TOWN OF PALM BEACH

Office of the Town Clerk

MINUTES OF THE SPECIAL TOWN COUNCIL MEETING HELD ON MONDAY, MAY 7, 2007

I. CALL TO ORDER AND ROLL CALL

The Special Town Council Meeting was called to order on Monday, May 7, 2007, at 9:30 a.m., in the Town Council Chambers. On roll call, the following elected officials were found to be present:

Mayor Jack McDonald
President Richard M. Kleid
President Pro Tem Denis P. Coleman
Council Member William J. Brooks
Council Member Gail Coniglio
Council Member Susan Markin

Others present for all or a portion of the meeting were:

Town Manager Peter B. Elwell
Deputy Town Manager Thomas G. Bradford
Assistant Town Manager Sarah E. Hannah
Stirling Clarke, on Behalf of Town Attorney John C. Randolph
William Amador, Acting Fire-Rescue Chief
Brodie Atwater - Fire-Rescue Training & Safety Officer
Jay Boodheshwar - Recreation Director
James Bowser - Town Engineer
Paul Brazil - Public Works Director
Alan Brown - Recreation Assistant Director
Eric Brown - Public Works Assistant Director
Veronica Close - Director of Planning, Zoning and Building
Paul Castro - Zoning Administrator
Tim Frank - Planning Administrator

Fred Hess - Police Sargent
Jon Luscomb - Dock Master
Michael Mason - Law Enforcement Major
Michael Reiter - Police Chief
Gary Sallenbach - Support Services Major, Police
Susan Eichhorn - Town Clerk

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Town Clerk Eichhorn gave the invocation. President Kleid led the Pledge of Allegiance.

III. PRESENTATIONS

None

IV. COMMENTS OF MAYOR JACK McDONALD

Mayor McDonald stated that he had a message for Town employees and their families: If the legislature follows through on their desire to wreak havoc on local governments by rolling tax revenues back to 2005, or earlier, every employee, in this Town, will be affected. Our neighbor, West Palm Beach is considering cutting salaries by switching to a thirty-five hour week. Delray Beach may lose 116 jobs. The Speaker of the House says, there's only one way to give people tax relief and that is to take it away from government; and, he goes on further to say, if services go down and people are unhappy with government, then they can march on City Hall with pitchforks and torches demanding a tax increase. That may sound cute, but it is a grandstanding remark that not only reflects a lack of knowledge of municipal government but is deceptive because there was no opt out provision in the proposed legislation. Interestingly, budget cuts do not apply to state government, only local government.

The state's recently passed budget, last week, actually increases our taxes by including a $326 million increase in property taxes for schools and passes to us more unfunded mandates for police and fire benefits. The Senate Majority Leader says when they finish their package, that is going to look like a small amount of money compared to what we're going to do next month. So, local governments must pay what the legislature ordered. It's an interesting concept to be able to pay more expenses while cutting your budget. Our residents want quality service and are willing to pay for it unless they are prohibited from doing so. We need to be very concerned when people who do not live in the community seem to know and dictate what is best for the community. Luckily there is a brief window of time and I encourage every employee of this Town and every adult member of their family to contact their House and Senate representatives during the next thirty days and let them know their opinion on this issue. Legislators are hearing abundantly from people who are part-time Florida residents who do not live and work here year round like you do. This is an opportunity for you and your family to help yourself. The Mayor and Town Council cannot accomplish this alone although we have been working diligently and continuously on this. The Town Manager should provide every employee the name and phone number of their elected representatives and place this request in the Payday Post until the June session ends.

V. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

President Pro Tem Coleman advised that there would be a request later in the meeting to defer an item on the Agenda by a group of citizens. He stated that he would vote against the deferral. He explained that he wanted to clarify the view that he had come to hold as a member of the Town Council, which was that there was a distinction between a Town Council Meeting and a Town Meeting: He explained as follows:

- A Town Meeting was when everybody participated as an equal participant; and
- A Town Council Meeting did solicit input from the resident's, but it was really a meeting of the Town Council to conduct its business. He noted that he believed it was very important, to the extent that it was practical, when an Agenda was published, that people tried to conform to that Agenda, otherwise, the Town Council would never get anything done in this Town.

Council Member Markin recommended that the following items be placed on next month's Town Council Agenda for discussion:

- The Town's donation policy;
- Airport Expansion; requested that the Town attempt to have a representative from the Federal Aviation Administration (FAA) or on the Airport Expansion Board attend next month's Town Council Meeting.

Town Manager Elwell advised that both items would be placed on the Agenda for the June Town Council Meeting.

Town Manager Elwell made two announcements:

1. Attorney Stirling Clarke Halversen was joining the Town Council on the dais today, on behalf of Town Attorney Randolph, who was in court today and possibly tomorrow, representing the Town. The Poinciana Management versus the Town of Palm Beach lawsuit went to trial this week.

2. Reach 8 Beach Restoration Project - The Town had reached another threshold in an attempt to attain the permits to perform that work next winter. The Florida Department of Environmental Protection (FDEP) had provided to the Town the next request for additional information.

Town Manager Elwell requested that the citizens of the Town contact their state legislators to let it be known that they did not want the Town to be prevented from collecting the revenues needed in order to make improvements and possibly a reduction in the levels of basic service in the operations of the community. The Legislative Special Session would begin on June 12, 2007.

Responding to President Kleid, Mr. Elwell discussed the opt-out provision. Several of his comments were:

- According to the House of Representatives, this appeared to be something that would happen;

- The Senate had been more resistant to the dramatic measures that would create negative impacts throughout all the municipalities and counties of Florida;

- There could be a compromise of a cutback to a prior year's level, meaning that in Fiscal Year 2008, the Town could only collect as much taxes as 1, 2, or three years ago;

- Anything that was done operationally or any capital improvements would need to be cutback, with no opportunity of tax revenues in order to move forward;

- The Town would try to enlist an opt-out provision, as the governing body of the municipality, as elected representatives, made decisions reflecting the desires of the community;

- The Town Council was locally accountable to the residents every two years at the ballot box;

- As of now, the legislature had resisted putting in a provision in these property tax roll back measures that would allow local governing bodies to make that local decision reflecting local values.

Norman Goldblum suggested that staff: write a short, to the point letter to each citizen of the Town, listing all the legislators to be contacted, obtain a signed petition, and mail it. He added that discussing it was not as effective as mass mailing, and e-mailing.

Motion made by President Pro Tem Coleman to approve the appropriation of funds for staff to prepare a letter under the signature of the Mayor to send to each resident before the upcoming legislative session, requesting that citizens contact state legislators regarding the property tax issue, and also utilizing the Town citizen e-mail list for that purpose. Motion seconded by Council Member Brooks.

Jere Zenko commented that perhaps all the residents were not in agreement with the Council, and that they would like to have their taxes cut. She added that she felt the debate was presumptuous.

Council Member Brooks indicated that the property tax roll back was draconian, and the Town needed to take a stand.

Council Member Markin conveyed that although everyone was in favor of reducing property taxes, 20% of the tax bill would be reduced, 80% would go to the County, and 60% of that would go to the school district, who would be exempt from the reduction. Service fees would have to be charged for garbage pickup and other services that otherwise were automatic. In reality, the normal Palm Beach resident would not have much of a reduction. Regarding the mass mailing, there was about a 30% inaccuracy on the mailings, which would miss a significant amount of residents at a cost of about $5,000 for legislation that may happen, regardless of what anyone did. She suggested placing an ad in the Shiny Sheet, listing the names of the representatives, addresses, and perhaps a tear out at the bottom of the ad to send in.

Mayor McDonald noted that homesteaded properties may have an increase in taxes.

Upon roll call to approve the appropriation of funds for staff to prepare a letter under the signature of the Mayor to send to each resident before the upcoming legislative session, requesting that citizens contact state legislators in regard to the property tax issue, and also utilizing the Town citizen e-mail list for that purpose, the motion carried unanimously.

VI. COMMUNICATIONS FROM CITIZENS- 3 MINUTE LIMIT PLEASE
Another opportunity for communications from citizens will be offered immediately after the lunch break.

Henry McIntosh, 124 Via Bethesda, commented on the Fire-Rescue Department's procedures and protocols; commented on how courteously and professionally he had been treated by Division Chief Brian Fuller; and suggested that the eight minute video he had been shown regarding the Fire- Rescue Department be placed on the Town of Palm Beach's website.

Norman Goldblum, 109 Everglade Avenue, advised that he would address the Town Council when the Emergency Water Supply System was discussed.

Neil McGuinness, resident and Board Member of 300 South Ocean Boulevard Cooperative Apartments, stated that it was the first beachfront residential apartment building in Palm Beach. He commented in opposition to the proposed reconstruction of the 100 block of Brazilian Avenue, and presented to the Town Clerk the unanimous petition of 45 taxpaying unit owners of 300 South Ocean Boulevard in unequivocal opposition to the proposal.

Patrick Flynn, President of the Palm Beach Theater Guild, provided an update of the Theater Guild proposal for the Royal Poinciana Theater. He presented to the Town Clerk a packet to be distributed to the Mayor, Town Council and Town Manager Elwell regarding this issue.

Kathryn Grace Jordan addressed the concern of whether the Royal Poinciana Theater could prove to be a viable operating entity and discussed some of the strategic issues. The objective of the Royal Poinciana Theater was to restore the theater and make it into a viable community serving performing arts center.

President Pro Tem Coleman commented that there were strategic issues, which one of the largest was money. He believed that some consideration would be given to the amount of money that was brought to the table. He urged them to bear in mind that the Town did not own the property, it was not the Town's singular responsibility, nor did the Town have the authority to say what to do with it.

Mr. Flynn responded that they were entering into a capital drive very shortly in an attempt to raise $1.5 million and $2.5 million at one time, which would take care of all the improvements and start up the theater. They needed their team of experts to go into the theater to ensure that the capital expenditures costs were hard and there were no hidden costs. He noted that if the court defined the use as a theater, they were prepared to pay the market rent.

In response to Council Member Markin, Mr. Flynn advised that they were waiting for a reply as to when they would be able to enter into the theater.

Council Member Markin commented that since a commitment had been made, during a Town Council Meeting, to allow Mr. Flynn and the Theater Guild to enter the theater, the Town should have some ability to request access for the Guild. She explained that she had reviewed the business plan and questioned how they could be sure what they were forecasting and estimating on capital expenditures to fix it up was correct when they had not seen the theater as of late.

Mr. Flynn noted that they had seen it, had been in there, and other independent people had also been in there as well.

President Kleid noted that it was his understanding that Mr. Flynn was pleased with the cooperation they had so far received from Attorney Brindell and Mr. Spiegel. He believed that they would eventually get in and assumed that the Town would like to get in at the same time as Attorney Brindell.

