# TOWN OF PALM BEACH

Office of The Town Clerk

## MINUTES OF THE SPECIAL TOWN COUNCIL MEETING HELD ON APRIL 9, 2007

I. CALL TO ORDER AND ROLL CALL

The Special Town Council Meeting was called to order on Monday, April 9, 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
Town Attorney John C. Randolph
William Amador, Assistant Fire-Rescue Chief
Jay Boodheshwar - Recreation Director
Paul Brazil - Public Works Director
Eric Brown - Public Works Assistant Director
Veronica Close - Director Planning, Zoning and Building
Charles Langley - Public Works Assistant Director
Michael Reiter - Police Chief
Jane Struder - Finance Director
Susan Eichhorn - Town Clerk



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## II. INVOCATION AND PLEDGE OF ALLEGIANCE

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

## III. PRESENTATIONS

Mayor McDonald commented that next Tuesday, April 17, 2007, would mark 96 years since the incorporation of the Town; and in 2011, the Town would be celebrating its centennial. To raise awareness, a special commemorative luggage tag would be presented to the Town Council by Chief Reiter, the Town's centennial coordinator, and by staff to members of the audience. The tag depicts a logo, which was unveiled, upon the opening of Town Hall in 1929, and today continues to adorn the south entrance to the building.

## IV. COMMENTS OF MAYOR JACK McDONALD

There were none.

## V. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

President Kleid read into the minutes a letter dated April 2, 2007, from the Citizens' Association to the Par 3 Golf Course Manager Rick Dytrych thanking him, his wife and staff for their help in making the golf tournament run so smoothly.

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

Jere Zenko, 232 Tangier Avenue, commented on quality of life issues and suggested restrictions on construction hours be extended, possibly from October to the end of April, since residents were remaining in Town for longer periods of time. She also commented regarding traffic and noise on North County Road.

Scott Lewis commented that he would wait to discuss Item VII.8.E. (Related to Design and Construction of Proposed HR/IS Building at 701 North Dixie Highway Site in West Palm) if it was to be pulled from the Consent Agenda. *[President Kleid advised that Item VII.8.E. would be pulled from the Consent Agenda.]*

VII. APPROVAL OF AGENDA

**TIME CERTAIN - 10:00 A.M.**, Item X.B.3., Request by the City of West Palm Beach for Town sponsorship of the City's Fourth on Flagler Event.

**MOVED - Item VIII.E.**, from the Consent Agenda to **Item X.B.12.,** New Business - Authorization to Proceed with Consultant Design and Construction Services for Human Resources and Information Systems (HR/IS) Building at 701 North Dixie Highway Site in West Palm Beach.

Town Manager Elwell announced the rescheduling of the June Town Council Meetings to Monday, June 18, 2007 and Tuesday, June 19, 2007. He noted that both meetings would begin at 9:30 a.m.

**Motion made by Council Member Brooks, seconded by Council Member Coniglio, to approve the Agenda as amended. On roll call, the motion carried unanimously.**

VIII. CONSENT AGENDA

A. Approval of Major Matters Considered by the Architectural Commission at its Meeting of March 28, 2007.
[Veronica B. Close, Director of Planning, Zoning, and Building] B.

B. Approval of the Minutes of the Special Town Council Meeting - March 12, 2007.
[Susan A. Eichhorn, Town Clerk]

C. Approval of the Minutes of the Town Council Meeting - March 13, 2007.
[Susan A. Eichhorn, Town Clerk]

D. Approval of the Minutes of the Special Town Council Meeting - March 27, 2007 [Susan A. Eichhorn, Town Clerk]

E. Authorization to Proceed with Consultant Design and Construction Services for Human Resources and Information Systems (HR/IS) Building at 701 North Dixie Highway Site in West Palm Beach. [H. Paul Brazil, Director of Public Works]

F. Approval of Temporary Use of Town Property at Southwest Corner of Miraflores Drive and North County Road (in lieu of North Fire Station site) for Enhancement to Cingular Wireless Network in Town.
[Thomas G. Bradford, Deputy Town Manager]

G. Acceptance of Comcast 2007 Rate Filings.
[Thomas G. Bradford, Deputy Town Manager]

H. Authorization of Defibrillator Purchase with Funding from the Equipment Replacement Fund.
[William Amador, Acting Chief of Fire-Rescue]

I. RESOLUTIONS

1. RESOLUTION NO. 17-07 - Revised Amendment #1 to ILA between Palm Beach County and the Town of Palm Beach for Environmental Enhancement of Town-owned Land. [H. Paul Brazil, Director of Public Works].

2. <u>RESOLUTION NO. 16-07</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving Changes to the Strategic Plan and Providing for an Effective Date. [Sarah E. Hannah, Assistant Town Manager]

3. <u>RESOLUTION NO. 18-07</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Policy Release Agreement in the Matter of Poinciana Management, Inc. vs. Town of Palm Beach, Case No. 50 2007CA 2379 XXXX MB AD and Authorizing the

Town Mayor to Execute the Same on Behalf of the Town. [Thomas G. Bradford, Deputy Town Manager]

4. RESOLUTION NO. 19-07 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Finding That the Expenditure of Money in Support of the Proposed Amendment to the Palm Beach County Charter Serves a Public Purpose; Providing That the Dissemination of Information Concerning the Impacts of this Amendment on the Citizens of the County and the Town Is Essential to the Health, Safety, Protection and Welfare of the Town and its Citizens; Providing an Effective Date. [Peter B. Elwell, Town Manager]

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

IX. BOARD/COMMISSION ANNUAL REPORT

A. Architectural Commission [Veronica B. Close, Director of Planning, Zoning, and Building]

Planning, Zoning, and Building Director Close commented on the Architectural Commission (ARCOM) noting that they reviewed all projects that were visible from the public right of way, but did not review interior modifications. She provided a brief summary of staff related duties as they pertained to ARCOM, and the accomplishments of the Commission.

Morgan Wheelock, Chairman of ARCOM, presented a summary of the Commission's Annual Report for 2006, as provided in the Town Council backup.

Discussion ensued regarding whether Royal Poinciana Plaza was in violation of placing 10' candles in their parking lot. Ms. Close advised that staff, after researching the approvals and gathering the facts, would bring this issue to the attention of Code Enforcement.

President Pro Tem Coleman commented on ARCOM's suggestion that staff, which assisted ARCOM, provide to the Town Council a qualitative assessment of their members. He noted that request seemed inappropriate, but advised that he had always been in favor of members, on an anonymous basis, grading their fellow members.

Town Manager Elwell stated that he shared Mr. Coleman's view and did not believe that staff should proactively judge those that they were assisting. He clarified that if there was a peer evaluation done by the members, it would have to be on the record, not anonymously, due to Sunshine.

Council Member Brooks commented on the problem of multiple constructions and/or demolitions and reported that Town Attorney Randolph was working on an Ordinance relative to that issue. He congratulated Mr. Wheelock for the magnificent renovation of the Hulitar Gardens, which was truly a masterpiece for the Town of Palm Beach.

