



TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE SPECIAL TOWN COUNCIL MEETING HELD ON THURSDAY, APRIL 21, 2011

I. CALL TO ORDER AND ROLL CALL

1 The Special Town Council meeting was called to order on Thursday, April 21, 2011 at 9:00 a.m.
2 in the Society of the Four Arts Auditorium, 2 Four Arts Plaza, Palm Beach, FL 33480.

3
4 On roll call, all of the elected officials were found to be present. Also present were Town
5 Manager Peter B. Elwell, Town Attorney Jeff Mandel, Director of Human Resources Danielle
6 Olson, Town Clerk Susan A. Owens, International Association of Firefighters (IAFF) Attorney
7 Mark Floyd, IAFF representatives Joel Brier, Ricky Grau, and Joseph Sekula, and Special
8 Counsel Christine Handley.
9

II. PLEDGE OF ALLEGIANCE

10
11 Council President Rosow led the Pledge of Allegiance.
12

III. INTRODUCTIONS AND OPENING COMMENT BY CHAIR

13
14 Council President Rosow announced that today the Town Council sits as a quasi-judicial body.
15 This means that they are charged with looking at the record materials, listening closely to the
16 presentations of the parties, and ultimately making a determination on how the imposed articles
17 of the collective bargaining agreements for the Town firefighters, both the supervisory and non-
18 supervisory units, shall be resolved.
19

20 Council President Rosow explained the process for these proceedings. We will hear
21 presentations from the IAFF and Town Management, we will receive public comment, and then
22 the Council will vote. Council President Rosow announced that the Council's decisions today
23 will be based on the presentations heard, and the materials submitted to the Council by both
24 sides.
25

26 He announced that both parties have agreed that the Town will present its case first. Each side
27 will have one hour to make their presentations. Council President Rosow asked IAFF Attorney
28 Floyd if Local 2928 wished to reserve any of their time for rebuttal. Mr. Floyd answered that
29 they did not. Council President Rosow asked Town Attorney Mandel if the Town wished to
30 reserve any of its time for rebuttal. Mr. Mandel stated that the Town wished to reserve any time
31 leftover from their presentation for rebuttal. [1:00-12:40]

IV. PRESENTATIONS BY LABOR AND MANAGEMENT

Town Manager Elwell and Town Attorney Mandel presented Management's case. During their presentation they stated that, while Management recommends that the Town Council adopt their proposed language for Article 14 (Drug and Alcohol Testing) and Article 38 (Sick Leave and Injury Time), Management would have no objection to the Town Council adopting the Union's proposed language for those two Articles. The Union's proposed language on these two Articles is an incorporation of the Special Magistrate's recommendations. Town Manager Elwell emphasized that, while Management believes their language is preferable, they do not feel as strongly about these two issues, and that they can live with the Union's proposed language.

[12:50-40:35]

Council Member Diamond asked Town Manager Elwell if there was anything in Management's proposal that would result in a reduction of force. Town Manager Elwell replied that there was not. Council President Pro Tem Wildrick asked that, if Management is willing to accept the Union's language on Articles 14 and 38, is the Town changing its proposal at this time? Town Attorney Mandel stated that Management is not changing its proposal, what we are saying is, in the spirit of cooperation, we can live with those terms. It accomplishes most of what we want. Town Manager Elwell elaborated that Management is differentiating those two items from the rest because we do not feel as strongly about the Town's position on those as we do about the other five. [40:35-42:30]

IAFF Attorney Floyd presented the Union's case. At the conclusion of his presentation, Mr. Floyd requested that the Council adopt the recommendations of the Special Magistrate on every issue, except the pension, in which case he hopes that the Council will adopt the recommendations of the Union. [43:30-1:43:45]

Town Manager Elwell and Town Attorney Mandel took their remaining time for rebuttal. [1:44:00-2:15:40]

V. QUESTIONS BY TOWN COUNCIL

Council Member Kleid asked Town Manager Elwell to respond to Mr. Floyd's comment regarding potential prejudice by supervisors in determining longevity pay. Town Manager Elwell replied that performance evaluation is essential, but recognized that there is some element of subjectivity. Management has the responsibility to ensure that we have a fair system that is properly administered with maximum objectivity and consistency. We did propose how this might be implemented in a way that would create some distinction between the pools available; however, we did not receive a counterproposal from the Union.

