

TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL MEETING HELD ON WEDNESDAY, APRIL 13, 2011

I. CALL TO ORDER AND ROLL CALL

The Regular Town Council meeting was called to order on Wednesday, April 13, 2011, at 9:30 a.m., in the Town Council Chambers. On roll call, all of the elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

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

III. COMMENTS OF MAYOR GAIL L. CONIGLIO

There were none.

IV. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

Council President Pro Tem Wildrick expressed concerns regarding the following: Palm Beach County's involvement in the situation in Ibis Isle, dumping bridge parts off Everglades Island, the dredged materials being dumped near the Royal Palm Bridge, a proposed restaurant on Peanut Island, and the federal government's project of widening the inlet. He stated that he felt strongly that any projects affecting the Town should be presented to the Town Council for concurrence.

Council President Rosow suggested that Council President Pro Tem Wildrick and Town Manager Elwell provide a report at the next Town Council meeting.

V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

There were none.

VI. APPROVAL OF AGENDA

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

VII. PUBLIC HEARING

Town Clerk Owens administered the oath to all those who would be providing testimony.

A. RESOLUTION NO. 42-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Ratifying and Confirming the Determination of the Landmarks Preservation Commission that the Property Known as 300 Barton Avenue Meets the Criteria Set Forth in Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach; and Designating Said Property as a Town of Palm Beach Landmark Pursuant to Ordinance 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach. [John Page, Director of Planning, Zoning, and Building]

Historical Consultant Jane Day provided an overview of the Designation Report of the property known as 300 Barton Avenue.

Motion made by Council Member Kleid, seconded by Council Member Diamond, to accept the Designation Report of 300 Barton Avenue as a landmarked property. On roll call, the motion carried unanimously.

Town Attorney Randolph read Resolution No. 42-11 by title, as printed above.

Motion made by Council Member Diamond to approve Resolution No. 42-11 designating the property at 300 Barton Avenue, as a landmark of the Town of Palm Beach on the basis that it meets criteria identified in the Designation Report of 54-161 of the Town of Palm Beach Code and the Landmarks Preservation Ordinance 2-84. Council Member Kleid seconded the motion. On roll call, the motion carried unanimously.

VIII. ORDINANCES

A. Second Reading

None

B. First Reading

1. ORDINANCE NO. 1-11 An Ordinance Of The Town Council Of the Town Of Palm Beach, Palm Beach County, Florida, Amending The Text Of The Future Land Use Element Of The Town Of Palm Beach Comprehensive Plan As Last Amended On August 11, 2010, With The Adoption Of Ordinance No. 3-10, By Amending The Data & Analysis In The Future Land Use Element And Amending Policy 2.3.1 As It Addresses Square Footage Thresholds For Town-Serving Businesses; Providing For Severability; Repealing All Ordinances Or Part Of Ordinances In Conflict Hereof; Providing For Codification; And Providing an Effective Date. [John Page, Director of Planning, Zoning, and Building]

Town Attorney Randolph read Ordinance No. 1-11 by title, as printed above.

Motion made by Council Member Diamond, seconded by Council Member Kleid, to approve on first reading Ordinance No. 1-11. On roll call, the motion carried unanimously.

2. ORDINANCE NO. 2-11 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County Florida, Amending Chapter 134, Zoning, At Section 134-2 By Amending The Definition Of Town-Serving By Increasing The Square Foot Threshold In Certain Commercial Zoning Districts; Section 134-229 By Exempting Hotel, Motel and Timeshare Uses And The C-OPI Zoning District From The Town-Serving Requirements; Sections 134-1107, 134-1109, 134-1157, 134-1259, 134-1302 And 134-1304 By Increasing The Town-Serving Square Foot Threshold And Changing The Term Occupational License To Business Tax Receipt In The C-TS, C-WA And C-B Zoning Districts; Section 134-1259 By Changing The Term Occupational License To Business Tax Receipt In The C-PC Zoning District; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing For An Effective Date. [John Page, Director of Planning, Zoning, and Building]

Zoning Administrator Paul Castro indicated that modifications were needed in the language of two words in several sections of the code that relate to business tax receipts; he said that the antiquated language says "occupational license", and that staff would like to strike that and put in the words "business tax receipt" to be consistent with current statutes.

Town Attorney Randolph read Ordinance No. 2-11 by title, as printed above.

Motion made by Council Member Diamond, seconded by Council Member Kleid to approve on first reading Ordinance No. 2-11, including the amended language set forth by staff. On roll call, the motion carried unanimously.