Council Member Markin congratulated ARCOM for doing a great job, and urged them to continue to scrutinize projects.

In response to President Kleid, Mr. Wheelock advised that he did not have a problem with members attendance during the off-season months. He noted that during the summer months there might be one Commissioner absent.

President Kleid thanked all members of the Architectural Review Commission for their service, as well as Mr. Wheelock for his presentation and for his service as Chairman of the Commission.

X. REGULAR AGENDA

A. Old Business

1. Further Consideration of Town Animal Regulations and Doberman that Resides at 665 North Lake Way. [Peter B. Elwell, Town Manager]

Town Manager Peter Elwell referred to his memorandum to the Mayor and Town Council dated April 3, 2007, and included in the backup material, to discuss strengthening of Town animal regulations as a result of the recent Doberman attack and killing of a small dog. He noted that he had met with the parties most directly involved in this matter in an attempt to reach a mutually agreeable solution and advised that they were unable to do so. Staff believed that the appropriate way to proceed, at this point, would be to hear directly from the parties involved.

President Kleid provided a brief history of what had occurred at the March 13, 2007, Town Council Meeting. He explained that the Town Council deferred a motion that had been passed earlier in the meeting directing the Town Attorney to seek injunctive relief against Ms. Lane, the dog's owner, in order to provide the parties an opportunity to resolve the issue and report back to the Town Council at today's meeting.

Isabelle Furlaud, 745 Hi-Mount Road, noted that her guesthouse located at 675 North Lake Way abutted Mrs. Lane's property. She advised that she had owned this property for more than six years, and had received permission from the Town last year to put a fence around the property, that now made it look like a fort. She commented as follows regarding the dog:

- When walking her two small terriers, the Doberman would run along the chainlink fence that separated the two properties.
- The dog was unleashed when in the courtyard that opened onto North Lake Way.
- The dog had backed her housekeeper up against the seawall when she had been walking the small terriers.
- Suggested that the dog be muzzled and should be thoroughly trained before it was allowed on public properties such as North Lake Way, Hi-Mount Road, or the bicycle trail.
- The dog needed a strong hand.
- When her small grandchildren were staying at her cottage, she did not believe that it should be necessary for her to have to call her next door neighbor, Ms. Lane, because she was afraid for their personal safety.

Attorney Peter Mettler, on behalf of Beth Heath and the neighbors on West Indies Drive, advised that Mrs. Butler, who had been bitten by one of Ms. Lane's Doberman's, was present and would like to address the Town Council.

Eileen Butler, of Essexville, New Jersey, noted that she had been renting on West Indies Drive in 2003 when attacked by Mrs. Lane's dog. She provided a history of that attack noting that she been bitten on the buttocks and the thigh and was treated at Good Samaritan Medical Center. She reported that she had gone to see another physician for further treatment, which included followup from a visiting nurse for about a week. She stated that it was a horrible experience and she was now very frightened when near dogs.

Beth Heath, 2830 Wilderness Road, West Palm Beach, read into the record a letter she had provided to the Mayor and Town Council to explain the facts.

Attorney Mettler, provided the Mayor and Town Council with a copy of the Dade County Ordinance and a copy of the case that sustained it. He stated that he did not believe Mrs. Lane understood that ultimately it was her responsibility for her dogs. He advised that there had been three reported cases, and the neighbors were genuinely concerned, not only for their own safety, but also for that of their children and grandchildren. He commented that their position was for the Town Council to grant an injunction and to consider strengthening the Town ordinance in the same manner as Dade County.

Attorney Marcy LaHart, on behalf of Ms. Lane, advised that she specialized in animal law and was an adjunct professor of animal law at the University of Miami, School of Law. She explained that she would address the blatant misrepresentations and deliberate attempts to mislead by the complainants. She commented on the following:

- The dog that belonged to Ms. Lane, Deuce, had never bitten anyone. The neighbors were referring to incidences involving a different dog that was owned by Ms. Lane.
- When it became clear to Ms. Lane, that the dog was unpredictable, she did the responsible thing, which was to re-home the dog away from the Town of Palm Beach to where it was not a threat to citizens.
- Ms. Furlaud spoke about a dog attacking her maid on the bicycle trail. Neither of Ms. Lane's dogs had ever been on the bicycle trail.
- The fence that Ms. Furlaud put up was constructed well before either of the Doberman's were purchased by Ms. Lane.
- Ms. Furlaud had said she had watched that dog for several years, and it was vicious, but Ms. Lane only had Deuce for about a year, which indicated that Ms. Furlaud could not have watched this dog for several years.

- The statement by Ms. Heath that Ms. Lane had not shown a willingness to do anything until an injunction was sought was absolutely untrue. Ms. Lane immediately expressed her regret concerning the incident that occurred, and also took immediate measures to make sure that it would never happen again.
- Ms. Heath and her attorney made reference to breed specific legislation passed by Miami-Dade County. What they had not mentioned was that after that ordinance was passed, a State law was enacted that prevented local authorities from adopting breed specific legislation and that was the reason why Miami-Dade County has the only pit bull ordinance.
- The State Legislature in regard to regulations of dangerous dogs stated that a dog could not be declared dangerous until it had attacked two animals.
- This incident had been investigated by Palm Beach County Animal Care and Control, and not only did they not make an effort to declare the dog dangerous under State law or the County ordinance, they did not issue a citation. The only citation was issued by the Town of Palm Beach weeks after the incident.
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Trina Lane, 665 North Lake Way, advised that Ms. LaHart had clarified the issues. She addressed, at the request of Ms. LaHart, some of the other misstatements of fact that were made this morning as follows:

- The dog was 18 months old and she owned it for less than a year.
- The dog had never been on the bike trail.
- The dog had never bitten a human being.
- The dog was not aggressive toward other dogs.
- The dog was in day care, interacted with other dogs on a constant basis, and was very well socialized. There were letters from day care and an e-mail from his puppy class, which she could pass on to the Town Council.

Ms. Lane stated that she believed it was wrong to prejudice her dog, with an incident that happened years ago with a different dog. She reviewed the incidents that occurred with Mrs. Butler and Ms. Heath. She reiterated that her dog was not vicious, was very well socialized, and that he attended puppy classes.

Attorney LaHart read an email into the record, from Patty Armfield, Dog Training of the Palm Beaches.

Babette Haggerty-Brennan, owner and operator of Haggerty School for Dogs, at the request of Attorney LaHart, addressed the Town Council. She advised that she sat on the Board of Directors of the International Association of Canine Professionals; she was the editor for the Aggression newsletter, which dealt with aggression and domestic animals, most specifically dogs; and she was a published writer of dog books and dog training articles. She noted that she knew Ms. Lane's last dog, which had been discussed this morning relative to the attacks, and which Ms. Lane responsibly gave up on her own accord; she had met Ms. Lane's current dog about a year ago when the dog was brought to class; and noted that Ms. Lane had complete control over her dog. She noted that she had done a lot of work relative to breed specific regulations and discussed same. She added that it did not work; it became very costly; and it did not offer the result people thought it would.