Mr. Flynn responded that they were asking for a week to enter the premises in order to schedule the experts who would independently view the theater at their own expense and time.

President Kleid echoed the sentiments of President Pro Tem Coleman that it was very important that the pledges were seen, which would be used to raise a sufficient amount of money to finance this project. He stated that they must keep in mind that Mr. Spiegel was a businessman and had to have productive use of that piece of property, and that this all would go into the equation.

Mr. Flynn responded that they had received their first pledge, and they did want an option to buy with a lease. He noted that they would be willing to pay Mr. Spiegel.

Thomas McCarthy, 140 Brazilian Avenue, commented on the parking situation on Brazilian Avenue. He reiterated that 100% of the people on the street were against the proposed parking plan. He requested that this item be removed for consideration from today's Agenda, because many people would be going north, and did not want to return, in the fall, to a commercial parking lot in their front yard.

VII. APPROVAL OF AGENDA

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

VIII. CONSENT AGENDA

A. MINUTES: APRIL 3, 2007
APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING

B. MINUTES: APRIL 9, 2007
APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING

C. MINUTES: APRIL 10, 2007
APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

D. MINUTES: APRIL 10, 2007
APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING, CLOSED-DOOR SESSION

E. MINUTES: APRIL 20, 2007
APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING

F. MINUTES: APRIL 21, 2007
APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING, CLOSED-DOOR SESSION

G. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL COMMISSION AT ITS MEETING ON APRIL 25, 2007, (WITH THE EXCEPTION OF APPLICATION NO. A4-07, WHICH IS THE SUBJECT OF AN APPEAL ON THE TOWN COUNCIL AGENDA FOR MAY 8, 2007).

H. RESOLUTIONS

1. RESOLUTION NO. 21-07 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of Grant Funds from the Palm Beach County Emergency Medical Services Awards Program to Be Used for the Improvement and Expansion of EMS Services for the Town While Helping to Meet State EMS Goals and Pledging That Such Funds Shall Not Supplant the Existing Town EMS Budget.
[William Amador, Acting Fire-Rescue Chief]

2. RESOLUTION NO. 23-07 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding Electrical Task-Order Contracts to C.R. Dunn, Inc., Malone Electrical Solutions, Lightning Electric, Inc., and Davco Electrical Contractors Corp., For Electrical Maintenance and Repairs at Town Buildings, Docks, Street Lights, and Pump Stations.
[H. Paul Brazil, Director of Public Works]

3. RESOLUTION NO. 24-07 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to the Vance Construction Company for the Reach 7 Artificial Reef Mitigation Project, Sealed Bid No. 2007-011.
[H. Paul Brazil, Director of Public Works]

I. OTHER

1. Confirmation of Change in the Date of the June Town Council Meetings to June 18, 2007, and June 19, 2007.
[Peter B. Elwell, Town Manager]

2. Approval of a Joint Project Agreement with Palm Beach County for Ibis Isle Mangrove Planting.
[H. Paul Brazil, Director of Public Works]

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

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

IX. COMMITTEE REPORTS

A. Administrative and Personnel Committee Meeting of April 27, 2007. [Richard M. Kleid, Town Council President]

President Kleid presented the report and recommendation of the Administrative and Personnel Committee Meeting held on April 27, 2007.

Motion made by Council Member Brooks, seconded by Council Member Coniglio, to accept the report and approve the recommendation to uphold the written reprimand issued to Assistant Fire-Rescue Chief Andrew Cox, with counseling being made available to him. On roll call, the motion carried unanimously.

B. Ordinances, Rules, and Standards Committee Meeting of April 30, 2007. [Gail Coniglio, Town Council Member]

The Ordinances, Rules, and Standards Committee Report is included in its entirety below:

REPORT OF THE ORDINANCES, RULES AND STANDARDS COMMITTEE
HELD ON APRIL 30, 2007

I. CALL TO ORDER AND ROLL CALL

The Ordinances, Rules and Standards Committee Meeting was called to order on Monday, April 30, 2007, at 2:00 p.m., in the Town Council Chambers. On roll call, Chair Gail Coniglio and Committee Member Richard Kleid were found to be present.

Others present for all or a portion of the meeting were:

Mayor Jack McDonald
Council Member Brooks
Council Member Markin
Town Manager Peter Elwell
Town Attorney John Randolph
Kirk Blouin, Police Department - Support Services Captain
Veronica Close, Director Planning, Zoning and Building
Paul Castro, Zoning Director
Jeff Taylor, Acting Building Official
Charles Langley, Public Works Assistant Director

Susan Eichhorn, Town Clerk

II. APPROVAL OF AGENDA

The Agenda was approved as printed.

III. CONSIDERATION OF POTENTIAL ORDINANCE AMENDMENTS AND OTHER ACTIONS INTENDED TO REDUCE THE IMPACT OF CONSTRUCTION PROJECTS UPON NEIGHBORING PROPERTIES.

Director of Planning, Zoning and Building Veronica Close referred to her memorandum to members of the Ordinances, Rules and Standards (ORS) Committee dated April 25, 2007, and included in the backup material, to discuss construction related matters as well as the Report on the Synopsis of Construction Procedures prepared by the Planning, Zoning, and Building Department. She commented as follows on the Report on the Synopsis of Construction Procedures prepared by Planning, Zoning, and Building (PZB):

1. **How Planning, Zoning, & Building currently applied the provisions of the administrative Section 1 of the Florida Building Code (Chapter 18 of the Town's Code of Ordinances). She summarized the following procedures:**

- Construction permitting process.
- Enforcement of contractors working without a permit.

In response to Committee Member Kleid, Ms. Close advised that if the Building Official refused to extend the commencement date of the permit or if he refused to extend a break in construction, the permit holder would have to reapply for the permit. The permit holder could go to the Building Board of Appeals if they wanted to appeal that decision. The Town had never refused to reactivate a permit, because if they did so, the job would remain idle longer than if the contractor continued. The applicant would be required to pay full permit fees again and would have to meet the current Building Code, if it went more than six months.

In response to Chair Coniglio, Ms. Close commented as follows:

- An owner was cited relative to code enforcement actions approximately once or twice a month.
- Only major construction and new construction were covered by construction time limits.
- The code currently stated that if a permit holder needed an extension of the time allowed for the job, they had between six months prior to the expiration and three months prior to the expiration to come before the Town Council to request that extension. She noted that if that was not done, the permit holder would automatically be referred to the Code Enforcement Board.
- A study had not been conducted that showed which particular contractors violated construction time limits.
- PZ&B was not able to determine whether or not it was limited to the size of a construction project either.

Attorney Randolph stated that one of the problems was that contractors were not coming before the Town Council to request an extension and showing good cause as to why they should be allowed to have that extension. The contractors were going directly to the Code Enforcement Board, which was allowing them to extend further. The Board was requesting the contractors to present schedules as to the length of time they believed was needed to complete the job. He stated that it appeared to him to be somewhat of a glitch in the system, and he believed that what should happen was if a contractor wanted an extension, they would have to come to the Town Council and if they had not done so, they would then have to go before the Code Enforcement Board and be faced with a $250 a day fine.

Ms. Close advised that she agreed it was a concern and PZ&B had addressed that. She explained that staff was going to suggest that time limits allowed should be readjusted and the establishment of a set of fines within Chapter 18, which would establish what happened when a project went over the time allowed. She noted that PZ&B had a suggested fine structure. The categories were subdivided instead of three general categories of allowable time limits, staff proposed that there be six categories, and if feasible, a set of daily fines for each of those categories.

In response to Chair Coniglio, Ms. Close advised that the Town had the ability to stop a project if a contractor went over the established time limit.

2. Proposed modifications to the Code or administrative actions which result in great conformance to its provision.

a) **Revoke or terminate the permit and require the applicant to reapply, and pay additional fees in accordance with construction value of the remaining work. (Administrative or Ordinance change)**

In response to Committee Member Kleid, Ms. Close advised that the suggestion of a reactivation fee of $2 per square foot of the construction project would be based on the value of the original permit.

In response to Chair Coniglio, Ms. Close explained how that compared with the original permit and how it was calculated.

Ms. Close stated that staff recommended the Committee approve today changing the fee that the Town charged to reactivate the permit. Staff did not recommend that the reactivation fee should be terminated.

b) **Modifying the amount of time allowed for construction and creating additional categories by square footage. (Ordinance change)**

- Six categories instead of three:

Under 4,000' - currently 13 months, proposed 16 months
4,000 - 6,000' - currently 22 months, proposed 24 months
6,000' - 10,000' - currently 22-30 months, proposed 30 months
10,000' - 20,000' - currently 30 months, proposed 36 months
20,000' - 40,000' - currently 30 months, proposed 42 months

Over 40,000' - required Town Council approval and the months allowed would be determined at that time.

Ms. Close advised that in conjunction with that a per day fine if the contractor did not meet those, which would be built into Chapter 18, if determined by the Town Attorney that was allowable.

Ms. Close advised that staff strongly recommended that ORS approve the increase of time allowed.

In response to Chair Coniglio, Ms. Close advised that they had not addressed the one extension allowed per permit and did believe it should be addressed and would come to the Town Council. The $250 per day fine was taken from the Code Enforcement State Statute, which restricted fines to $250 per day for any violation of the Town's Code for the first offense and a maximum of $500 per day for a repeat offense. Staff was suggesting that the recommended fine would supercede that.

Town Manager Elwell clarified that the two issues come together as a package: The recommendation to consider adoption of more realistic construction time limits in conjunction with a tougher fine schedule.

Ms. Close advised that if these recommendations were adopted, the Town would have to be very diligent about notifying residents as well as contractors as far as what this means in terms of fines.

In response to Chair Coniglio, Mr. Elwell clarified that the permit holder was entitled to come before the Town Council to ask for an extension but they were not entitled to that extension. The Town Council would determine whether or not that extension should be granted.

Ms. Close advised that in smaller projects, the Building Official had the right to grant an extension, but in major projects, only the Town Council had the right to do that.

c) Increasing the penalty for working without a permit. (Ordinance change).

In response to Committee Member Kleid, Ms. Close advised that he was correct. Staff was stating that the Town should follow through on enforcement procedures, which they presently were not doing as well as they should be.

In response to Chair Coniglio, Ms. Close explained what the time frame was from the time of this violation before Code Enforcement and the granting of the application permit. The violator had to come in, once informed by the Town, usually the next day. It could take anywhere from two days to ten days, sometime longer, to get their permit. If they did not respond to the Town, they would be brought before the Code Enforcement Board; she explained the procedure the Code Enforcement Board was required to take. The project would be red tagged.