3. ORDINANCE NO. 3-11 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Text Of The Future Land Use Element Of The Town Of Palm Beach Comprehensive Plan As Last Amended On August 11, 2010 With The Adoption Of Ordinance No. 3-10, By Amending The Data & Analysis In The Future Land Use Element And Amending Policy 7.3 As It Addresses Rebuilding Structures Located Seaward Of The Coastal Construction Control Line (CCCL), And Permitting Nonconforming Building And Structures To Be Rebuilt Provided Certain Conditions Are Met; Providing For Severability; Repealing All Ordinances Or Parts Of Ordinances In Conflict Hereof; Providing For Codification; And Providing For An Effective Date. [John Page, Director of Planning, Zoning, and Building]

Town Attorney Randolph read Ordinance No. 3-11 by title, as printed above.

Motion made by Council Member Diamond, seconded by Council Member Kleid, to approve on first reading Ordinance No. 3-11. On roll call, the motion carried unanimously.

4. ORDINANCE NO. 4-11 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, At Sections 134-419 and 134-420 By Amending the Provisions To Clarify the Regulations for Raising A Nonconforming Building To Meet the Minimum Flood Elevation Requirements and Allow A Nonconforming Building or Structure To Be Rebuilt Within A Defined Time Limit If Unintentionally Damaged Or Destroyed By Act of Terrorism Or War, Or By Fire Or Act Of God Or Nature; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing For An Effective Date. [John Page, Director of Planning, Zoning, and Building]

Town Attorney Randolph read Ordinance No. 4-11 by title, as printed above.

Director of Planning, Zoning and Building (PZB) John Page pointed out that today's first readings will not come back to the Town Council at the next meeting in May as the documents have to be transmitted to the Florida Department of Community Affairs (DCA) for approval. Once approved by DCA, they will then be brought back to the Town Council for second reading.

Motion made by Council Member Diamond, seconded by Council Member Kleid, to approve on first reading Ordinance No. 4-11. On roll call, the motion carried unanimously.

Alan Goldboro, chairman of the Planning and Zoning Commission (PZC), 2500 S. Ocean Boulevard, thanked the Town Council on behalf of many homeowners who did not realize that their buildings were built under variance codes rather than a Planned Unit Development (PUD).

Mr. Goldboro announced that the new state representatives had been invited to the June 21, 2011 PZC meeting to report on what went on in Tallahassee this session. He also encouraged the public to attend the April 19, 2011 PZC meeting so that residents can see what the Town does on their behalf.

IX. DEVELOPMENT REVIEWS

A. Appeals

B. Time Extensions & Waivers

1. Request for Waiver of Section 42-199, Hours of Construction Work, at 120 Sunset Avenue (Leverett House) (Per Letter Dated March 24, 2011 from Jay Denger)

Motion made by Council Member Diamond to approve the Request for Waiver of Section 42-122, Hours of Construction Work, at 120 Sunset Avenue (Leverett House).

PZB Director Page requested that approval be subject to the conditions in the staff report.

Amended motion made by Council Member Diamond to approve the Request for Waiver of Section 42-122, Hours of Construction Work, at 120 Sunset Avenue (Leverett House),

1 **subject to the conditions within the staff report. Council Member Kleid seconded the**
 2 **motion. On roll call, the motion carried unanimously.**
 3

4 C. Variances, Special Exceptions, and Site Plan Reviews

5 1. Old Business

6 None

7 2. New Business

- 8 a. SPECIAL EXCEPTION #9-2011 The application of Raphael Yakoby; relative to property
 9 commonly known as 137 Woodbridge Road; described as lengthy legal description on file;
 10 located in the R-A Zoning District. The applicant is requesting a Special Exception to allow
 11 a set of driveway gates on Woodbridge Road (which is a dead end street) with a 7.92 foot
 12 setback from the street pavement in lieu of the 18 foot minimum required. [Attorney:
 13 Maura A. Ziska]

14 Ex-parte communication was declared by: Council Member Kleid, Council President Rosow,
 15 and Council Member Diamond, who had conversations with Attorney Maura Ziska, where she
 16 advocated the position of her client.

17 Attorney Ziska, on behalf of Mr. and Mrs. Yakoby, provided an overview of her client's request.

18 Zoning Administrator Castro provided staff's comments. He noted that staff concurred with the
 19 applicant's attorney and requested that the Council approve subject to the condition of a Knox
 20 box for emergency access, as well as a keypad for entry into the property, if possible.