Ms. Haggerty-Brennan commented that she had seen, case after case, where smaller dogs antagonized big dogs with the big dogs being blamed. She explained that dog aggression did not translate into human aggression, and that they were two separate entities. She stated that understandably, people were concerned for their children's safety, and their own safety, but Bentley was not an aggressive dog, and certainly not at all a human aggressive dog. She reiterated that he was well-behaved in class. She stated that it was a lot easier to stop a dogfight if a dog was on a leash, than if he was not. She questioned why, if Boomer was on the leash, was he not picked up?

Ms. Heath stated that they were aware that this was a different dog. She noted that their point was that Ms. Lane has had problems with two to three dogs and that she could not control this breed of dog. She noted that the letter referred to a dog named Bentley, and the police report, the animal care report, referred to a dog by the name of Deuce. She advised that she did not know who Bentley was.

Ms. Heath advised that she questioned herself constantly as to why she did not pick up Boomer noting that she did not know she had to pick him up. She explained that she did not know this dog was going to kill Boomer or attack him, and that was what she would have to live with for the rest of her life.

Attorney LaHart responded that they all wished Ms. Heath had picked up the dog. She clarified that the dog's registered name was Deuce, but he went by Bentley, and the letter was referring to the same dog, as Ms. Lane only had one dog.

President Kleid asked if he was correct that Attorney LaHart's client had received a letter from the Division of Animal Care and Control, in which it said the dog was potentially dangerous, and suggested that this particular dog, Deuce, be muzzled?

Attorney LaHart responded that the letter referred to Kaiser, not Deuce. Animal Care and Control investigated this incident, and came to Ms. Lane's house to evaluate Deuce, who was also known as Bentley. She advised that Animal Care and Control had told Ms. Lane that no action would be taken, and they were not going to declare the dog dangerous. She also stated that Animal Care and Control had not sent Ms. Lane a letter stating the dog was potentially dangerous, nor did they issue her a citation.

President Kleid advised that he had a letter dated February 28, 2007, which came from the director of Animal Care and Control, which stated that based on the finding of their investigation and the reports on file, the Animal Care and Control Division was considering Ms. Lane's dog, Deuce, potentially dangerous. The letter advised that according to their records, the dog had been involved in an animal to animal attack, and suggested Ms. Lane muzzle the dog whenever it was taken outside or placed in a position of possible contact with a person other than the owner or an animal with which it did not live.

Attorney LaHart advised that she had previously mis-spoken and believed that the letter was referring to Kaiser. She then noted that the letter suggested a muzzle be used, but it did not require one. She stated that Ms. Lane was not willing to muzzle the dog, and the Town did not have legal grounds to force her to do so. She explained that Ms. Lane was willing to fence her property in order to keep other dogs from coming onto it.

Attorney LaHart stated that if the neighbors' fears were based on legitimate concerns, rather than hysteria generated by Ms. Heath, Ms. Lane might be willing to consider muzzling the dog, but she was not going to voluntarily muzzle the dog. The dog was well socialized with other animals, the dog went to day care, took part in the Peggy Adams Animal Walk where he encountered many other animals, small and large, and did not show aggression toward any of them. He was a total gentleman in the words of his trainer.

President Kleid responded that the dog had, in fact, attacked and killed another dog.

Council Member Brooks commented that the recommendation from Ms. Heath's attorney, Mr. Mettler, that Ms. Lane would not purchase Doberman's again, would not hold up legally. It would not hold up any more than the size of a dog could be limited. He noted that dog lovers tend to follow a breed, as Ms. Lane has with Dobermans, which she had every right to her choice. The other thing that concerned him was the statement by Ms. Lane's attorney, that Ms. Lane would absolutely not muzzle the dog, when the dog was walking outside the premises of her property. He requested Town Attorney Randolph advise the Town Council on how they could, legally and humanely solve this problem.

Attorney Randolph commented as follows:

- The Town Council had discussed previously the possibility of strengthening the Town's ordinance, and had considered the fact that if that occurred, the Town would be responsible for enforcement. He advised that he did not know if the Town was equipped to do that. That would be the decision of the Town Council.
- The other remedy discussed at the last Town Council Meeting was the potential for the filing of a public nuisance suit with an injunction attached to it. He noted that he could not advise as to what the Town's chances might be in such a suit, because it would be determined on the facts, such as were heard today. The responsibility of the Town meeting its burden might be greater than the responsibility of the burden of the private property owner. He advised that the parties affected might want to join in their own suit to declare a private nuisance.

President Kleid advised that it was his understanding that the Town had filed a complaint with the County for violation of their ordinance in failure to confine a dog. He asked what the status of that particular filing was?

Police Chief Reiter stated that the Police Department had filed a notice to appear for violation of the County ordinance cited, and to the best of his knowledge, it was still in consideration and it had not been resolved. He explained that the person who received the notice to appear would have the opportunity to pay a fine, or to dispute the allegation.

Council Member Markin noted that this was a difficult situation for all involved. She explained that the following issues stood out after having looked at the big picture and hearing all the testimony both this month and last:

- The lack of responsiveness on the part of the County.
- The owner of an aggressive dog, such as a Doberman, should be able to stop, contain, and control their dog.
- Veterinarians had instructed her not to pick her dogs up around bigger dogs in order that they learn to socialize with all dogs and not be frightened every time they saw a big dog.
- The onus was on the owner of this dog, in doing whatever it took to make the neighbors feel comfortable and that would include muzzling the dog.
- Supported strengthening the Town's ordinance in whatever way it was legally responsible to do. The Town Council previously discussed placing in the ordinance the requirement for an owner of such a dog to carry extensive liability insurance.
- Suggested researching the gray area of an animal control unit in Town.

Council Member Coniglio commented that she was sorry that this situation had occurred. She expressed concern over the following:

- The Palm Beach Ordinance violation.
- The refusal of the owner to accept the citation, and whether that was a refusal to admit that there was a problem.
- Animal Care and Control had clearly requested Ms. Lane to muzzle the dog.

Council Member Coniglio advised that she was never eager to spend taxpayer dollars for legal proceedings against anyone, in particular, another Town resident, she noted that it was best to err on the side of safety.

In response to President Pro Tem Coleman, Attorney Randolph advised that he would review whether the Town could prohibit animals on the Island that were involved in a biting incident two times or more. He commented that if the Town was willing to enforce a two-bite ordinance, perhaps it could be done.

Town Manager Elwell advised that the Town Council had two different questions before them in terms of actions they might take. The potential legal course of action and the potential of additional regulation and enforcement. He noted that the Town Council had been sufficiently advised by Attorney Randolph regarding the potential legal course of action. He advised that if the Town Council wanted to consider taking action on regulatory enforcement, they should hear further from Chief Reiter as to what the Town could do. He discussed the potential for stricter regulation and enforcement, noting that there were some real operational liability issues that the Town Council would need to satisfy before action was taken in that regard.