Ms. Close advised that she would provide the basic fine structure to Ms. Coniglio.

d) Restrict the ability of a contractor to get permits on a property if the contractor is in violation on another property.

Staff did not recommend, at this time, that this situation be addressed.

e) Restrict ability to work in Town for excessive violations. (Ordinance change)

Ms. Close advised that staff believed the "3 Strikes and You're Out" Program might be effective and that some of the suggestions discussed under "a" might also apply. She noted that Mr. Bradford as well Mr. Langley, Assistant Public Works Director were both working on drafting a "3 Strikes and You're Out" Program. The program would basically address construction parking violations and if cited three times for violating parking requirements, Public Works would notify PZB who would suspend the permit. The contractor/owner would have to pay a fine, which ranged from $1,000 to $5,000. If violated again, after that, the permit would be suspended, and the contractor/owner would have to appear before the Town Council to request reactivation or they could face the possibility of coming in and paying all new permit fees and starting the project over again. The program was still being refined and worked out with Town Attorney Randolph who had not yet had an opportunity to closely review the program.

Town Manager Elwell explained that this particular item was distinguishable from the other items discussed. He noted that the Town believed that with a program such as this, the Town could hold the contractors directly accountable.

In response to Chair Coniglio, Director of Public Works Brazil responded that repeat offenses occur frequently and Public Works was responsible for enforcing construction parking by monitoring it daily in the field. He noted that the contractor was required to apply for parking passes and were allowed a minimum of three for themselves, and one to the owner. The total of number of four parking passes was allowed for commercial as well as residential projects.

In response to Committee Member Kleid, Mr. Brazil advised it was regardless of how many construction projects were occurring on a block. He noted that they had tried to limit based on the capacity of the street.

In response to Chair Coniglio, who questioned how Public Works detected violations, Mr. Brazil advised that they attempt to distinguish in the field the difference between a service vehicle that would be associated with construction. He explained that it was not always easy to do, but staff spent a great deal of time at the construction site interviewing people and talking to the neighbors. It was very time consuming.

In response to Committee Member Kleid, Mr. Brazil explained that a construction vehicle was any vehicle that was directly associated with a construction project. He advised that most of the permits issued were for the construction workers.

Discussion ensued relative to enforcement of construction parking violations, and Mr. Elwell advised that the process was very difficult.

In response to Chair Coniglio, Mr. Elwell advised that the Town would be discussing, as part of the Traffic and Parking Improvement Plan, further implementation of "No Parking" signs. The strict enforcement of "No Parking" has always been very difficult to enforce and there were ramifications that were unacceptable to a significant portion of the residents. Staff was working on a set of regulations that they believed was both defensible and would indeed protect the quality of life in the residential areas of Town, which was for ALL parking, not just construction. He noted that there was a subset to that relative to distinguishing properly what was a construction vehicle.

Discussion ensued relative to the ability to determine construction vehicles relative to size. Mr. Brazil advised that very large construction equipment needed a right-of-way permit, needed to provide a maintenance and traffic plan, and were limited to the number of hours they could be there and what hours they could operate, etc.

Town Manager stated that from staff's perspective, it would be very much simpler to enforce and much more effective if it was a blanket "No Parking

Anytime." The problem with that was there were a lot of other consequences that came along with that.

Committee Member Kleid noted that it was not an easy problem to solve.

Ms. Close advised that one of the proposals on the "3 Strikes and You're Out" Program was for the contractor to maintain a vehicle parking log on that property, which the enforcer could review. She noted that a possible solution the Town was looking at was permitting all vehicles on a street, not just construction vehicles but service vehicles as well.

In response to Chair Coniglio, Ms. Close noted that the only exception for a large vehicle that did not require a permit was a large vehicle for landscaping. The only other exceptions would be vehicles delivering provisions to restaurants.

Town Manager Elwell explained that a moving van would not require a permit other than a right-of-way permit.

Mr. Brazil commented that the restrictions on public roadways were generally by weight and not necessarily width. He noted that he was only aware of two weight limits in Town and they were related to bridges.

Acting Building Official Taylor commented many of the large vehicles needed to park on side streets in order to deliver construction materials to the site.

PUBLIC COMMENT:

Henry McIntosh, 124 Via Bethesda, commented that large construction vehicles, such as 18 wheel trucks, should offload onto smaller vehicles, which would then bring the materials onto the Island.

Jere Zenko, 232 Tangier Avenue, commented as follows:

- The notification of property owners within 500 feet of construction projects. The burden should be put on the petitioner rather than the Town to make the notification.

Committee Member Kleid advised Ms. Zenko that this issue had not as yet discussed.

- Notifications with regard to inspection procedures. Contractors receive notification of whether an inspection passed or not and the property owner would have no way of knowing what passed or did not pass Suggested that a copy of the inspection should go to the homeowner.

- Referred to Section d - restricting contractor to get permits on a property if in violation.

- Homeowners should not be blamed for violations. It was the fault of contractors.

- Delays between ARCOM approvals and granting permits. Referred to project, she brought up to the Code Enforcement Board, regarding a spec builder in Town.

Robert Andrew Roddy, 231 Kenlyn Road, commented on the following:

- Time limits on construction under 4,000'.
- Retroactive fines were unjust and unfair.
- Trucks - large loads should be placed on smaller trucks.
- Notice to residents on projects, such as re-roofing, pesticide activities, etc. on neighboring properties.
- The Town should place all information onto the internet.

Mr. Roddy responded to questions from the Committee and staff.

Yvelyne D. Marix, 1570 North Ocean Boulevard, commented on the Hi-Mount Road generator; and enforcement of parking regulations and the nearness of streets.

Greg Batten, Batten Construction, addressed remodeling projects from a contractor's point of view; construction scheduling being contingent on parking; construction parking passes; enforcement of construction parking; fines; increasing construction time limits.

Mr. Batton responded to questions from the Committee.

President Kleid made the following recommendations to the full Town Council:

- **To change, by increasing the fee structure, the right to reactivate permits and obtain a specific time extension.**
- **Modify the time span allowed for construction:**
  - **Under 4,000' - 16 months**
    4,000 - 6,000' - 24 months
    6,000' - 10,000' - 30 months
    10,000' - 20,000' - 36 months
    20,000' - 40,000' - 42 months
    Over 40,000' - required to come before the Town Council for approval
- **Change the penalty structure by increasing it, if the new construction schedule was not met.**
- **Staff should study further, in order to bring back to the Town Council, a plan to restrict the ability to work in the Town for excessive violations. The Town could put in place some type of ordinance or plan to cover that requirement.**

Town Manager Elwell advised that staff's recommendation on that issue was the "3 Strikes and You're Out" Program. It was 3 strikes and receive a substantial fine, as opposed to 3 strikes and you were out of Town.

Committee Member Kleid advised that he would add substantial fines to what he was recommending. He noted that it was just to see the plan and to study it.

Town Manager Elwell stated that he understood that and commented that all of this was to go to the next step in the review, but he wanted to be certain that staff brought back the information that was being included in the recommendation. He requested clarification as to if it was 3 strikes would place the contractor into the more substantial fine structure and whether it would then result, at some point, ultimately, the restriction of the ability to work in Town.

Committee Member Kleid advised that he was requesting that ultimate provision. It could then be reviewed and softened, if so desired. He stated that was his motion.

In response to Chair Coniglio, Committee Member Kleid advised that he was not going to address parking at this time.

Chair Coniglio concurred with Committee Member Kleid.

In response to Chair Coniglio, Mr. Elwell advised that with the concurrence of the Committee, it was sufficient to have those three items become part of the Committee's recommendation to the Town Council.

Town Attorney Randolph reviewed his letter to Town Manager Elwell dated April 23, 2007, and the draft ordinance, as provided in the backup for the consideration of the Committee. He noted that it was the culmination of studying the issue of multiple construction projects that was raised by Council Member Brooks and others. He noted that the figures included in the document were figures put forth for consideration. The intent of the ordinance was to deal with simultaneous construction projects, which took place within 500 lineal feet of another construction project. It did not specifically preclude such projects rather it indicated that if someone came in and wanted to construct such a project within 500' of another, a building permit would not automatically be granted for that project. The applicant would have to appear before a Nuisance Abatement Board to prove that their project would not cause additional nuisances on the street. He explained that he tried to set forth in the proposed ordinance the types of provisions that the Board would consider in determining whether or not to grant, deny, or grant the permit with conditions.

Attorney Randolph discussed further the proposed ordinance as well as many issues that were raised by PZB as noted in his letter.

Chair Coniglio expressed her concerns relative to the proposed ordinance. She noted that it was not a resident friendly ordinance and would change the view on purchasing property in Town. She advised that she believed in the good neighbor policy. She commented that she was not certain as to what a Noise Abatement Commission would achieve and she believed Code Enforcement Board should be handling some of those difficulties.

Committee Member Kleid commented that he realized the ordinance was written to evoke discussion, and advised that there was nothing he liked about the ordinance. Staff's criticisms were justified and he did not like the idea of creating another review board. The ordinance would just add more government, and he noted that a decision by the Nuisance Abatement Board could then be appealed to the Town Council. All who received unfavorable rulings would likely do so. He stated that he would not adopt anything placed in the proposed ordinance. He noted that it was not a criticism to Attorney Randolph because he knew it was prepared to engender discussion.

William Brooks, 240 Seabreeze Avenue, advised that he had lived in the same home for thirty-one years and was a member of the Town Council. He explained that he had requested Town Attorney Randolph to draft an ordinance relating to simultaneous construction and he discussed the reasons for his request.

Mr. Brooks drew the Committee's attention to what Attorney Randolph crafted. He pointed out the adverse affects on public health, safety and welfare of residents on the street and on the use of the street itself because of the congestion, impact, noise, dust created by construction of two or more structures within a limited area. He stated that it was the Town Council's obligation within the law to do what was best for the citizens of the Town. He noted that the Committee was now, at least, looking at an ordinance for discussion so that the full Town Council might become involved.

Committee Member Kleid explained that he was stating that this ordinance had been presented for discussion purposes.

Committee Member Kleid then commented on the following:

- Controls needed to be addressed - address the signage, which was being reviewed in the Traffic and Parking Study. The streets with absolutely no parking should be reviewed.
- Enforcement
- No parking permits issued and require people to be bussed to the site.
- Size of vehicles, construction or otherwise, coming into Town.
- Car pooling and bringing people onto the site.

Committee Member Kleid noted that those were measures the Town Council should be looking at to control parking and reiterated that he did not believe this particular ordinance met the requirements. It would just set another layer of government and would not be effective.

