 S. Ocean Blvd, spoke in support of the restroom option.

Jim Scoroposki, 120 Clarke Ave, spoke in support of the restroom option, provided that the Town does a restroom study, and in favor of sharing the parking burden in the interim.

Walter Kirkbride, 138 Barton Ave, stated that he had no preference regarding restrooms, parking is the issue.

Marc Himmelstein, 400 S. Ocean Blvd, spoke in opposition of the restroom option.

Pamela Acock, 400 S. Ocean Blvd, spoke in opposition of the restroom option, and in opposition of clustering parking to the east on Clarke and Barton Aves.

Jim Bertles, Bethesda-By-The-Sea Church, 141 S. County Rd, stated that restrooms would not be a panacea; parking will continue to be a problem. He requested that the Town respect the Church's interest in preserving parking spaces for their parishioners and the non-parishioners that use their facilities.

Deborah Robinson, 217 Clarke Ave, spoke regarding the parking burden on Clarke Ave and against installing kiosks in front of homes.

Sue Strickland, 145 Seaspray Ave, spoke in support of the restroom option.

Burke Ross, Clarke Ave, stated that he would prefer a restroom over additional parking.

Rebecca Williams, 232 Seabreeze Ave, spoke in support of the restroom option.

Motion was made by Council Member Diamond and seconded by Council Member Pucillo

to approve in principle the construction of restrooms on Mid-Town Beach, with a proviso that staff, Council, and the community work together to ameliorate any negative effects that would have on Barton Ave. On roll call, the motion failed with Council President Rosow, Council President Pro Tem Wildrick, and Council Member Kleid dissenting.

Motion was made by Council Member Kleid and seconded by Council President Pro Tem Wildrick to approve the temporary re-allocation of public beach parking spaces as follows: 4 on Seaspray Ave, 4 on Seabreeze Ave, 4 on Seaview Ave, 4 on the 100 block of Clarke Ave, 5 on the 200 block of Clarke Ave, and 4 on Barton Ave; the allocation of these spots within these blocks will be at the discretion of the staff. Parallel with this, the Town will proceed with a restroom study, at private expense and to include maintenance thereof. On roll call, the motion carried unanimously.

d. Other

Town Manager Elwell clarified for the record that the direction of the Council was as follows: There is to be no further work on the waiver or on S. County Rd at this time; the Town Manager will provide the Council with additional information on how much the Town will need to pay back to the state if the parking/restroom requirements cannot be satisfied; and immediate distribution of parking spaces consistent with the motion. Staff will also proceed with a restroom study, to be conducted at private expense and to include maintenance thereof. This study will include the options of building a new restroom facility and of converting the existing one. The Town will get a refined cost estimate for the study and will obtain the funding before proceeding.

B. New Business

1. Review of Palm Beach County Environmental Enhancement Projects in Lake Worth Lagoon In and Near the Town of Palm Beach. [H. Paul Brazil, Director of Public Works]
TIME CERTAIN: 11:00 A.M.

a. Proposed Dredging Under Ibis Isle Bridge. [H. Paul Brazil, Director of Public Works]

Director of Public Works Paul Brazil provided the background on this project. He stated that this project was initiated by the residents. Staff is assisting the residents, but the residents are funding the project.

Council consensus was for Town Staff to continue working to obtain permits for this work and to oversee completion of the work if the residents' donation is sufficient to cover the cost of the dredging.

b. Ibis Isle Restoration Project. [Rob Robbins, Palm Beach County Department of Environmental Resources Management]

Rob Robbins, Palm Beach County Department of Environmental Resources Management, reported on the status of this County project.

c. Grassy Flats Restoration Project. [Rob Robbins, Palm Beach County Department of Environmental Resources Management]

Rob Robbins, Palm Beach County Department of Environmental Resources Management, provided a summary of this upcoming County project.

d. Everglades Island Inshore Artificial Reef. [Rob Robbins, Palm Beach County Department of Environmental Resources Management]

Rob Robbins, Palm Beach County Department of Environmental Resources Management, reported on the status of this County project.

e. South Cove Natural Area. [Rob Robbins, Palm Beach County Department of Environmental Resources Management]

Rob Robbins, Palm Beach County Department of Environmental Resources Management, reported on the status of this County project.