President Kleid commented that he believed the Town Council was limited to either move forward with a lawsuit for injunctive relief; or to continue to pursue County Code Enforcement; or to bring this matter before the Town's Code Enforcement Board. He advised that the people involved in this matter had a right to take civil action against the owner for any damages they had sustained.

After further discussion, **Council Member Brooks made a motion to request Attorney Randolph to prepare an ordinance that would be stronger and have stricter penalties than the Palm Beach County Ordinance.** He stated that it would be up to Attorney Mettler to file a civil suit, which would not legally concern the Town.

**President Pro Tem Coleman seconded the motion.**

Town Manager Elwell requested clarification as to whether Council Member Brooks was requesting provisions be included that would require a separate local unit to enforce the ordinance.

In response to Council Member Brooks, Mr. Elwell clarified that the proposed Town ordinance would be enforced by County Animal Care and Control, without Town staff assuming any new enforcement responsibility.

**On roll call, the motion to direct Town Attorney Randolph to prepare an ordinance that would be stronger and have stricter penalties than the Palm Beach County Ordinance.**

President Kleid suggested that the Town continue to attempt to enforce same through County Code Enforcement.

President Pro Tem Coleman expressed concern over the strident tone taken by Ms. Lane and her attorney and **made a motion directing Town Attorney Randolph to seek injunctive relief.**

After further discussion, **Council Member Markin seconded the motion.**

During further discussion, Council Member Brooks explained that his earlier motion was broad, and Mr. Elwell had noted that there could be various factors in the ordinance proposed. So, the motion was to ask Attorney Randolph to examine all factors to see if the Town could enforce a stricter penalty than that of Palm Beach County Animal Regulation.

David Holzman, commented that he had an extensive background as a dog trainer with more than forty years of experience. He advised that he had contacted Ms. Lane, whom he had never spoken to before, and suggested to her that the dog be muzzled.

President Kleid informed Mr. Holzman that Ms. Lane had been requested to muzzle her dog on numerous occasions.

**On roll call, the motion directing Town Attorney Randolph to seek injunctive relief carried 4/1 with Council Member Brooks dissenting.**

B. New Business

1. Presentations by Applicants for Appointment to the Code Enforcement Board, Investment Advisory Commission, and Recreation Advisory Commission. [Peter B. Elwell, Town Manager]

The following applicants made a presentation to the Town Council for appointment to the Code Enforcement Board:

Jack D. Cohen
Harris S. Fried
James M. Ballentine, Jr.
J. Kevin Moran
Rosemary Reder
Cynthia Van Buren

The following applicants were not present at the meeting:

Madelyn Greenberg*
Timothy Hoffman

Town Manager Elwell advised that Madelyn Greenberg was unable to be present today, but had indicated to staff that she wished to remain an alternate, which will be reflected on tomorrow's ballot. Timothy Hoffman was not able to attend today's meeting due to a death in the family.

**(After the lunch break Town Manager Elwell announced that he had received a voice mail from Madelyn Greenberg, which clarified the reasons she wished to remain an alternate member of the Code Enforcement Board. He explained that there were significant personal matters she was handling; but more significant than that was that the two regular members up for reappointment were outstanding members of the Board who she believed should be reappointed. He stated that, at this time, she declined to be considered for a promotion, but did have the desire to be a regular member of the board in the future.)*

Discussion ensued relative to alternate positions on boards and commissions.

Town Manager Elwell advised that there were no applicants other than incumbents for the Investment Advisory Committee. He noted that on tomorrow's agenda, the Town Council would be balloting for the Code Enforcement Board and for the Recreation Advisory Commission. Staff's recommendation was for the Town Council to reappoint to the Investment Advisory Committee each of the three members who were eligible for reappointment.

The following applicants made presentations to the Town Council for appointment to the Investment Advisory Committee:

Dr. Michael Andrews
Mr. Stephen L. Brown

The following applicant was not present to make his presentation:

Mr. Edward A. Hennessey, Jr.
*[Town Manager Elwell announced that Mr. Hennessey had been present at today's meeting, but had to leave due to a previously scheduled appointment.]*

The following applicant made a presentation to the Town Council for appointment to the Recreation Advisory Commission:

Mr. Stuart Shulman

The following applicants were not present at the meeting:

Dr. Timothy Coffield
Mr. Joseph Della-Guistina
Mr. Henry Jamison

2. Consideration of Scheduling an Attorney/Client Session Regarding Mar-a-Lago Club, L.L.C., L.C. vs Town of Palm Beach, Case No. 07-80050-CIV -DTKH/JMH, United States District Court, Southern District of Florida, to Discuss This Matter Immediately Following the Regular Town Council Meeting on Tuesday, April 10, 2007, in the Town Council Chambers, 360 South County Road, Palm Beach, Florida. Attorney/Client Session Attendees: Mayor Jack McDonald, Town Council President Richard M. Kleid, Town Council President Pro Tem Denis P. Coleman, Town Council Members William J. Brooks, Gail Coniglio, Susan Markin, Town Manager Peter B. Elwell, Attorney John C. Randolph, Attorney John A. DeVault, III, and Court Reporter from Ley & Marsaa Court Reporters, Inc.
[John C. Randolph, Town Attorney ]

Town Attorney John Randolph referred to his memorandum to the Mayor and Town Council dated March 27, 2007, and included in the backup material, to request, pursuant to Statute, Town Council approval to schedule a closed door session in regard to the Mar-a-Lago Club vs Town of Palm Beach case immediately following the April 10, 2007, Regular Town Council Meeting. The purpose of this meeting would be to discuss strategy related to upcoming litigation.

Attorney Randolph read Item X.B.2., as printed above, into the record.

**Motion made by Council Member Brooks, seconded by Council Member Markin to approve the scheduling of an attorney/client session regarding Mar-a-Lago Club vs Town of Palm Beach immediately following the April 10, 2007, Regular Town Council Meeting. On roll call, the motion carried unanimously.**

3. Request by the City of West Palm Beach for Town Sponsorship of the City's Fourth on Flagler Event.
That[Sarah E. Hannah, Assistant Town Manager]
**TIME CERTAIN:** 10:00 A.M.

Cinde Martin, Sponsorship Consultant to the City of West Palm Beach for its Fourth on Flagler Celebration, responded to questions of the Mayor and Town Council as follows:

- The City of West Palm Beach approved any promotions or advertising conducted by the Town that tied into the Fourth on Flagler Celebration.
- The City of West Palm Beach would allow the Town Council to assign their interest in the 10'x10' tent the Town received for their sponsorship. It was noted that the Town had never used the tent. *[Ms. Martin noted that some sponsors donated their booths to nonprofit organizations.]*
- Palm Beach County assisted in the funding of this event through in-kind donations such as advertising and printing. The County did not provide discretionary dollars for this particular event to the City of West Palm Beach.