Chair Coniglio commented that she was in full agreement with Mr. Kleid.

Town Manager Elwell assured the Committee that the issues Mr. Kleid reviewed relative to the parking situation were continuing to be addressed with the Traffic and Parking Improvement Plan. He advised that it was not staff's intent to bring additional work, however, because of the complexities involved, he suggested that part of the recommendation to the Town Council be that the additional refining part of this work be brought back to the Committee first, for the Committee to review, before making very specific recommendations for action to the Town Council.

In response to Chair Coniglio, Mr. Elwell advised that the Town Council had made recommendations related to the strategies. He noted that further actions the Town Council might take would be discussed at the June 11th Town Council Meeting. He suggested that the Committee allow the parking piece to move along its present path, but as it related to the issues raised today, those items would be recommended to the Town Council that staff would conduct the research, but that it would go before the ORS first, before going to the Town Council for action.

Committee Member Kleid stated that it was very important that when the Committee went back to Town Council with their recommendation that it was made very clear that this report was only part of the equation. It was a small part of the package.

Attorney Randolph requesting clarification relating to the draft ordinance and asked if what the Committee was stating was that they would like to examine other ways of dealing with this problem other than having a limitation of the number of permits on the street by virtue of enforcement, regulation, etc. He wanted to clarify that the Committee was not stating that their primary concern with this ordinance was the creation of another Board and the creation of appeals to the Town Council.

Chair Coniglio advised that they were not making that assumption.

Committee Member Kleid stated that, for himself, that was part of it. He noted that he was not in favor of that method, and that he was also opposed to the 500' radius.

Susan Markin, 1450 North Lake Way, Town Council Member, commented on the following four points:

- Size of vehicles coming on the Island. Height of vehicles needs to be studied.
- Informational sessions with contractors to inform them of the policies and procedures of the Town of Palm Beach.
- Enforcement of parking regulations in Town.
- Whether an ordinance for multiple construction sites was needed; procedures could be put in place to address that issue.

Ms. Markin responded to questions and comments of the Committee members and staff.
Both Committee Member Kleid and Town Manager Elwell agreed that input from the contractors was important.

Jere Zenko, 232 Tangier Avenue, suggested that there should be a separation between Code Enforcement and parking issues. The police used to be omnipresent, and they no longer were.

Yvelyne D. Marix, 1570 North Ocean Boulevard, commented that she was in agreement with Ms. Markin She stated that the bottom line were the streets she had discussed, which were the most dangerous streets, did not allow parking. She stated that if people were to be allowed to park on those streets, the signs should be removed.

Town Manager Elwell responded that staff agreed that streets that were signed no parking should be strictly enforced for no parking for everybody - no vehicles at all should be allowed to park.

Ms. Marix responded to comments of the Committee and staff.

Town Manager Elwell advised that the problem was that the Town needed to have a system that could be put into place shortly, after some additional review; a system which was very clear as to which streets could handle parking, which streets could not, and that no parking really meant no parking. The Town was on the verge of implementing that system, but it could not be done overnight.

Ms. Marix responded that the Town should be looking at the safety and the lives of the residents.

Town Manager Elwell stated that the Committee recommendations to the Town Council were clear and staff would prepare the report for next week's Town Council Meeting.

IV. ANY OTHER MATTERS

There were no other matters.

V. ADJOURNMENT

There being no further business, the Ordinances, Rules & Standards Committee Meeting of April 30, 2007, was adjourned at 4:17 p.m.

Gail Coniglio Chairman	Richard M. Kleid Committee Member

End of Report of Ordinances, Rules & Standards Committee

Council Member Coniglio presented the report and recommendations of the Ordinances, Rules and Standards Committee held on April 30, 2007.

Council Member Brooks moved approval of the report and recommendations of the Ordinances, Rules and Standards Committee held on April 30, 2007. The motion was seconded by President Pro Tem Coleman. On roll call, the motion carried unanimously.

Town Manager Elwell noted that the items would come back to the Ordinances, Rules, and Standards Committee, as the Council had given staff authorization. In addition, there were extended conversations regarding construction related parking, which would come before the Council in June with the further consideration of the Traffic and Parking Improvement Plan.

X. REGULAR AGENDA

A. Old Business

1. Traffic and Parking Improvement Plan – Follow-up Report on Mid-Town Area Strategies and Cost Estimates for One Way Conversions on Seaview, Sunrise, and Sunset Avenues.
[Thomas G. Bradford, Deputy Town Manager]
TIME CERTAIN: 9:45 A.M.

Deputy Town Manager Bradford reported that the items for today's discussion were all follow up items, from the meeting on January 16, 2007, that staff was asked to look into. At that time staff had presented the strategies or options that were identified in the Traffic and Parking Improvement Plan, and staff had been directed to follow up and provide particulars. *(Backup memorandum dated May 3, 2007)*

1. Review of draft RFP and Agreement for the Valet Parking Service:

Mr. Bradford reported that the draft Valet Parking Service RFP ws prepared, and interested parties would be advised that the Town was interested in receipt of proposals for Worth Avenue, Town Docks, South County Road and the Royal Poinciana Way commercial area. The target date for valet parking service implementation was October 1, 2007. After the RFP process was completed and the Valet Service Agreement Agreement negotiated, staff would provide all of the details/

President Pro Tem Coleman suggested that people be allowed to buy permits in advance, so that the purchasing of the service was separated from the tipping of the valet parkers.

Motion made by Council Member Brooks, seconded by President Pro Tem Coleman, to authorize staff to proceed with the recommended plan for valet parking service. On roll call, the motion carried unanimously.

2. Cost estimate on all intersection improvements in the Mid-Town area:

- Chilean Avenue and South County Road intersection.
- Royal Palm Way and South County Road intersection.

Town Manager Elwell advised that there was no action necessary; the costs were covered in the Public Works budget.

3. Electronic Chalking:

Mr. Bradford explained that staff saw benefits, however those benefits applied only to time limited parking spaces, not parking spaces with a meter. He suggested that the electronic chalking decision should be held until the next meeting in June, wherein the outline of a Townwide plan would be provided. Staff envisioned that electronic chalking would be part of that plan, and they would have a better idea of the number of units needed.

The Town Council expressed consensus in favor of the concept.

Patty Sands, President of the South County Road Association, addressed the Town Council, requesting removal of the meters on the north end of South County Road and Royal Palm Way, as it was not fair for the business owners in that area. She questioned whether the chalking would be used on County Road.

Town Manager Elwell advised that question would be addressed substantively at the June meeting.

4. Number of loading zones designated on Worth Avenue:

Mr. Bradford reported that the Police Department believed that the number of loading zones was currently appropriate.

Sherry Frankel, President Worth Avenue Association, addressed the Town Council, suggesting the possibility of putting two-hour parking limits on Worth Avenue until the electronic chalking and valet parking plans were implemented.

5. Recommendations for a time limitation for parking on Worth Avenue:

Mr. Bradford reported that staff was leaning towards two hour parking on Worth Avenue, but did not wish to implement it yet. Staff wanted to determine if a valet service provider anticipated problems with it and whether there was a charge or not. The full plan would be presented next month.

6. Handicapped Parking Enforcement Plan Per State Statute:

Mr. Bradford reported that the Town had been allowing extra time, not required by state statute, for those persons who displayed a handicapped tag or hanger. Staff proposed that the Town commence compliance with state law effective May 29, 2007, and that warning violations be issued commencing on May 14, 2007.

In response to the suggestion of Council Member Brooks regarding checking on the validity of handicapped parking permits, Police Chief Reiter advised that it was impossible, because the state simply issued the permits, and kept no documentation after that time.

President Pro Tem Coleman suggested that there be nothing but valet parking on Worth Avenue. He requested that staff investigate the issue and report back next month.

Council Member Markin suggested that each employer be required to indicate where their employees were parking. She noted that there were many cars parked on Worth Avenue early in the morning, before stores were opened to the public.

Ms. Frankel noted that she had questioned why employers could not provide stickers to employees, and had been told that it was a public street and could not be done.

Edward Kassatly, Past President Worth Avenue Association, currently President of Worth Avenue Property Owners Association, emphasized that they were definitely in favor of electronic chalking, and that parking areas for trucks were sufficient. He noted that there were quite a few apartments on Worth Avenue, and most of the cars belonged to tenants on Worth Avenue. In addition, the merchants did banking and deliveries first thing in the morning, which was why there were some business cars on the street at that time. He urged that electronic chalking be started at 10:00 a.m., not at 9:00 a.m. He stated that he believed that charging people to park on Worth Avenue was ludicrous, given the amount of taxes that Worth Avenue property owners pay.

Ms. Sands indicated that South County Road had similar problems as to where employees would park.

Motion made by Council Member Coniglio to adhere to the requirements of the Florida Statutes regarding limitations on handicapped parking. The motion was seconded by Council Member Brooks. On roll call, the motion carried unanimously.

7. Staff Cost Estimates for Parking Inventory Enhancement:

Motion made by Council Member Brooks, seconded by President Pro Tem Coleman to expend $5,000 for diagonal parking proposed for the area between Memorial Fountain and Town Hall, as well as in the Police Parking Lot.

Town Manager Elwell suggested that actual expenditures not be authorized, but support be provided for the concepts presented today. He noted that implementation of diagonal parking between Memorial Fountain and Town Hall would need to await the renovation of Town Hall.

Council Member Brooks then withdrew the $5,000 figure from the motion. President Pro Tem Coleman seconded the amended motion. On roll call, the motion carried unanimously.

Motion made by Council Member Brooks, seconded by Council Member Markin, to leave the 100 block of Brazilian Avenue as it was presently configured. On roll call, the motion carried unanimously.

President Pro Tem Coleman moved that there be no diagonal parking in residential neighborhoods: the 100 block of Brazilian Avenue, the 200 block of Brazilian Avenue, and the 400 block of Worth Avenue. The motion was seconded by Council Member Coniglio. On roll call, the motion carried unanimously.

It was the consensus of the Town Council to move forward with the reconfiguration concept as proposed for the 200 block of Peruvian Avenue; total estimated cost $19,000.

8. Update on Town docks parking and Master Plan for Lake Drive Park:

Mr. Bradford noted that staff had been told on January 16, 2007, not to take any action until the Maser Plan for Lake Drive Park was in place. He noted that the Recreation Director would be making a presentation later today in that regard.

9. One-way pairing of Sunrise and Sunset Avenues, along with the 200 block of Seaview Avenue:

Mr. Bradford reported that the consultant had advised that all of the work could be done for a not to exceed figure of $165,434.

President Kleid clarified that the Town Council had given approval to continue the study of Sunrise, Sunset and Seaview and not to implement anything. Because of the fact that it was a costly item, it would be presented in the budget meetings when capital improvements were discussed.