Council Member Kleid asked Mr. Floyd if he knew what percentage of firefighters who retire earlier than age 65 seek other employment during this period of time. Mr. Floyd stated that he did not; most likely no one has these statistics.

Council Member Pucillo asked Mr. Floyd for clarification regarding Kelly Days. It appears that both the Management and Union proposals would result in some level of unpaid hours. Mr.

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1 Floyd stated that was not correct. The Union's proposal only extends the threshold required to
2 earn overtime. The firefighters would be paid the straight time rate from the old threshold of 144
3 hours to the proposed new threshold of 159 hours, thereby reducing the amount of overtime by
4 fifteen hours. Firefighters currently work 2,496 hours per year, this would still be true under the
5 Union's proposal. Under the Town's proposal, firefighters will now work 2,912 hours per year,
6 416 hours more. He stated that these will not be unpaid hours; they will just be working these
7 additional hours for no additional pay.

8
9 Council Member Pucillo stated to Mr. Floyd that under the Town's proposal, it seems that
10 individual firefighters could receive an average of 156 hours of overtime, paid at time and a half.
11 He inquired if this would mean that individual firefighters may actually do better. Mr. Floyd
12 said that they would not; they would be receiving 76 hours of additional pay to work 416
13 additional hours.

14
15 Council Member Diamond asked Town Manager Elwell again if there were any reductions in
16 force proposed in Management's proposal. Town Manager Elwell replied that, if the Council
17 approves what we are recommending today, there would be no layoffs of firefighters.

18
19 Council President Pro Tem Wildrick asked Town Manager Elwell to clarify Management's
20 pension proposal. If a firefighter retires before he is 65 years old, will he have to wait until he is
21 65 to get his pension under the current system? What happens to what our current employees
22 have already accrued? Town Manager Elwell responded that that which has been earned will be
23 kept and can be collected in accordance with the existing rules today. What we are proposing are
24 changes in the programs going forward. The portion of the pension paid out for the existing
25 years of service will be paid out under the existing rules. Any years of service performed after
26 the changes go into effect will be paid out under the proposed new rules.

27
28 Council President Pro Tem Wildrick asked Town Manager Elwell how an individual could
29 collect more in pension than his final base salary. Town Manager Elwell responded that this
30 occurs when an individual works a substantial amount of overtime in their final years with the
31 Town. When they retire, their average final compensation calculation includes not only the base
32 pay, but also the overtime, longevity, and other factors.

33
34 Council Member Kleid asked Town Manager Elwell about Mr. Floyd's comments regarding F.S.
35 175. If there is a change in Tallahassee that doesn't match with our program, would we no
36 longer be free to use F.S. 175? Town Manager Elwell replied that the wording we have
37 proposed does suggest that the trigger for the Town to unilaterally stay in F.S. 175 would be,
38 being able to continue to receive those funds and implement all of the changes recommended.
39 [2:15:45-2:34:45]

40
41 VI. PUBLIC COMMENTS

42 Carol Simmons, 201 Banyan Road, spoke regarding the status of the Firefighters' Pension Fund.
43 [2:37:00]

44
45 Joel Brier, address exempt per F.S., spoke in support of the Union's proposal. [2:38:30]