**Council Member Markin made a motion to approve the funding in the amount of $10,000 from the General Fund Contingency for sponsorship of the City of West Palm Beach's Fourth on Flagler Event. The motion was seconded by Council Member Brooks. On roll call, the motion carried unanimously.**

4. Florida Department of Transportation (FDOT) SR A1A Corridor - Project Update and Funding Issues.
[H. Paul Brazil, Director of Public Works ]

Public Works Director Paul Brazil referred to his memorandum to the Mayor and Town Council dated April 3, 2007, and included in the backup material, to provide a project update relative to the Florida Department of Transportation (FDOT) SRA1A Corridor. He noted that there were four items within the one item. He discussed those items as well as recommendations made by staff for the Town Council's approval.

1. Decorative Improvements - SR A1A, South Ocean Boulevard to Royal Palm Way

   Town staff recommended an appropriation of $76,930.13 to be taken from the Capital Improvement Fund Contingency.

2. Cable Duct Replacement - SR A1A, Hammon Avenue to Royal Palm Way

   Town staff recommended an additional appropriation of $225,000 to be taken from the Capital Improvement Fund Contingency to replace an existing electrical cable duct.

3. South Ocean Boulevard - Lake Avenue to southerly Town limits

   FDOT agreed to hold a public meeting to inform residents of the status of the project. The Town has arranged to hold that meeting on April 12, 2007 from 4:30 p.m. to 7:00 p.m. at the South Fire-Rescue Station.

   The monies for decorative lighting improvements would be included in the FY 2008 budget request.

4. South Ocean Boulevard - Lake Avenue to Sloan's Curve

   The work on this portion of the project was expected to be after FY 2008.

Mr. Brazil advised that the two items that required funding totaled approximately $302,000. He noted that staff had identified approximately $1.2 million of carryover work, which included a force main replacement project, that would not be done this year. Staff would leave those funds in place to offset any other anticipated work, if it became necessary.

In response to President Kleid, Mr. Brazil advised that financing was the reason FDOT had problems with the decorative lighting from Lake Avenue to Sloan's Curve. He explained that FDOT was currently in the middle of a very aggressive program, and their projects were coming in over budget, and they were running into some financial issues in funding all of these programs.

In response to Council Member Coniglio, Mr. Brazil advised that the Town would not have to draw from the carryover funds in an emergency situation.

Yvelyne D. Marix, 1570 North Ocean Boulevard, commented that it was appalling that Onondaga north had not been resurfaced for years.

Mr. Brazil responded that when the street resurfacing program had previously been presented to the Town Council, staff had been directed to have a contingency plan if undergrounding did not take place. The plan was for the Town to then micro resurface the worst of the roads in that area, if there was not to be a complete mill and resurface. Staff did have a cost for micro resurfacing, which could be included in this year's budget, and the project could start as soon as the budget was approved.

Town Manager Elwell explained that Mr. Brazil was referring to the FY 2008 Budget, and the project could begin after October 2007. He noted that if it was a micro resurface job as opposed to a mill and resurface job, it would be an improvement over what was presently there, but it would probably not meet expectations.

Town Manager Elwell clarified that it was undisputed that the roadway condition, in that particular segment, was poor. He noted that under the current plan, this area was to be the first to receive the undergrounding upgrade, if ultimately approved by the voters. It was for that reason staff recommended and the Town Council approved that the Town not go into that area north of Onondaga and upgrade those streets with any substantial investment of Town funds. The undergrounding of that particular segment had been set aside consciously by a matter of policy.

In response to Ms. Marix, Mr. Elwell advised that Mr. Brazil would recommend to the Town Council for the FY 08 Budget that money for micro resurfacing be included.

Council Member Brooks advised that he had concerns over the Capital Fund Contingency due to dipping. He noted that Mrs. Marix had made a very valid point with regard to micro resurfacing the side streets, and suggested that there should be a plan for North Ocean Boulevard to E. Inlet. The Town should consider paying for it with a transfer of between $300,000 and $500,000 from the undesignated fund balance as the Town was exceeding their 25% goal by close to $2 million. The Town would still be healthy in the undesignated fund balance, and perhaps, transfer $300,000 or $500,000 to the Capital Fund Contingency. He explained that he was not making that a motion as he believed this issue deserved input from the Town Council.

Town Manager Elwell responded that the Town was currently considering a tremendous amount of capital investment, and he believed the Town should be very careful about committing any of that fund balance, which was above and beyond the 25% requirement.

**Motion made by Council Member Brooks, seconded by President Pro Tem Coleman, to accept the staff recommendation for the expenditure from the Capital Improvement Fund Contingency of approximately $302,000 for the following two funding issues:**

1. **Decorative Improvements - SR A1A, South Ocean Boulevard to Royal Palm Way**
   **Appropriation of $76,930.13 to be taken from the Capital Improvement Fund Contingency.**

2. **Cable Duct Replacement - SR A1A, Hammon Avenue to Royal Palm Way**
   **Additional appropriation of $225,000 to be taken from the Capital Improvement Fund Contingency to replace an existing electrical cable duct.**

Discussion took place relative to Council Member Markin's concerns regarding the following:

- The ongoing, open-ended increases that the Town would experience with FDOT projects.
- Money would be taken from a fund that contained $1.2 million in carryover funds within the Capital Improvement Program; funds would be taken from one project to pay for another.
- Lighting on the north end streets, and whether monies had been placed in the budget for lighting on those streets.

In response to Council Member Markin, Mr. Elwell explained that the expenditure of the million plus dollars that had rolled over, would only occur on a case by case basis. He noted that funds would only be expended for another purpose if authorized by the Town Council for a particular project.

Town Manager Elwell explained that the street lighting project to upgrade the entire area had been added to the scope of work for the undergrounding project. The Town Council has indicated, by their policy decision, that if the undergrounding project was not approved by the voters, the Town would undertake, as a separate capital improvement program, the upgrading of the lighting. He noted that until the decision had been made on the undergrounding project, the plan would be to upgrade the street lighting at the same time the power lines were placed underground, so it would all be done as one project. He advised that it had not as yet been budgeted.

**On roll call, the motion carried 4/1, with Council Member Markin dissenting, to accept the staff recommendation for the expenditure from the Capital Improvement Fund Contingency of approximately $302,000 for the following two funding issues:**

1. <u>**Decorative Improvements - SR A1A, South Ocean Boulevard to Royal Palm Way**</u>
   **Appropriation of $76,930.13 to be taken from the Capital Improvement Fund Contingency.**

2. <u>**Cable Duct Replacement - SR A1A, Hammon Avenue to Royal Palm Way**</u>
   **Additional appropriation of $225,000 to be taken from the Capital Improvement Fund Contingency to replace an existing electrical cable duct.**

5. Indemnification for Board and Commission Members.
   [Peter B. Elwell, Town Manager]

President Pro Tem Coleman advised that all Town commissions including the Mayor and Town Council serve the Town without full indemnification. He noted that protection was afforded to them under the concept of sovereign immunity. He explained that a number of commission members had informed him that they were uncomfortable with this indemnification, and advised that they would prefer a broad based typical corporate indemnification.