<u>Public Comment:</u>

Dorothy Gulden, business owner at 220 Sunrise, suggested that all people who lived and worked in the area and were directly impacted should have input into the parking plan. She noted that she had been in business on Sunrise Avenue since 1977, and had never had a problem finding a parking space. She suggested that the issue was Publix, and its ingress and egress. She strongly recommended that a review by professionals be done as to the effect of making the street one-way.

Town Manager Elwell clarified that there was no authorization to move forward today, and that staff intended to address this area in the budgeting process.

Nick Abiusi, Publix Store Manager, commented that Publix had not received information from the Town regarding the plan and could not give it a correct review.

Town Manager Elwell clarified that the Town Council had indicated that the Seaview direction should be reversed, and that the one-way pairing take place on Sunrise/Sunset, but that the Council would need to see the costs of it before making a final decision. Staff was before the Town Council today with the costs, however, given the uncertainty related to available funding, it would be appropriate to wait and discuss this item in the budget.

Council Markin commented that she was very uncomfortable that recommendations had been made regarding the Parking Plan, when it was obvious that residents and major stakeholders had not been contacted.

Town Manager Elwell noted that there had been some communication with Publix, but perhaps not a specific meeting. He advised that the Town had gone to tremendous lengths with a variety of public meetings several times during the planning process in order to share ideas with the public. Since the plan was delivered last December, the items had been addressed conceptually first, and then in detail, explicitly because of the opinion that making decisions of this magnitude required public input. He noted the public input had been received over the past several months regarding Brazilian and the 400 block of Worth Avenue, and the Town Council had then reacted to it.

Brian Mirson, American Consulting Engineers of Florida, (ACE), commented that the people in opposition were speaking up, however, those in favor were not showing up. He suggested that there had been more community outreach here than anywhere else he had worked. The decision was not to bring forward just recommendations that had community consensus, but all of the possibilities and options that were available, whether they were controversial or not, so that they could be looked at from the big picture. Specific questions about detailed movement would be answered after authorization of design and construction of the element.

Council Member Brooks noted that the Town Council had voted in January to conceptually approve this item, not to finally approve it. He believed that the Town Council had discussed and set up a very reasonable approach: wait until June, review the costs, make the changes, and then if the change did not work, the Town would change it.

Council Member Coniglio suggested separating out Seaview Avenue and the one-way pair of Sunrise and Sunset portion of the plan. She recommended that the Town move forward with Seaview Avenue as a one-way change; hold off on Sunrise and Sunset until after the June meeting, at which time, it would be discussed again; move forward with the expenditure of the money for Seaview as a safety issue and as a change agreed upon by the Town Council.

In response to President Kleid, Mr. Elwell advised that the two components could be separated out, and Mr. Mirson would provide the Town Council with the costs to do so.

In response to Mr. Coleman, Mr. Mirson advised that they should be able to implement the one-way pair of Sunrise and Sunset, if delayed until the budgeting season and if approved, before November 1st. The cost for Sunrise/Sunset would be $29,231.

Mr. Mirson advised that the figure for Seaview Avenue only would be $20,220, for implementing just the one-way street. The real element on Seaview was the "School Zone" and that figure would be $115,982, which included all the signage, the flashers, the mast arms, and all the construction elements that were needed.

President Kleid clarified that the total amount for Seaview Avenue would be about $135,000.

Norman Goldblum, 109 Everglade Avenue questioned whether a decision had been made relative to diagonal parking on Sunrise/Sunset.

Mr. Bradford responded that the current plan for Sunrise and Sunset, based on the direction of the Town Council at a previous meeting, was: 1) for the 200 block only; and 2) leave the parallel parking as is.

Motion made by Council Member Coniglio to separate out Seaview Avenue and the one-way pair of Sunrise and Sunset Avenues, and move forward with Seaview Avenue to include authorization of the financing. Council Member Markin seconded the motion.

Mr. Elwell commented that this was the most urgent item that had come out of the Traffic and Parking Improvement Plan. He clarified, for the record, that the total cost authorized by the Town Council would be $136,202 from the General Fund Contingency, as a not to exceed figure for staff to work together with the design/build effort that ACE would undertake. He noted that there would be less than $200,000 left in the General Fund Contingency for this year. If there were issues that the Town Council needed to address, staff could do a budget amendment to use some of the reserve funds.

After further discussion, **the motion to move forward with the Seaview Avenue Project was amended to authorize funding not to exceed $136,202. The motion, as amended, was seconded by Council Member Markin. On roll call, the motion carried unanimously.**

In response to Council Member Brooks, President Kleid clarified the amount to be funded was $136,202. The $160,000 that had previously been approved was for the combination of Sunrise/Sunset and Seaview Avenue to make them one-way. The approval today was for the one-way but also the mechanism to implement it.

Mr. Elwell clarified further that the remaining $29,000 would be allocated to Sunrise/Sunset, which the Town Council would address in July as part of the budgeting process.

2. Seaview Park Field Lighting.
[Jay Boodheshwar, Director of Recreation]
(Note: Please see Special Exception #5-2007 with Site Plan Review and Variance.)
TIME CERTAIN: 11 A.M.

Recreation Director Jay Boodheshwar acknowledged recent community concerns, and the correspondence regarding policies and procedures for managing the use of the Seaview Field for organized play. He explained that staff would review the suggestions received, as well as current policies and procedures in order to determine what improvements can be made to provide for better control in the future. He noted that staff had enacted a prohibition on the rental of the Field for organized play, as a result of the strict water restrictions in place.

In response to Council Member Markin, Mr. Boodheshwar advised that the Recreation staff would be monitoring the use of the Field to be sure that it was not being used during this restrictive period.

Mr. Boodheshwar then addressed the lighting system for Seaview Park, noting that the project donor, Mr. Borislaw, and the Palm Beach Day Academy, had requested deferral of this item until the June Town Council Meeting in order to allow for additional time to further evaluate the merits of a lighting system for the Park. He indicated that he was prepared to give a full presentation of the matter today.

Steven Caruso, Athletic Director of Palm Beach Day Academy, requested to read a letter written by Mr. Thompson, Headmaster, Palm Beach Day Academy who could not be present today. He noted that the letter encompassed all the issues relative to Seaview Avenue, and requested a strategic plan for Seaview Park, with a commission appointed to study the matter.

Council Member Brooks noted that Mr. Thompson had addressed a master plan at the Recreation Advisory Commission Meeting on April 26, 2007, and that the presentation today, as read by Mr. Caruso, was more comprehensive than what the agenda item called for. Consequently, **Council Member Brooks moved to deny granting a deferral on the question of the lights, and that the item remain as part of the agenda today. The motion was seconded by Council Member Markin. On roll call, the motion carried unanimously.**

Mr. Boodheshwar advised that a Special Recreation Advisory Commission Meeting was held on April 26, 2007, to consider the revised proposal for lighting Seaview Field. The Commission approved, by a 5/2 vote to recommend rejection of the proposal.

Mr. Boodheshwar recalled that consideration had been given for a proposed synthetic field, and lighting system, at the April 10, 2007, Town Council Meeting. After much discussion and public comment, it was unanimously decided that a synthetic field should not be installed, however, the Town Council did direct staff to conduct research and provide additional information about field lighting systems before a final decision would be made.

Mr. Boodheshwar addressed the following issues:

- Pole Height. He reviewed the date in that regard. He noted that the revised design required six 50' tall structures, with 3 luminaries attached to each one; the original proposal required four 70' structures with 5 luminaries attached to each one.

- Retractable Poles: He noted that research had indicated that this idea would not be feasible. He noted that there were also systems available that would allow for the light fixtures to be lowered, however, only the fixtures could be lowered and the pole would remain permanent at its original height.

Mr. Boodheshwar provided photo simulations of what the 50' light fixtures might look like in place at Seaview Park.

Field Usage Information:

Current Activities Scheduled on Field: September through May, youth athletics take place: flag football, soccer (instructional program, short-sided program, Soccer Academy travel team practices and games), instructional lacrosse, and in the future baseball may return. Several special events take place: Spring Celebration and Family Fun Day. Start Smart program and after school program also use the field when available during the winter months. June through August there was minimal summer camp use, but most usage was drop-in. Some new usage was anticipated during the summer by the Soccer Academy program.

What would be added if lights were approved: Expansion of youth athletic program and new special events were possibilities. Practices and games for the new competitive travel soccer program could be held in the evenings. A lit field would also help alleviate overcrowding with instructional soccer practices after school. Lighting could be programmed to stay on every night for a pre-determined amount of time to allow for open and drop-in use, however, this was contrary to previous discussions held by the Recreation Advisory Commission and the Town Council. He pointed out that having open play after dark would exacerbate the current over use challenges experienced on the field.

Mr. Boodheshwar reviewed the activities of the Palm Beach Day Academy on the field, and the Palm Beach Public School activities on the field. He pointed out that the revised cost estimate for the lighting proposal as presented today was approximately $373,000, which was an increase of $35,000 from the original plan. The estimate included a 10% contingency. Mr. Borislow had provided a revised commitment to pay for half of the costs associated with the proposed lighting system, and the Palm Beach Day Academy had revised their match by committing to pay for the other half of the project.

In response to President Pro Tem Coleman, Mr. Boodheshwar explained that there were two separate agreements with the Palm Beach Day Academy and the Public School. The Public School was allowed to use the field and playground for their physical education purposes. Currently, there was not a financial arrangement with the Public School for shared costs associated with the field. The Public School helped with maintenance around the property, at times, however, that was minimal. The agreement with the Day Academy was a Facilities Use Agreement, which was a reciprocal agreement, whereas the Day Academy allowed Town programs to take place in their facilities. In return, the Town provided the playground for recess, and the athletic field for physical education classes; some of their site property was used for physical education, and all of the games and practices took place on the Town field. There was an unwritten financial arrangement, in which the Day Academy shared half, and they had expressed their willingness to share more of the costs associated with maintenance.

Mr. Boodheshwar explained that the Palm Beach Soccer Academy was an organization that provided a higher level of instruction for those interested in a more competitive environment. The program in Palm Beach was a pilot program, with approximately 58 children involved. He noted that he was awaiting a proposal from the Day Academy with some additional programing this summer and next season. He stated that he understood that 67% of the 58 children enrolled in the program were Town residents.

Town Manager Elwell pointed out that the Recreation staff decided what classes were offered, based on the demand.

Public Comments:

Michael Spaziani, 322 Seaspray Ave., Chairman Recreation Advisory Commission read a statement into the record and urged that the lights be denied.