Larry Goldfein, 2243 Ibis Isle Rd, spoke regarding the proposed dredging under the Ibis Isle Bridge and the negative impacts of the Ibis Isle Restoration Project.

Tom Hunt, 2273 Ibis Isle Rd, spoke regarding the proposed dredging under the Ibis Isle Bridge, the negative impacts of the Ibis Isle Restoration Project, and in opposition to the County's upcoming Grassy Flats Restoration Project.

Larry Herz, 2150 Ibis Isle Rd, spoke regarding the inequities between the southern and northern ends of the Town.

Paul Noble, 2175 Ibis Isle Rd, spoke regarding the proposed dredging under the Ibis Isle Bridge.

Susan Goldfein, 2243 Ibis Isle Rd, spoke regarding the increase of muck under the Ibis Isle Bridge and along the edges of the channel.

Miles Coon, 2267 Ibis Isle Rd, spoke regarding the white stones placed around the perimeter of the Ibis Isle Restoration Project and the proposed dredging under the Ibis Isle Bridge.

Mas Massoumi, PO BOX 2585, spoke regarding mosquitoes and mosquito transmitted diseases.

Terry Levine, 2250 Ibis Isle Rd, submitted to the Council a statement on behalf of Howard Rudolph, 2253 Ibis Isle, who was in opposition to the County's upcoming Grassy Flats Restoration Project.

Terry Levine, 2250 Ibis Isle Rd, spoke regarding elevation of muck and cycles of water flow near the Ibis Isle Bridge.

Council consensus was to not pay for any engineering studies on these County projects, and to withhold approval of the County's Glassy Flats Restoration Project until the true ramifications of the Ibis Isle Restoration Project can be determined.

2. Worth Avenue Improvement Project Design Element Amendments Recommended by the Worth Avenue Improvement Project Review Committee (Hybrid Committee).
[Thomas G. Bradford, Deputy Town Manager]

a. Review and Approval of Proposed Design Element Amendments.

Deputy Town Manager Thomas Bradford reported on the Committee's recommendations and on additional alternatives.

Alexander Ives, Preservation Foundation of Palm Beach, 311 Peruvian Avenue, stated that the Preservation Foundation was in support of the Committee's recommendations.

Motion was made by Council Member Diamond and seconded by Council Member Pucillo to approve the Committee's recommendation regarding the Clock Tower Element. On roll call, the motion carried unanimously.

Motion was made by Council Member Diamond and seconded by Council Member Kleid to approve the Committee's recommendation regarding the Entry Piers Element. On roll call, the motion carried unanimously.

Motion was made by Council Member Diamond and seconded by Council Member Kleid to approve the Committee's recommendation regarding the 204 Worth (Ferragamo Building) Element. On roll call, the motion carried unanimously.

Motion was made by Council Member Diamond and seconded by Council Member Kleid to approve the Committee's recommendation regarding the 205 Worth (Worth Avenue Building) Element. On roll call, the motion carried unanimously.

Motion was made by Council Member Pucillo and seconded by Council Member Kleid to approve an alternate to the Committee's recommendation on the Hibiscus Fountain Element, as follows: The sod inlay was removed from the plans, and the current fountain bases were to be replaced with raised bases to provide for seating. On roll call, the motion carried 3-2, with Council President Pro Tem Wildrick and Council Member Diamond

dissenting.

Council consensus was to approve the Committee's recommendations regarding the remaining elements.

b. ~~Sunsetting of Worth Avenue Improvement Project Review Committee.~~ - **None**

Clerk's Note: Item was heard, and the Committee sunsetted, at the May 11, 2011 Town Council meeting.

3. Consideration of Offers to Purchase 110 Angler Avenue.
[John C. Randolph, Town Attorney]

Leslie Evans, 214 Brazilian Ave, requested that the Council defer a decision on this item so that they can obtain additional offers.