21 **Motion made by Council Member Diamond that Special Exception #9-2011 shall be**
 22 **granted based upon the finding that such grant will not adversely affect the public interest**
 23 **and that the applicable criteria set forth in Section 134-229 of the Town Code had been**
 24 **met, subject to the installation of a Knox box and keypad. Council Member Kleid seconded**
 25 **the motion. On roll call, the motion carried unanimously.**

- b. SPECIAL EXCEPTION #10-2011 The application of Wells Fargo Bank, NA and Wells
Fargo Advisors, LLC; relative to property commonly known as 239, 251 & 255 South
County Road; described as lengthy legal description on file; located in the C-TS/C-B
Zoning Districts. The applicant is requesting Modifications to Special Exception #21-2010
to include the entire bank space of 26,881 square feet for Wells Fargo Bank, NA and 2,564
square feet for Wells Fargo Advisors, LLC and to eliminate the condition of approval that
the applicant meet all conditions related to signage placed on the 255 South County Road
property when the property was designated as a landmark. [Attorney: Harvey E. Oyer III]

Ex-parte communication was declared by: Council Member Kleid, Mayor Coniglio, Council President Rosow, and Council Member Diamond, who met with Attorney Harvey Oyer III and Architect Mark Marsh, where they advocated the position of their client. Council President Pro Tem Wildrick had a meeting with Attorney Oyer, who advocated the position of his client.

Attorney Oyer, on behalf of Wells Fargo Bank, with Architect Mark Marsh provided an overview of the request.

Responding to Mayor Coniglio, Zoning Administrator Castro indicated that the Town had received a letter from a neighbor at 140 Seaview Avenue expressing concern over commercial signage on Seaview Avenue.

Zoning Administrator Castro provided staff's comments.

Discussion occurred relative to signage on Seaview Avenue. Although the Town Code allows for signage to be placed along Seaview Avenue, it was not included in this request as it did not require Council approval. The applicant agreed to not place any signage along Seaview Avenue as a condition of approval.

Motion made by Council Member Diamond that Special Exception #10-2011, as amended to prohibit signage along the Seaview Avenue side of the building, shall be granted based upon the finding that such grant will not adversely affect the public interest and that the applicable criteria set forth in Section 134-229 of the Town Code had been met. Council Member Kleid seconded the motion. On roll call, the motion carried unanimously.

- c. SITE PLAN REVIEW #6-2011 WITH SPECIAL EXCEPTION AND VARIANCES The application of Little Broad Beach Partners; relative to property commonly known as 95 North County Road; described as lengthy legal description on file; located in the C-TS Zoning District. The applicant is requesting a modification to the Site Plan and two Special Exception approval requests to convert the existing post office building located at 95 North County Road into an office building which will result in a second floor interior addition and will expand the current gross square footage from 10,656 square feet (5,651 gross leasable square feet) to 14,495 gross square footage (11,255 gross leasable square feet). The Special Exception requests are to expand the second floor area and to have an office which exceeds 2,000 square feet. Since the proposed office is in excess of 2,000 square feet, the applicant is required to obtain Town Council approval of a special exception and a finding that the proposed use is town serving. The site plan will be modified by eliminating the access driveway on the east side of the property and relocating it to the south side of the property and will also change the parking configuration. A Variance is requested to allow an office use on the first floor in the C-TS Zoning District which does not meet all of the conditions of subsection (18). The variance is to allow a first floor office use which does not meet the requirement that more than 50% of the existing first floor tenant spaces within 300 feet in the same zoning district are required to be office uses. Variances are also requested from the requirement to provide seventeen (17) additional off-street parking spaces above the amount calculated by the principal of equivalency zoning requirement to convert a 5,651 square foot post office to a 11,255 square foot office building in the C-TS Zoning District

and to not provide a loading berth as required in Section 134-2211 of the Zoning Code.
[Attorney: Maura A. Ziska]

Ex-parte communication was declared by: Council Member Kleid, Council President Rosow, and Council Member Diamond, who had conversations with Attorney Maura Ziska, who advocated the position of her client.

Attorney Ziska, on behalf of Jeff Greene, provided an overview of the request.

Architect Mark Marsh presented the following changes that were requested by the Landmarks Preservation Commission:

- Move the handicap ramp in the front, west elevation, to the rear of the building.
- Provide additional landscaping.
- Create an interior elevation showing that the important landmarked elements of the lobby would be maintained.

Zoning Administrator Castro provided staff's comments.

Concerns were raised regarding parking and use of the subject property. Mr. Castro stated that staff would work with the applicant and bring the item back, with a Declaration of Use Agreement that would address the Council's concerns, to the May 11, 2011 Town Council meeting.

Motion made by Council Member Diamond to approve deferral of Site Plan Review #6-2011 with Special Exception and Variances to the May 11, 2011, Town Council Meeting. Council President Pro Tem Wildrick seconded the motion. Upon roll call, the motion carried unanimously.