Stuart Shulman, 2280 South Ocean Boulevard, commented regarding his reasons for voting for the lights.

Alex H. Anylan, 154 Atlantic Avenue, commented that she had done a great deal of research in order to determine the demand by children for the lights. She advised that she had gone to the field from 5:00 p.m. - 7:30 p.m. and there were no children on the field; the only people that had been there were Mr. Borislow's team, who were adults, and who did have a permit to do so at the time. She had also checked the permits that had been granted for children and found that five permits had been granted in six months, and none of them had been for after hours, and one of them was the for the Palm Beach Soccer League; three more permits were given to Mr. Borislow's team. She noted that she had called 74 parents, reached 46, and none of the families wanted after hours lighted attractions for the children. She indicated that 51% of the permits that had been granted to Mr. Borislow, the individuals either lived or worked in the Town of Palm Beach; there was not time to check all of the names to determine if that was true. She also had called various schools and parks in West Palm Beach to determine if lights were used, and none of them used lights.

Paul Leone, responded to several statements made thus far. He referred to the soccer academy program and provided its history. He stated that he represented 531 students and their parents, and that he wanted the children to have the opportunity to utilize the very limited recreational opportunities available. He noted that Mr. Borislow had indicated that he did not intend to ask that a professional soccer team use the field, and that the facility was controlled by the Recreation Department. He referred to the benefits of physical education, and advised that the top constituents, the children, were being outnumbered by the loud voices of a few.

President Pro Tem Coleman suggested that a better organized effort, with a clear presentation could be prepared in the future.

President Kleid expressed concern about the additional wear and tear that lights would bring to the field, the aesthetics, and that both the Architectural Commission and the Recreation Advisory Commission had voted against lights.

Mr. Leone responded that there were 58 students enrolled in the soccer academy, and that program alone would justify the addition of the lights; he suggested that the field could be maintained at a much higher level.

Jamie Zahringer, 215 Indian Road, commented that he had three children in the program, and that he was disappointed with the lack of high level educational programs in soccer, and the rhetoric that had taken place. He urged support for the development of a high level soccer team in Palm Beach.

President Kleid expressed disappointment that the Town Council had not heard from the parents of children who were interested in using the field.

Kathy Wallis, 1472 South Ocean Boulevard, on behalf of herself and the Garden Club, commented that all were very concerned about the welfare of the children. She noted that the Society of Four Arts, the Civic Association, the Preservation Foundation, and the Garden Club were all well established entities representing Town residents. These organizations had generously funded and supported various things for the Town of Palm Beach. She suggested that there was an inherent danger in accepting funds from individuals in the community. She urged the Town Council to respect the directives of both the Architectural Commission and the Recreation Advisory Commission and deny the lights for the field.

Lisa Rowan, 131 Chilean, commented that the Recreation Center was a part of the community, as were all residents. She suggested that a lighting program would need to be planned properly for what was good for the entire community, and not for the exclusive needs of one group.

Jimmy Zisson, commented that the Recreation Center had been good for his children; he urged the Town Council to take a stand and make a decision as to what was best for the children in the Town. He urged voting in the affirmative for the lights.

Michael Ainsley, Seaspray Avenue, commented that Palm Beach Day Academy had spent an enormous amount of time looking at the issue, and urged that the Town Council not act, and to allow the community to see if there was a middle ground.

Richard Danton, El Dorado Lane, commented that the Palm Beach Day Academy had proposed the lighting through the Recreation Advisory Commission; they were putting up money to take the field. He referred to occupancy agreements for the field. He maintained that the Academy was not Town serving, and provided statistics in that regard.

Town Manager Elwell advised that the conditions related to the donations had been provided in the backup material presented to the Town Council last month. Before any final decision could be made, the Town Council would give consideration to any and all conditions attached to the donations.

President Pro Tem Coleman moved that the meeting be adjourned for lunch, and that the next topic on the agenda would be heard upon returning. The motion was seconded by Council Member Brooks.

After further discussion, President Pro Tem Coleman rescinded the motion.

Council Member Markin moved acceptance of the recommendation of the Recreation Advisory Commission. The motion was seconded by President Pro Tem Coleman. On roll call, the motion carried unanimously.

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****The Special Town Council Meeting was adjourned
for the luncheon recess at 12:45 p.m.****

****The Special Town Council Meeting was reconvened at 2:15 p.m.****

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Public Comment:

Jere Zenko, 232 Tangier, commented that it may be a good idea to have all donations to the Town disclosed on a quarterly basis. She referred to the agreement mentioned earlier in the discussion of the lights on the Recreation Field. She suggested that when there was a change in the terms of an agreement, perhaps it should be highlighted.

Town Manager Elwell recalled that in February, when the item was originally presented, staff had presented the conditions attached to the proposal at the Town Council Meeting.

Norman Goldblum commented that he would speak to the emergency water supply item.

B. New Business

1. Presentation of Proposed Lake Drive Park Master Plan.
[Jay Boodheshwar, Director of Recreation]
TIME CERTAIN: 2 P.M.

Recreation Director Jay Boodheshwar addressed the Town Council, thanking John Mashek and John Ripley of the Preservation Foundation for their support throughout this process, both financially and with the focus groups. He thanked the project team and all staff involved, the Royal Park Homeowners Association, the Garden Club, the Palm Beach Civic Association, the Recreation Advisory Commission, Marina leaseholders, and all interested residents for their involvement throughout the focus group and the public meeting process.

Mr. Boodheshwar summarized the history behind the creation of the conceptual master plan for Lake Drive Park. He recalled that at the December 12, 2006, Town Council Meeting, the financial support of the Palm Beach Preservation Foundation had been accepted for the completion of a master plan for Lake Drive Park. Staff was directed to engage both the Preservation Foundation and the Royal Park Homeowners Association, and other community stakeholders, to complete a comprehensive master plan. It was decided that the Preservation Foundation would establish a contractual relationship with a planning firm, and the Town's project team would provide guidance and support to complete the master plan. Once complete, the Town would become the beneficiary of the final plan to use as a guide for future improvements and enhancements to the park and its amenities. In preparation for the consultant's initial fact finding visit, the objectives of the plan were finalized. The planner was charged with the task of completing a master plan for the park, and integrating existing improvement plans, including the Town Dock master plan and parking improvement strategies provided by American Consulting Engineers (ACE).

The initial phase of the master planning process included a variety of meetings, site visits and tours. The second phase of the process involved a series of focus groups and public meetings.

The recommendations of the master plan focused on the enhancement and preservation of Lake Drive Park. The key issues addressed in the report included landscape enhancements, park preservation, parking strategies, Marina service enhancements, Police and Public Safety Dock improvements, and Public Works facility options. Any public structures in municipally owned parking areas were special exception uses. As such, any expansion or relocation of any facility required special exception and site plan review approval by the Town Council. In addition, the architecture of public buildings would also require Architectural Commission (ARCOM) approval.

The fiscal impact of implementing the recommendations of the master plan would vary, depending on the direction of Town Council. Further evaluation, planning and design would be required to identify definitive cost estimates. The backup material included a memorandum for Public Works Director Paul Brazil regarding relocation alternatives for the Water Resources Division building located on the site.

Frederick Bonci, LaQuatra Bonci Associates, addressed the Town Council and provided a PowerPoint presentation. He noted that the length of time for the process of a parks master plan was normally a year; this plan had been a three to four month process. He suggested looking at the recommendations as a framework for future discussions and also for decision making within the Town.

Mr. Bonci reported the following:

- The focus groups had indicated that people liked the park the way it was and did not want to allow for improvements to take any more green space.
- There was consensus from the community that the Public Works building was an undesirable park use and should be moved to another location.
- Safety and security were concerns.
- Necessary upgrades to the Marina facilities were supported.
- There was concern about the need for an expanded Police and Public Safety Dock.
- The public had indicated that they did not want Lake Drive changed with additional parking.

Mr. Bonci advised that the recommendations would be centered around the following issues, which came out of all of the public discussion:

- **Beautification of the park**

Build on current legacy of wonderful public open spaces and public improvements. The improvements would take time; however, guidelines could be set up now, and all future improvements would be very consistent, and the standards could be used Townwide.

- **Parking improvements in general**

Mr. Bonci recommended that neither parking strategy be pursued from the current parking study done, as there were more creative ways to handle it. The current parking consultants would be encouraged to look at the entire Town parking strategies all the way from

Royal Palm Boulevard to Worth Avenue. Underutilized parking lots should be used, and permit parking could be reviewed.

There were other ideas for parking utilization as well, and Mr. Bonci presented some sketches of alternative plans. By going from diagonal parking on Lake Drive to parallel, the parking could be reduced and controlled spaces could be provided within the Marina parking.

- **Marina improvements**

Begin the program and design strategies for the Marina enhancements. Develop a landscape improvement for the park, and a park and management program that would make it all work in the future. During the public process there was consensus that the Marina buildings needed updating, with aesthetic guidelines in place. Mr. Bonci presented sketches of building facades and suggested that a limited expansion of the Marina would allow a dedicated stream of revenue make it possible for the park improvements to happen.

- **Location and expansion of a Police and Public Safety Dock and the Public Works facility on site**

There were powerful arguments that this was something that should be moved forward. More discussion was necessary in this matter. The desired strategy should be implemented, and the one that the Town believed offered the best security and presence would be suggested.

- **Public Works facility options**

There would be some recommendations, however, there were issues of major weather related and infrastructure items. As park planner, the basic approach was that unless a building was a specific park related maintenance facility, it should not be located within that park landscape. There had not been time to review every aspect of removal of the Public Works facility from the park long-term. Short-term recommendations included removal of employee parking on site.

The recommendations included:

Remove some of the undesirable clutter within the park, and replace it with open greenspace, provide a mechanism for management and maintenance, accommodate and enhance the existing public facilities that would remain, and develop an overall comprehensive parking strategy for the entire downtown.

Mr. Bonci opened the floor for questions:

President Pro Tem Coleman thanked the Preservation Foundation for underwriting the consultant, and discussion took place regarding the parking standards suggested.

Council Member Brooks thanked Mr. Bonci, and the Preservation Foundation. He expressed concern with moving the Public Works facility, and suggested that the landscaping around them could be improved. He suggested that the Public Works facility could be preserved in that location, with landscaping.

Mr. Bonci noted that all of his recommendations were based on what was good for the park. One of the things that the recommendations did was open up dialogue in order to make appropriate solutions. One option that had come up in connection with funding, was that a limited expansion of the Marina would allow the dedication of a money stream from the revenue that came in to actually make park improvements. Over time, that money could go back into the General Fund.