**Motion made by President Pro Tem Coleman directing Town Attorney Randolph to review and report back to the Town Council, at the November Town Council Meeting, with information regarding a broad based full indemnification insurance plan for Town elected officials and members of the Town boards and commissions. The motion was seconded by Council Member Brooks. On roll call, the motion carried unanimously.**

Town Attorney Randolph noted that he had been involved with this topic for some time.

6. Request by Scott Lewis for Changes to the Noise Ordinance Regulating Lawn Maintenance Equipment.
[Peter B. Elwell, Town Manager]

Scott Lewis, President of Scott Lewis Gardening & Trimming, Inc., referred to his letter to Town Manager Peter Elwell dated March 30, 2007, and included in the backup, to review the changes he was suggesting be made to the noise ordinance regulating lawn maintenance equipment. He explained that several issues arose over the last six months since the original ordinance was passed. He noted that, in particular, on Martin Luther King Day, all lawn maintenance companies were singled out, but all the other service companies were allowed to work. He advised that his goal was for level enforcement across the board.

The following suggestions were made by Mr. Lewis:

- Implementation of a decal program to reduce the complaints relative to blowers.
- Separate lawn maintenance from major construction site restrictions.
- Change hours on Saturdays from 9:00 a.m. to 12:00 p.m. to 9:00 a.m. to 1:00 p.m.

Town Manager Elwell advised that he had met with Police Captain Blouin and Police Sargent Hess, who were now responsible for the new Code Compliance Unit in the Police Department. He noted that they reviewed each of the recommendations made by Mr. Lewis and agreed on the following:

- The proposed addition of the word "motorized" was an important clarification in the definition of the equipment being regulated.

- The elimination of the 3-acre exemption would be beneficial.

Mr. Elwell clarified, for the record, that staff did not believe the enforcement challenges were as great as Mr. Lewis suggested, because a determination of whether a property was larger than 3-acres could be determined through the creation of a database for quick computer checks. He noted that, as a matter of fairness, the Town would not exempt 3-acre parcels.

- Implementation of a decal program to easily identify leaf blowers that comply with Town requirements would be beneficial. Staff did not believe a decal program required an ordinance change.

Mr. Elwell explained that staff's recommendations were to reinforce the purpose of strengthening the code, which was to make the community more peaceful. He noted that the issue was important to the Town Council in their annual goals for this fiscal year as well as the next fiscal year.

Mr. Elwell noted that staff did not recommend approval of any of Mr. Lewis' other suggestions, but if the Town Council considered them, staff would assist and would promptly implement any ordinance changes that the Town Council might approve.

Council Member Brooks expressed concern over Mr. Lewis' company not being able to work on Martin Luther King Day while other companies could. He asked if the Town was handling this administratively, because he did not believe it was a matter to be handled by the Town Council.

Mr. Elwell responded that this had come before the Town Council because of some inconsistency that might need to be addressed through the code. He noted that Code Enforcement was in transition, as the handoff had not been fully made to the Police Department. He advised that over the course of the month, staff would become more consistent with the handling of these situations.

Discussion ensued regarding the inconsistency in the Town Code and the transition of Code Enforcement to the Police Department.

In response to President Kleid, Mr. Elwell explained that these situations were enforcement issues that rest with staff and that staff needed to do a better job in the field. He advised that Mr. Lewis was asking for more relief as to how many days of the year and hours of the day that lawn maintenance companies could operate. Staff did not believe the ordinance needed to be modified.

Jere Zenko, 232 Tangier Avenue, suggested revising the code so that both lawn maintenance companies and heavy equipment people would stop work at 5:30 p.m.

Scott Lewis stated that the Town should try to be consistent. He advised that he was not seeking specific relief for lawn maintenance companies, but was looking for equal enforcement, noting that there was no language about other machinery working on holidays.

President Pro Tem Coleman agreed that there should be some type of conformity. Staff should review this issue and report back to the Town Council.

Mr. Elwell asked if the landscape related code would be the marker that staff would use to bring to all other codes?

President Kleid responded that Mr. Elwell was correct, but suggested that in the interim some of the measures requested by Mr. Lewis could be implemented.

Mr. Elwell advised that staff was not requesting any motions be made with respect to the two or three measures that had been recommended relative to the lawn equipment noise ordinance. He noted that he had his direction from the Town Council, which included that staff study the requirements for other service providers in the Town to make them consistent with the lawn equipment. He stated that if this could be accomplished quickly, staff would bring the entire package back to the Town Council, but if it took some time to put together, staff would bring those measures that could be implemented before the Town Council next month.

In response to Council Member Markin, Mr. Elwell responded that the code regarding stricter regulations as they presently related to noisy activities, was from December 1st to April 30th.

Mr. Lewis advised the Town Council that he would be glad to assist the Town with this matter.

President Kleid stated that the Town appreciated Mr. Lewis' insight into this matter and his assistance.

7. Par 3 Golf Course Master Plan
[Jay Boodheshwar, Director of Recreation]

Recreation Director Jay Boodheshwar referred to his memorandum to the Mayor and Town Council dated March 29, 2007, and included in the backup material, to provide a brief history of the project to complete a master plan for the Par 3 Golf Curse. He reviewed the request for the appropriation of $25,000 from the Recreation Enterprise Contingency Fund., and noted that, at the Recreation Advisory Commission Meeting of March 14, 2007, the Commission recommended the Town Council appropriate $25,000.

Mr. Boodheshwar advised that staff had met on several occasions with a group of residents known as the Par 3 Group, led by Mr. Steve Hall and Mr. Floyd Wideman. He provided the following information regarding the Par 3 Group:

- In January 2007, the Par 3 Group met with staff to discuss their interest in assisting the Town with the completion of an improvement plan for the Par 3 Golf Course.
- On February 1, 2007, a follow-up meeting was held, and the group formally

expressed their interest in assisting with a master plan for the facility. The group encouraged the Town to invest up to $25,000 to complete a plan that they could use as a visual for raising private dollars to assist in completing a prioritized list of improvements at the Par 3 Golf facility.

- At the March 14, 2007, Recreation Advisory Commission Meeting, Mr. Hall and Mr. Wideman sought approval from the Recreation Advisory Commission for the appropriation of $25,000 to complete a conceptual Master Plan. The Recreation Advisory Commission, at this meeting, made a motion to recommend that money to hire a master planner be appropriated from the Recreation Enterprise Fund.

Mr. Boodheshwar noted that staff contacted three design companies and asked for preliminary proposals for a master plan. The prices ranged from $15,000 - $22,000. The objective of the master plan was to address elements including beautification, maintenance, capital upgrades (greens and tees), alternative watering source, and pro shop renovation and/or expansion.

Mr. Boodheshwar commented that if the Town Council endorsed this proposal, staff would work with the Public Works Department as well as the Purchasing Department to go through the formal RFP process for obtaining proposals from design companies.

Mr. Boodheshwar advised that he had spoken with Mr. Hall this morning who apologized for not being able to attend today's meeting to represent the Par 3 Group. He asked Mr. Boodheshwar to pass on his group's interest in working with the Town in completing this project.