Maura Ziska, Kochman & Ziska PLC, 222 Lakeview Avenue, West Palm Beach, representing Mr. and Mrs. Chu, advocated the position of her clients.
Leslie Linder, Barclay's International Real Estate, 249 Peruvian Ave, representing Mr. Cambo, advocated the position of her client.

Motion was made by Council Member Pucillo and seconded by Council President Pro Tem Wildrick to approve the option to purchase agreement for 110 Angler Avenue. On roll call, the motion carried unanimously.

4. Appointment of Kirk W. Blouin as Director of Public Safety and Other Actions Regarding the Town's Management Plan.
[Peter B. Elwell, Town Manager]

Motion was made by Council Member Diamond and seconded by Council President Pro Tem Wildrick to approve the appointment of Kirk W. Blouin as Director of Public Safety and the execution of the related employment agreement, the creation of Deputy Police Chief and Deputy Fire Rescue Chief, and a salary increase for the Director of Recreation and Special Projects to compensate him for additional duties and responsibilities. On roll call, the motion carried unanimously.

5. Accelerated Capital Improvement Program Update.
[H. Paul Brazil, Director of Public Works]

Director of Public Works Paul Brazil provided the program update.

a. Presentation of Online Information Regarding the Accelerated Capital Improvement Program.

Director of Public Works Paul Brazil presented the new feature to the Town's website highlighting the various capital improvement projects planned throughout the Town.

b. Request for Extended Work Hours for Installation of Subaqueous Force Main Under Lake Worth.

Motion was made by Council Member Diamond and seconded by Council President Pro Tem Wildrick to approve extended work hours for the June pull back of the subaqueous water main/sewer force main under Lake Worth. On roll call, the motion carried unanimously.

Motion was made by Council Member Diamond and seconded by Council Member Kleid to approve extended work hours for the September installation of the subaqueous water main/sewer force main across Royal Poinciana Way. On roll call, the motion carried unanimously.

6. Commencement of Preliminary Steps Necessary for Implementation of Modified Town Pension Plans.
[Jane Struder, Director of Finance]

Motion was made by Council Member Diamond and seconded by Council Member Kleid to authorize a contingency allocation of $67,750 for costs associated with the implementation of the modified Town pension plans. On roll call, the motion carried unanimously.

7. RESOLUTION NO. 51-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to Foster Marine Construction, Inc., in the Amount of $1,292,960 and Establishing a Construction Phase Budget of $1,422,256 for Installation of Utility Improvements and Roadway Restoration on North Lake Way and Tangier Avenue.
[H. Paul Brazil, Director of Public Works]

Motion was made by Council Member Kleid and seconded by Council Member Diamond to approve Resolution No. 51-11. On roll call, the motion carried unanimously.

XI. ORDINANCES

A. Second Reading

1. ORDINANCE NO. 15-11 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 114 Taxation, Article II, Local Business Tax, at Section 114-43 Schedule, So as to Amend the Fees Delineated for Each Business, Profession or Occupation; Expanding the Schedule for Apartments to Include Rental Dwellings; Amending Section 114-80

Relating to Exemption for Churches to Amend the Exemption to Apply to Houses of Worship; Amending Article IV, Telecommunications Services Public Service Tax by Deleting Sections 114-121 Through 114-126 and Providing That Telecommunication Services Public Service Tax Shall Be in Accordance with Chapter 202, Florida Statutes, the Communications Services Tax Simplification Law; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.
[John S. Page, Director of Planning, Zoning, and Building]

Town Attorney Randolph read Ordinance No. 15-11 by title, as printed above.

Motion was made by Council Member Diamond and seconded by Council Member Pucillo to adopt Ordinance No. 15-11. On roll call, the motion carried unanimously.

B. First Reading

None

XII. ANY OTHER MATTERS

None

XIII. ADJOURNMENT

There being no further business, the Regular Town Council Meeting of Tuesday, May 10, 2011 was adjourned at 3:02 p.m.

APPROVED:

~~David A. Rosow~~ Robert N. Wildrick
Town Council President Pro Tem

ATTEST:

Susan A. Owens, MMC
Town Clerk