Mayor McDonald commented that the Public Works facility on the site was on call 24 hours a day, seven days a week, and would have to stay where they were in the Town. In response to his query regarding employee parking, it was determined that there were approximately 18 employee parking spaces. Mr. Bonci noted that the area would be designed so that service trucks could come in and out, as there were many techniques available.

Council Member Markin complimented Mr. Bonci in understanding all of the issues, and commented that this kind of study would allow conversation and brainstorming. She suggested that it would be wonderful not to have a Public Works facility in the park, and suggested that the property owned by the Town in West Palm Beach as warehouse space could be utilized. If the park was going to be used for Palm Beach residents, it should not be a used as a destination park for residents from other communities. Taxpayer dollars should be used for facilities that benefitted the taxpayers. She noted that if the park was enlarged more people would want to use it that were not Palm Beach residents. She suggested that the park be used as the best space that it could, which would mean moving the Public Works department to another location, if and when it was cost effective to do so.

John Ripley, Executive Director, Preservation Foundation, recognized Jay Boodheshwar for his work and great leadership on the project, as well as Jon Luscomb, Major Mason, Chief Reiter, Chuck Langley, Paul Brazil, Tim Pompos and consultant Fred Bonci. He recognized others that had participated as well. He provided the following comments:

- Currently, there was no way to control the diagonal parking on the street. If the parking were moved inside the Marina space, Mr. Luscomb would have more control over the parking, and safety and security would also improve;
- The solutions for housing the Police Dock were viable by extending the Brazilian Dock, or having a separate dock for the Police. The Preservation Foundation supported a public safety dock; and
- Recommended that the Public Works functions should be moved if not now, in stages in the coming months and years. Preservation of public green space should be a priority, and the opportunity to take action is the present.

Public Works Director Paul Brazil responded that he had forwarded Mr. Boodheshwar various alternatives to relocate a portion of the Public Works infrastructure to a different site, along with the impacts associated with it. All of the information was contained in the backup material in his memorandum dated April 27, 2007, to Mr. Boodheshwar. He briefly reviewed the contents of the memorandum, describing the cost estimates, pros/cons, and impacts of relocating.

Mayor McDonald commented that it would be foolish to move the Water Resources Division (S-1 Building) out of Town, as it was important for the facility to remain in Town.

Council Member Markin maintained that it would be faster for employees to come over the north bridge to the north end pump stations, than from the current location of the facilities. She suggested that it was worth considering and discussing.

Town Manager Elwell urged everyone to be very cautious about entering into projects of great magnitude, at this time, because of the uncertainty related to the property tax reform legislation. He expressed concern regarding the significant work effort required in identifying and analyzing the array of options related to the Lake Drive Park Master Plan, as capital improvements would likely be the first place to cut expenditures.

President Pro Tem Coleman suggested that the non-ad valorem revenue could be maximized by increasing the size of the docks, which would allow funds generated from that area for enhancements.

Town Manager Elwell advised that staff could work on developing some of the ideas set forth into potential projects, however, fuller discussion could also take place at some point in the future, when many of the property tax reform financial uncertainties were clarified. Staff could pursue the extension of the docks sooner, rather than later, because it was something that could provide revenue. He advised that the docks portion of the maintenance of the park was paid for through the Enterprise Fund. He noted that there were some relatively minor things that had been recommended, which could be reviewed by staff in order to provide recommendations.

President Pro Tem Coleman moved to accept the final report from consultant, Fred Bonci, LaQuatra Bonci Associates; authorized staff to return in June (if necessary, in July) with costs associated with minor improvements, including a cost analysis of building the additional dock slips, and whether there would be a need for additional parking; a plan to expand the Town docks in order to use those funds for enhancement of the Lake Drive Park; the remainder of the project would be placed on hold until capital funds were available; authorized the completion of a public safety dock funded in the FY 2007 Budget. Council Member Brooks seconded the motion.

Town Manager Elwell noted that the priority would be for staff to bring the dock extension piece first, and the rest of the matters later.

Bob Schofield, of the Royal Park Homeowners Association, commented that he was very pleased with the plan put forth by Mr. Bonci. He noted that expanding the dock had implications for parking; the idea of removing the Public Works building parking had implications for the overall parking; reducing the parking on Lake Side Drive would be impacted by expansion of the parking inside the park. He suggested that further study should be done before there was a commitment to adding more boats and traffic.

Mr. Elwell noted that the funding had been authorized and the project had been permitted.

Council Member Markin commented that she would like to see cost justification, to see if the added cost to put in the slips would generate the revenue and what the pay back time frame was, since it was part of the overall plan. She indicated that she would be hesitant to support it at this time.

President Kleid was in agreement and said that he would like to delay it.

Upon roll call, the motion carried 3-2, with President Kleid and Council Member Markin dissenting .

2. Emergency Water Supply System. [Jack McDonald, Mayor]

Mayor McDonald stated that he would like the Council to consider two items in the existing contract with the City of West Palm Beach.

1. The construction of the reverse osmosis plant that had been approved, which would allow the ability to produce six million gallons of water a day for emergency use.

2. Several of the clubs in Town had excess capacity with their reverse osmosis (RO) systems, and they may be interested in selling water to the Town. If the Town was able to use the water, the existing contract with the City of West Palm Beach would require modification.

Mayor McDonald requested that the Town Council authorize staff to write a letter to all of the restaurants and clubs in Town requesting that they not voluntarily provide table water unless requested by the patrons.

President Pro Tem Coleman commented that the agreement with the City of West Palm Beach was structured for the purpose of providing sufficient continuity of revenue to ensure that the City could borrow money for bonded debt to create their plant. He said he would like to encourage a dialogue with the City of West Palm Beach to figure out how the Town could provide that comfort and simultaneously discuss expanding the water supply, possibly through an irrigation system.

Council Member Brooks commented that he agreed with Mr. Coleman, and called attention to the current issue of *Florida Trend*, which tracked desalinization efforts of the Southwest Florida Management District, the City of Miami, and Pinellas County. He suggested researching the feasibility of tapping into the aquifer in addition to reverse osmosis.

Mayor McDonald stated that he did not mean to imply any kind of adversarial relationship with West Palm Beach. The city was on more severe restrictions than the county, and he suggested that the Town ask for an allowance from the city to make other arrangements for water supply, as the city was unable to supply the Town by their choice. The city should be amenable to it, as they would not lose any revenue. If the Town purchased from the clubs, the Town would be required to pay a fee to the city.

Town Manager Elwell made the following comments:

- The Town considered building an emergency reverse osmosis water plant that could produce up to six million gallons of water a day, to be held in reserve, supplementing the city's imposition of extreme water restrictions;

- Building an emergency reverse osmosis water plant would be very expensive and a modification would be required to the city's agreement;

- If ocean water desalinization became inexpensive, the South Florida Water Management District would be a viable alternative with less regulation;

- It could be difficult to obtain a consumptive use permit with South Florida Water Management District that would allow the Town to build this kind of plant with the explicit intent of using it for irrigation, as the South Florida Water Management District was working very hard at reducing irrigation at times like this; and

- Other circumstances may indicate that this was not the best time to pursue it.

Mr. Goldblum's comments were:

- Three 1500 feet wells in Town received water from the Florida aquifer;

- Surface water, which was unable to be acquired today, was in short supply;

- The Town would have to use wells, which would require reverse osmosis whether using sea water, or the brackish water in the wells;

- The Town's well was capable of producing a million gallons a day;

- The Town's osmosis plant produced 500,000 gallons a day, which was all that was needed;

- The Town could make an agreement with the Palm Beach Country Club to build another reverse osmosis and potable water treatment plant, as the water was available; and

- The Par 3 Golf Course needed a reverse osmosis plant to supply enough water south of that location for all of the condominiums.

Responding to President Pro Tem Coleman, Mr. Goldblum commented that he was requesting a study to be conducted in order to determine the difference in cost between reverse osmosis of well water versus sea water and the difference between water to be irrigated versus potable water.

Mayor McDonald commented that the brackish water was more inexpensive to clean than the seawater.

Council Member Brooks suggested that Mayor McDonald research with the Palm Beach Civic Association and the Palm Beach Citizen's Association for top engineers and set up a committee.

Stanley Rumbaugh, Palm Beach Civic Association, commented that there was an Executive Committee meeting on Thursday, May 10, 2007, and the subject of a water committee was on the Agenda.

It was the consensus of the Town Council to encourage the Palm Beach Civic Association and the Palm Beach Citizen's Association to develop a committee to study the broad question of an emergency water supply system.

Motion made by Council Member Coniglio, seconded by Council Member Markin to approve sending a letter to all restaurants requesting that table water not be served to patrons unless requested. On roll call, the motion carried unanimously.

XI. DEVELOPMENT REVIEWS

A. Appeals

None

B. Time Extensions

None

C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

a. SPECIAL EXCEPTION #5-2007 WITH SITE PLAN REVIEW AND VARIANCE The application of the Town of Palm Beach relative to property described as lengthy legal description on file; commonly known as 340 Seaview Avenue; located in the R-B Zoning District. Request for Special Exception with site plan

review to construct a synthetic athletic field and associated lighting on the existing grass field at Seaview Park. Request for a variance to construct the synthetic field, which would reduce the landscaped open space from 48% to 28% in lieu of 55% required by code. Variance to construct the field lighting at a height 70 feet in lieu of the 15 foot maximum allowed by code. Variance to allow the field lighting without requiring the landscape material to be as high as the lighting structures. (NOTE: This item will include the Town Council's policy consideration regarding this project noted under Old Business on this agenda). *Deferred from the April 10, 2007, Town Council Meeting.*
TIME CERTAIN: 11 A.M.