President Kleid stated that he was sorry that representatives from the Par 3 Group were not present as he would have liked to have further assurance that this group would be able to raise the private capital that they referred to. He explained that he did not want to appropriate money for a plan without knowing if there was going to be an active follow-up to that plan.

Mr. Boodheshwar advised that he could not respond to President Kleid's concerns, but noted that the group was very enthusiastic to bring the Par 3 facility back to the level of quality that it once was.

Council Member Brooks thanked Mr. Hall and Mr. Wideman not only for their suggestions but for being proactive. He suggested that if the Town agreed to hire a consultant, then perhaps, they could have, as the honorary chairman for fundraising, Mr. Raymond Floyd who was a wonderful neighbor and a pretty good golfer.

**Motion made by Council Member Brooks to approve funding of $25,000 from the Recreation Enterprise Contingency Fund to be used to hire a consultant to complete a conceptual master plan for the Par 3 Golf Course. The motion was seconded by Council Member Markin.**

Council Member Markin commented as follows:

- A considerable amount of money was invested in the Par 3, and $25,000 was a small amount of money to expend to look at ways to enhance that facility, which was a good asset to the Town.
- Par three was an important property, an important recreational facility for all ages in the community.

President Kleid commented that it was a worthwhile endeavor, and even though he had raised the question as to the Par 3 Groups' ability to privately finance this project, he believed it was in the right hands, and was reasonably confident that the funds could be raised. He noted that he believed they had identified people, at this stage, who might lead the fundraising, and he was reasonably confident that the funds could be raised.

**On roll call, the motion to approve funding of $25,000 from the Recreation Enterprise Contingency Fund to be used to hire a consultant to complete a conceptual master plan for the Par 3 Golf Course carried unanimously.**

8. Letter from James Brindell Dated February 26, 2007, Regarding Town-owned Property Located at 5976 Okeechobee Boulevard.
   [Peter B. Elwell, Town Manager]

Attorney Jim Brindell, on behalf of his client David Fischer of the Suburban Collection, referred to his letter to Town Manager Elwell dated February 26, 2007, and included in the backup material, to discuss the proposed purchase of Town-owned property at 5976 Okeechobee Boulevard.

President Pro Tem Coleman advised that he was reticent to divest such assets, but was not reluctant to enter into a 25 or 30-year lease.

Council Member Brooks discussed the concurrency issue Attorney Brindell referred to in his letter. He expressed concern over the possibility of the Palm Beach County imposing stricter concurrency standards, which could diminish the value of the Town's property.

In response to Council Member Brooks, Mr. Elwell noted that Palm Beach County was under pressure from the State of Florida to address concurrency along this corridor.

In response to President Kleid, Attorney Brindell advised that he did not know if his client would be interested in a long term lease, as this was the first time it had been suggested.

Council Member Markin advised that she too would be reticent to sell an asset such as this, in that location, without posting it to the public or without competitive bidding. She noted that she would consider leasing the property.

In response to President Kleid, Council Member Brooks advised that he did not want to make a motion to sell the property, as he did not believe the Town Council should make a final decision today on a multimillion dollar transaction.

**Motion made by Council Member Brooks for staff to proceed in a businesslike manner to determine what action the Town should take, which would incorporate two tracks: one to look at the sale of the property, and the second to look at a long term lease on the property.**

President Kleid commented that he did not believe a motion was needed as there appeared to be a consensus of the Town Council to pursue this further.

**Council Member Coniglio seconded the motion.**

Mr. Elwell advised that it would be appropriate to make a motion because of the fact that the Town entered into these types of negotiations only when directed by the Town Council.

Council Member Markin requested clarification of the motion. She asked if the Town decided to lease the property, would a public announcement be made in order to receive input from other potential lessees; or would the Town, automatically, if it decided to lease it and Mr. Brindell's client was interested, enter into a lease without having it publicly noticed?

Mr. Elwell reviewed the options available to the Town Council. He explained that as long as the Town found a public purpose, and it could be demonstrated that the Town had done their due diligence relative to the value of the property, the Town would be entitled to either lease or sell the property. He noted that this could be done through negotiation, and that it did not have to be done through a bidding process. It was clearly within the Town Council's authority, if the majority concurred, to go through the competitive process, and staff could assist with that.

Council Member Markin stated she would support the motion if it was amended to include that the Town would go through a normal bidding process.

Council Member Brooks stated that he did not think his motion precluded any other potential arising, and business procedures would be used.

Mr. Elwell clarified that it was not a matter of expanding the motion to allow Ms. Markin's suggestion because negotiations would be entered into with interested parties where the end point of that process was intended to be an open public bid. He noted that he believed direction was needed from the Town Council as to which way they preferred to proceed, and then either the Town would enter into negotiations or work with developing a Request for Proposals (RFP) for anyone who wished to make a proposal for either lease or purchase to be submitted to the Town.

After further discussion, Council Member Brooks advised that he would remain with his motion to proceed with a business transaction on a double track looking at both the sale and the long term lease of the property; the attorney for the interested party could put their proposal in writing, and come back before the Town Council. At that time, the Town could refuse the proposal or accept it.

In response to President Kleid, Council Member Coniglio withdrew her second to the motion explaining that she wanted to go to a competitive bidding process.

In response to President Pro Tem Coleman, Ms. Coniglio advised that she wanted the Town to request proposals, not to auction the property.

Council Member Markin advised that the property was located in a commercially competitive corridor, and she did not want to see the Town commit to a particular person who had come out of the blue to purchase the property. The public should be made aware that the property was available.

Discussion ensued and Town Manager Elwell suggested that if it was decided to issue an Request for Proposal (RFP), the Town Council should express that interest today stating that the Town definitely had an interest in fully exploring the possibility of either leasing or selling the 14 acres. Mr. Brindell and his client would be informed as the Town went through the process; and then at the end of the initial process, the Town would, on its own terms, publish the RFP requesting interested parties submit an application. One provision should be included in the RFP, stating that the Town Council reserved judgement and the authority; and once all the proposals were received, the Town Council could reject them all and chose to do nothing.

After further discussion, **Council Member Markin made a motion to direct staff to construct a Request for Proposal (RFP) for either the sale or lease of Town-owned property located at 5976 Okeechobee Boulevard, which would include language stating that the Town was not obligated to act on either of those, but would review the RFP. The motion was seconded by President Pro Tem Coleman. On roll call, the motion carried unanimously.**

President Pro Tem Coleman advised that he was much more in favor of the lease option.

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The luncheon recess was taken at 12:27 p.m.

The Town Council meeting of April 9, 2007, was reconvened at 2:10 p.m.

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PUBLIC COMMENT:

Heinz Gundlach, 150 Algoma Road, commented on traffic in Town, specifically South Ocean Boulevard. He presented his handwritten comments and suggestions to the Town Council for their review.