President Rosow requested that the old historic street signs around Town remain until it could be determined if the signs could remain permanently.

- d. VARIANCE #7-2011 The application of Sidney Spiegel, Trustee and Sterling Group Palm Beach, LLC; relative to property commonly known as 340 Royal Poinciana Way; described as lengthy legal description on file; located in the CPC Zoning District. The applicant is requesting to modify a condition of approval of Variance #12-2008 which required the Applicant remove all reserved and assigned parking spaces throughout the plaza along with the associated signage by October 10, 2008. The request is to allow Dr. Francis P. Conroy, DMD to retain 4 designated parking spaces until October 31, 2012. [Attorney: Maura A. Ziska]

Ex-parte communication was declared by: Council Member Kleid, Council Member Pucillo, and Council Member Diamond, who had conversations with Attorney Ziska, who advocated the position of her client.

1 Attorney Ziska provided an overview of the request.

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3 Zoning Administrator Castro provided staff's comments.

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5 **Motion made by Council Member Diamond that Variance #7-2011 be granted and found,**
6 **in support thereof, that all of the criteria applicable to this application as set forth in**
7 **Section 134-201(a), items 1 through 7 had been met, subject to removal of the signs at the**
8 **end of tenant's lease in October of 2012. Council Member Kleid seconded the motion. On**
9 **roll call, the motion carried 4-1, with Council President Pro Tem Wildrick dissenting.**

10
e. VARIANCE #8-2011 The application of Raymond W. Royce, Attorney for Owner; relative to property commonly known as 756 Slope Trail; described as Lot 120 Mark Rafalsky Tract, Plat Book 11, Page 51, Public Records of Palm Beach County; located in the R-B Zoning District. The applicant is requesting a variance from the provisions of Section 134-1729 (b) 1 which do not allow the placement of a generator of over 60kw in the setback applicable to the principal structure. The applicant wishes to place an 80kw generator 5.5 feet in lieu of the 12.5 foot minimum setback required. [Attorney: Raymond W. Royce]

11
12 Ex-parte communication was declared by: Council Member Kleid and Council Member
13 Diamond, who had conversations with Attorney Raymond Royce, who advocated the position of
14 his client. Mayor Coniglio received a voicemail from Attorney Royce and was unable to respond
15 back. Council President Rosow spoke to Attorney Royce and Christopher Orthwein, who
16 advocated their position.

17
18 Attorney Royce, on behalf of Christopher Orthwein, provided an overview of the request.

19
20 Zoning Administrator Castro provided staff's comments.

21
22 **Motion made by Council Member Diamond the Variance #8-2011 be granted and found, in**
23 **support thereof, that all of the criteria applicable to this application as set forth in Section**
24 **134-201(a), items 1 through 7 had been met. Council President Pro Tem Wildrick seconded**
25 **the motion. On roll call, the motion carried unanimously.**

26
27 D. Other

a. Special Exception 17-2010 Reconsideration of Conditions of Approval. [John Page, Director of Planning, Zoning, and Building]

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29 Zoning Administrator Castro provided an overview of Special Exception #17-2010 and the status
30 of the conditions placed upon the subject property. He reported that the Town has received
31 complaints regarding parking and the loading area.

32
33 Discussion ensued regarding the conversion of official parking spaces after hours, and how
34 parking could be addressed if the business decided to open for lunch.

1 Motion made by Council Member Diamond that Special Exception # 17-2010 shall be
2 granted, based upon the finding that such grant will not adversely affect the public interest
3 and that the applicable criteria set forth in Section 134-229 of the Town Code had been
4 met, subject to staff recommendations and the condition that, if the applicant decides to
5 open for lunch, the applicant must first come back before the Town Council to address
6 parking concerns. Council Member Kleid seconded the motion. On roll call, the motion
7 carried unanimously.
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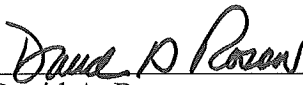
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10 X. ANY OTHER MATTERS

11 Council President Pro Tem Wildrick expressed his concern about the elimination of the Police
12 Academy from the budget. He feels it is a very important element of the relationship between the
13 police and the citizens. He stated that he has spoken with Town Manager Elwell about finding
14 another way to fund the program.

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16 XI. ADJOURNMENT

17 There being no further business, the April 13, 2011, Regular Town Council meeting was
18 adjourned at 11:30 a.m.

19 APPROVED:

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22 
23 _____
24 David A. Rosow
25 Town Council President
26

27
28 ATTEST:

29
30
31
32 
33 _____
34 Susan A. Owens, MMC
Town Clerk