This item, XI.C.1.a., was discussed with item X.A.2., with the following motion:

Council Member Markin moved acceptance of the recommendation of the Recreation Advisory Commission. The motion was seconded by President Pro Tem Coleman. On roll call, the motion carried unanimously.

b. SITE PLAN REVIEW #2-2007 WITH SPECIAL EXCEPTIONS AND VARIANCES The application of Royal 160, LLC relative to property described as lengthy legal description on file; commonly known as 160 Royal Palm Way; located in the C-B Zoning District. Request special exception approval for issuance of occupational license for continued operation of hotel under new ownership. Prior to the adoption of the zoning in progress for hotel condominium conversions, the Applicant and the professionals engaged by the Applicant have had several presubmission meetings with Town staff in connection with this application. These meetings have included provision of draft applications, the required traffic concurrency analysis and architectural plans for staff's review and analysis for completeness. The Applicant believes it is vested and not subject to the zoning in progress for hotel condominium conversion. In the event, however, that the Town Attorney concludes that the Applicant is not vested, the Applicant requests that the Town waive the application of the zoning in progress for this application. Request special exception approval for expansion of hotel's accessory uses, including 1,060 square foot expansion of spa facility; addition of 3,000 square feet of public space, plus 1,140 square feet of back room space, and 400 square feet of circulation space, for function room in a building in lieu of existing tent facility; replacement of the existing second floor function space with a4,160 total square foot dining room including 1,420 square feet for outdoor seating on balconies. Request special exception approval to permit outdoor dining with maximum of 56 seats on 840 square foot second floor balcony on front facade and 20 seats on 580 square foot second floor balcony over pool deck. Request site plan approval for expansion of an existing hotel within nonconforming building. This site plan request includes the addition of a 1,940 square foot porte-cochere/covered drop off and relocation of the loading dock from the front facade to under the west wing of guest rooms: relocation and construction of new lobby; the construction of a 3,000 total square foot first floor level function room, with 400 square feet of circular space and 1,140 square feet of storage in the rear yard to serve as function space in lieu of the existing tent facility space: a 4,680 square foot expansion at the lower level, including an expansion of the spa facility to 3,600 square feet, 400 square feet for conference room, 2,510 total square feet for fitness and yoga rooms, and 710 square feet of circulation and back of house space; relocation of pool deck restroom facilities; replacement of the existing second floor function space with a 4,160 total square foot dining room, including 1,420 square foot total dining areas on balconies; reduction to and renovation of 79 or less guestrooms; new roof design and materials; infilling the walls of the balconies: a new 2,160 square foot loggia in the back pool area of the building fronting the swimming pool: and adoption of exclusively valet parking for the site. A variance request to permit construction of porte-cochere/covered drop off with front set back of .34 feet, in lieu of 34.72 foot minimum required front yard setback required by Code. A variance request to permit construction of relocated curb cut and porte-cochere/covered drop off, expansion of existing spa and construction of permanent function space, which increases lot coverage to 66.4%, in lieu of the 61.4% existing lot coverage and the 50% maximum lot coverage allowed by Code. A variance request to permit construction of relocated curb cut and porte-cochere/covered drop off, expansion of the existing spa and construction of permanent function space, with overall landscape space of 23% overall landscaped space (no change from existing), in lieu of the 30% minimum overall landscaped space required by Code. A variance request to accommodate new mansard roofing design and material, and four (4) dormers to permit overall building height of 35.27 feet from zero datum (no change from existing) and 34.3 feet at dormers in lieu of the 30 foot maximum overall building height allowed by Code. A variance request to accommodate new mansard roofing design and material and four (4) dormers to permit building height of 34.61 feet from zero datum (no change from existing) and 34.3 feet at dormers in lieu of 25 feet maximum building height allowed by Code. A variance request for two (2) of the architectural tower features with front yard setbacks of 24.5 feet and 24.88 feet and four (4) dormers with front yard setbacks of 24.83 feet (existing at front facade) in lieu of the 39.72 foot minimum front yard setback required by Code. A variance request for two (2) architectural towers, 5 feet maximum in height, with an overall building height of 40.27 feet, in lieu of the 35 feet maximum overall building height allowed by Code for the towers. A variance request to construct addition of function room with 3,000 total square foot function rooms, 400 square feet of circulation space and 1,140 square feet of back room space, to replace current tent facility, and to relocate pool deck restroom facilities with a 10.0 feet rear yard setback, in lieu of 28.88 foot minimum rear yard set back required by Code. A variance request to accommodate new mansard roof design and materials with a 5.8 feet side yard set back (no change from existing) at western property line, in lieu of the 19.72 foot minimum side yard set back required by Code. A variance request to allow outdoor dining room seating on the front and rear outside balconies and on pool deck where said use is required by Code to be entirely within the principal building. A variance to allow a marquee wider than the entry way and with support closer than eighteen inches to the face of the curb. A variance request to construct 9,100 square feet of additional improved space, without providing the one additional loading berth required by Code. A variance request to provide 67 off street parking spaces and 30 offsite employee parking spaces, in lieu of 97 existing spaces and the 46 additional spaces required by Code as a result of planned improvements described in this application. Thirty (30) existing parking spaces are proposed to be removed as a result of the proposed improvements. As part of this application, the Applicant is also proposing thirty (30) off-island parking spaces. *Deferred from the January 9, 2007, February 13,* *2007, March 13, 2007, and April 10, 2007, Town Council Meetings.*

Ex-parte communication was declared by President Kleid, President Pro Tem Coleman, and Council Members Coniglio and Markin with Robert Matthews.

Zoning Administrator Castro commented that several of the aspects the applicant needed to evaluate were:

- Off-street parking;
- Valet parking;
- Parking in the intensity of use;
- Design and use of the front entry porte-cochere and balcony;
- Possible reduction in lot coverage;
- Reduction of seating in the function and dining room areas with possible introduction of more seating in the future, if there appeared to be no valet or parking issue; and
- Address the need to reduce the ability of the number of rooms in the hotel in the future.

Attorney Jackie Miller, on behalf of the applicant, noted that the issues were related to intensity of use. She indicated that she had met with staff and had then decreased the intensity of use significantly. She identified the reductions of the request in the seating and parking.

Mr. Castro commented that the issue was not the number of parking spaces, but how the parking spaces had been delineated by the applicant. The operational aspect of valet parking were issues for staff, which were the actual street alignment and the median cuts. The Police Department discussed the realignment of the curb cuts with the applicant. Staff would need time to review the proposals, if the Council approved the Zoning in Progress, which remained to be an open issue, and any of the other site approvals that were being requested.

Responding to Council Member Coniglio, Mr. Castro explained the details of the chart in the backup, and added that staff made recommendations regarding the hours in the Declaration of Use Agreement. Modifying the hours of the function room was conditioned on providing a double door entry from the pool area, and possibly eliminating a door in the back preparation area, as it provided a noise buffer.

Discussion took place regarding the parking spaces as listed on the chart. Mr. Castro noted that staff questioned how the parking functioned operationally from a valet standpoint, and that a parking variance was needed, as some of the striped code parking was shifted to valet stacked parking spaces.

Responding to President Pro Tem Coleman's concern, Mr. Castro explained the egress of the function room after an event, and the fines that would be levied if the noise conditions were exceeded and which could be specifically stated in the Declaration of Use Agreement.

President Pro Tem Coleman expressed his second concern regarding the circulation of valet parkers not driving around Brazilian Avenue in order to come up to the face of the hotel, regardless of how they were instructed. In the proposed traffic plan people would be crossing County Road, and in that median, there was a very large cut through. He recommended sealing it to not lose any green space, and to create two half moon cuts, one on the Ocean side, before the residential building and one on the east side of Royal Palm Way.

Mr. Castro responded that the counter-clockwise movement would work for the valet operation, but the most western curb cut was close to the intersection and needed to be considered further. The median cuts would be the best alternative of the solutions provided.

Responding to President Kleid, Attorney Miller distributed a layout as to where the curb cuts would be located, and noted that a car could come out of the function space parking valet, and not access Royal Palm Way.

Discussion ensued regarding the valet parking and the curb cuts. The applicant agreed to move the curb cuts further east down the street with a larger separation.

Attorney Miller indicated that valet parking operation would be resolved at the licensing stage.

Motion made by Council Member Brooks, seconded by Council Member President Pro Tem Coleman to approve all variances, supporting waiver of Zoning in Progress, contingent on the proposed median cuts, Declaration of Use Agreement, and the Construction Agreement.

Responding to Council Member Markin, Mr. Castro indicated that staff's concern was the ability to get cars out and circulate people on or off site in a reasonable amount of time. The changes of the proposed curb and median cuts would provide assistance in reducing the timing. It remained to be an operational issue for staff.

Attorney Miller stated that the applicant did not have a leased space for the 30 parking spaces for the employees, as he was waiting for approval by the Council.

Responding to Council Member Markin, Mr. Brooks commented that the motion included the variance of the second floor outside restaurant hanging over Royal Palm Way, as the applicant had made adjustments to it and field measurements. He explained that he was addressing the other variances with his motion, contingent on the signing of the Declaration of Use Agreement, which covered the valet parking.

Council Member Coniglio expressed concern regarding the impact to the neighbors in the back, with moving the function room further east, and the rear yard set back of 10 feet in lieu of 28 feet. Secondly, the front yard setback of .34 feet in lieu of the 34 feet in the code, moving it forward on the Royal Palm Way street scape, setting a precedent, and increasing the size of the marquise making it look larger.

Attorney Miller responded that a precedent had been set regarding the front yard setback, as the hotel was set further back than the building immediately next door. The current use of the buildings was offices and this was the only hotel.

Mr. Robert Matthews noted that there was 100% participation with the neighbors. The double doors would make a huge difference in noise.

Council Member Coniglio commented that there were two letters received from neighbors that lived on Brazilian Avenue regarding the impact to their neighborhood.

Planning, Zoning, and Building Director Close advised that a recommendation regarding intensity could not be provided, as the Public Works and Police Departments, and the traffic consultant, had not had an opportunity to approve the plans regarding the median cuts and to review the valet parking plan.

Public Comment:

Gregory Lembo, 100 Royal Palm Way, commented regarding parking concerns, as there were times that the street did become congested; Royal Palm Way was one of the busiest streets in Town and there was no other way to gain access to his building in a motor vehicle.

President Pro Tem Coleman advised Mr. Lembo that with the median cuts he would not have to drive past the Hotel.

Responding to Council Member Markin, Attorney Miller explained that at full events, there were 15 valets, with an on site supervisor, and the required amount of police detail, for the direction of traffic.

Ms. Close commented that the traffic consultant would make recommendations to the Police Department as to the best way to handle those type of situations.

President Pro Tem Coleman advised Mr. Matthews that when making the cuts, the extreme east end of Royal Palm Way did not come up to the curb line of South Ocean Boulevard; in order to not take away green space, part of the expense may require extending that line parallel of South Ocean Boulevard. Mr. Matthews agreed to the added expense.

Upon roll call, the motion to approve all variances, supporting waiver of Zoning in Progress, contingent on the proposed median cuts, Declaration of Use Agreement, and the Construction Agreement, carried 3-2, with President Kleid, President Pro Tem Coleman, and Council Member Brooks voting in the affirmative, and Council Members Coniglio and Markin dissenting.

i. Consideration of the Construction Agreement

This was included in the motion above.

ii. Consideration of the Declaration of Use Agreement

This was included in the motion above.

XII. ANY OTHER MATTERS

There were none.

XIII. ADJOURNMENT

There being no further business, the May 7, 2007, Special Town Council meeting was adjourned at 5:22 p.m.

APPROVED:

Richard M. Kleid
Town Council President

ATTEST:

Susan A. Eichhorn
Town Clerk