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1 Danny Dunnam, address exempt per F.S., spoke in support of the Union's proposal. [2:41:30]
2
3 Pat Cooper, 261 Sanford Avenue, spoke in support of Management's proposal. [2:44:30]
4
5 Ed Robinson, 217 Clarke Avenue, spoke in support of the Union's proposal. [2:47:45]
6
7 John Pohanka, 369 S. Lake Drive, spoke in support of Management's proposal. [2:49:45]
8
9 Deborah Robinson, 217 Clarke Avenue, spoke in support of the Union's proposal. [2:50:55]
10
11 Jayson French, address exempt per F.S., spoke in support of the Union's proposal. [2:53:55]
12
13 Peter McGrane, address exempt per F.S., spoke in support of the Union's proposal. [2:54:40]
14
15 Scot McCluskey, address exempt per F.S., spoke in support of the Union's proposal. [2:55:45]
16
17 Anne Pepper, 333 Seaspray Avenue, spoke in support of Management's proposal. [2:58:40]
18
19 Susan Markin, 1450 N. Lake Way, spoke in support of Management's proposal. [2:59:55]
20
21 Fred Angelo, address exempt per F.S., spoke in support of the Union's proposal. [3:02:10]
22
23 Doug Watler, address exempt per F.S., spoke in support of the Union's proposal. [3:05:20]
24
25 Owen Larkin, 315 S. Lake Drive, spoke in support of Management's proposal. [3:07:25]
26
27 Quincy Schider-Heisel, address exempt per F.S., spoke in support of the Union's proposal.
28 [3:08:40]
29
30 David Burke, address exempt per F.S., spoke in support of the Union's proposal. [3:10:55]
31
32 Keith Golden, address exempt per F.S., spoke in support of the Union's proposal. [3:11:55]
33
34 Mark Bradshaw, address exempt per F.S., spoke in support of the Union's proposal. [3:12:40]
35
36 Mary Weiss, 529 S. Flagler Drive, had her comments supporting the Union's proposal read into
37 the record. [3:14:15]
38
39 Susan Watts, 455 Worth Avenue, had her comment that she makes \$44,269.92 a year in
40 retirement pay read into the record. [3:15:15]
41
42 Mr. & Mrs. R. Foster, 64 Via Mizner, had their comments supporting Management's proposal
43 read into the record. [3:15:30]
44
45 Mary & Gordon Reed, 231 Chilean Avenue, had their comments supporting Management's
46 proposal read into the record. [3:15:40]

1 Frederick McCarthy, 1519 N. Ocean Way, Palm Beach, had his comments supporting
2 Management's proposal read into the record. [3:16:05]

3
4 John Cunningham, 353 El Brillo Way, Palm Beach, had his comments supporting Management's
5 proposal read into the record. [3:16:25]

6
7 Bob Guthrie, 320 Island Drive, Palm Beach, had his comments supporting Management's
8 proposal read into the record. [3:19:30]

9
10 Emmy Wildrick, Plantation Road, Palm Beach, had her comments supporting Management's
11 proposal read into the record. [3:19:50]

12
13 VII. MOTIONS

14 **Motion was made by Council Member Diamond and seconded by Council President Pro**
15 **Tem Wildrick to adopt the recommendations of the Town in their entirety, with respect to**
16 **Articles 14 (Drug and Alcohol Testing), 16 (Promotions), 17 (Wages), 18 (Work Week), 19**
17 **(Overtime), 38 (Sick Leave and Injury Time), and 41/30 (Retirement Benefits)-included in**
18 **the Union materials as Article 30 (Insurance and Miscellaneous Benefits) and included in**
19 **the Town materials as Article 41-in the Non-Supervisory Collective Bargaining Agreement**
20 **and their companion Articles in the Supervisory Collective Bargaining Agreement.**

21
22 Council Member Kleid stated that he thought the Council should vote on each individual Article
23 as the Town has stated that they are open to a compromise on Articles 14 and 38. Council
24 Member Pucillo echoed Council Member Kleid's comments.

25
26 Council President Rosow stated that it was his understanding that Management and the Union
27 have agreed to the Union's position on Articles 14 and 38. Attorney Floyd responded that they
28 have not. Town Manager Elwell reiterated that the Town still believes that Management's
29 proposals on those two Articles are better; but, the Town's opinion of those is that they are not
30 nearly as significant as the other issues, and that the Town could live with the Union's position
31 adopting the Special Magistrate's recommendations on those two Articles.

32
33 **On roll call, the motion carried 3-2, with Council Members Kleid and Pucillo dissenting.**

34
35 Council President Rosow announced that the seven conditions as outlined by the Town's
36 proposal have been adopted by the Town Council. [3:21:00:-3:28:00]

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VIII. ADJOURNMENT

There being no further business, the Special Town Council Meeting of Thursday, April 21, 2011 was adjourned at 1:23 p.m.

APPROVED:



David A. Rosow
Town Council President

ATTEST:



Susan A. Owens, MMC
Town Clerk