9. Consideration of Residential Area Parking Strategies and Townwide Traffic and Parking Strategies Set Forth in the Traffic and Parking Improvement Plan. [Thomas G. Bradford, Deputy Town Manager]

Deputy Town Manager Thomas Bradford referred to his memorandum to the Mayor and Town Council dated March 30, 2007, and included in the backup material, to present residential area parking strategies and Townwide traffic and parking strategies set forth in the Traffic and Parking Improvement Plan. He reviewed the following items:

**RESIDENTIAL AREA PARKING STRATEGIES**

The strategic enhancements proposed in this section of the Study were:

## *CONTROLLED PARKING STANDARDS*

- **Enforcement**

President Pro Tem Coleman suggested that instead of beginning with the concept and then implementing the plan, a street by street plan should be developed with input from the residents.

In response to President Pro Tem Coleman's suggestion that the word "option" be used and President Kleid's suggestion that the term "proposed options" be used, Mr. Elwell advised that a combination of the two would be used. He commented on the following:

- It was the intent of staff to present the Town Council with a street-by-street plan for their review and action.

- The expected impacts of the criteria to be created by Town staff would be determined on a street-by-street basis.

- The Town would strictly enforce Town parking regulations in order to keep out the intrusions of parking that affect safety, and peace and quiet in the neighborhoods.
- The Town needed to develop the laws in such a way that there was a reasonable expectation that the Town would be able to defend them against challenge.

Mr. Bradford added that one of the tools the Town wanted to review was to determine if there was a legal method to implement temporary parking in areas where parking was restricted. He noted that could be an outlet that would alleviate some of the problems that the Town anticipated.

After further discussion, it was the recommendation that the enforcement of parking regulations should be based on a street-by-street analysis. Staff was directed to return to the Town Council at the June 11, 2007, Town Council Meeting with concepts for residential parking regulations for consideration by the Town Council.

Yvelyne D. Marix, 1570 North Ocean Boulevard, advised that a great deal of this work was already on file in the Town. She noted that former Town Manager George Frost, had the widths of all the streets in Town measured to determine where there would be no parking allowed, or if parking would be on one side or two sides of a street. The determination was made based on the width of the street. The Town enforced those regulations as a matter of safety. It became accepted by the residents because it was a safety matter. She advised that today the issue was construction vehicles, which created safety concerns. She noted that she had made a list of streets about a year ago, which she had turned into the Town Council, of every street from the north end down to Seminole, which did not allow parking because the street was not wide enough for emergency vehicles.

Ann Small , 156 E. Inlet Drive, suggested that the Town hold a forum for the residents of the north end, such as the Town had conducted during the summer and winter months for South County Road, and Worth Avenue, regarding parking and safety issues. She recommended that once input had been received from the residents, staff could present the Town Council with a strong proposal.

Sam Boykin, 285 Jamaica Lane, suggested the formation of a north end citizens' committee. He requested that citizens be allowed to have input, because if laws were enacted without their input, there would be problems.

President Kleid commented that it was understood that this would be a complicated process and how much antagonism the Town would receive. The Town Council would attempt to obtain input from everyone before adopting a program. He advised that the Town Council was presently on a fact finding process to obtain information and determine what options were available to them.

- **Expand Controlled Parking**

In response to Council Member Markin, Mr. Bradford advised that aerial photos would identify spaces that would have residential permit parking only and those that would not.

Walter Ross, 456 Worth Avenue, commented on the 100 block of Brazilian Avenue noting that in order to obtain angled parking and 26 extra parking spaces, 50 trees, and 10' on each side of the road would have to be removed. He stated that he had never seen more than half of the 48 spaces located there occupied.

- **Permit Parking**

- **Traffic Study**

***PARKING REGULATIONS AUDIT***

The strategic enhancements proposed in this section of the Study were:

- **Blocking Street Prohibited**

- **Time Restrictions**

- **<u>Permits for Contractors</u>**

- **<u>Display of Permits</u>**

Mr. Bradford advised that staff believed consideration should be given by the Town Council to the following items:

- Add a tow away provision and/or booting of vehicles for violations of codes related to items appearing below:

    - Disabled parking violations
    - Construction parking violations (Right-of-Way Permit violations)
    - Blocking of a street

- Disabled Parking - Staff believed that Town enforcement should be modified to comply with statutory time limits for handicapped permit holders, which would become more restrictive than in the past, to create turnover in the commercial areas where people used disabled permits.

Mr. Elwell noted that based on today's conversation, the Town Council had accepted the Staff Report and recommendations with the exception of the recommendation regarding Enforcement of Parking Regulations, which should be based on a street-by-street analysis. Staff would return to the Town Council at the June 11, 2007, Town Council Meeting with concepts for Residential Parking Regulations, for their consideration.

President Pro Tem Coleman questioned whether Florida's State requirement regarding enforcement of handicap decals was stricter for Town residents under Town rules than for visitors. He stated that it did not seem fair that the Town was harder on residents than on visitors.

Mr. Elwell responded that staff would review that issue further, but it might be that due to reciprocity between states, nothing could be done if that was the case.

Council Member Markin commented on the mission of the Parking and Traffic Study, which was to develop ways to find additional parking in Town. She stated that the Town should accommodate the residents and protect their right-of-ways, and their safety in their right-of-ways. She advised that she did not believe that, as a mission of the Town Council, they should provide more parking for beach goers or visitors to the point where they would be changing the ambiance of the Town.

In response to Council Member Coniglio, Mr. Elwell explained that in 2003, the Strategic Plan was adopted by the Town Council, which had been developed by the Strategic Planning Board. He advised that he did not know to what degree some of these issues were addressed prior to Mr. Frost's period as Town Manager, which was from the late 60's into the mid-80's, but the findings were the same. The conclusion of the Strategic Planning Board was that this issue needed to be fully examined to determine what strategies would be appropriate to protect the character of the Town. He noted that was the reason for this effort. He explained that staff had tried to make it clear from the beginning that all or any of the options presented did not need to be implemented.

## TOWNWIDE TRAFFIC AND PARKING ISSUES

### *COMPREHENSIVE PLAN AUDIT*

The following Strategic Enhancements were suggested:

- Correct Inadequate Access at Town Recreation Facilities
- Assist School District
- Add Funding Mechanism
- Add a Goal to Public Facilities Element to Finance and Construct needed parking facilities in the schools/Seaview Park area.

Staff concurred with the suggested Strategic Enchancements. The last item should be done in conjunction with the full participation of schools. All Comprehensive Plan changes should be overseen by Planning, Zoning and Building.

### *MUNICIPAL PARKING REGULATION COMPARISON AND OTHER*

The consultant considered the following items in the Plan:

- Parking Enforcement Tools
- Parking Management Structure
- Parking Payment Devices
- Zone Parking

Mr. Bradford advised that staff had no problem implementing these tools to provide for more efficient enforcement. Staff would come back with their recommendations to the Town Council, but needed policy direction as to what the Town Council wanted with regard to parking.

***TRAFFIC CALMING***

Mr. Bradford advised that staff required policy direction. He noted that traffic calming was not part of the Study, but every time there was a discussion on parking, traffic calming came up in one form or another. He advised that staff would like to come back before the Town Council with a traffic calming program that they believed could be used in Palm Beach, and how they thought it should be funded. He commented that staff could come back with a code modification as well for the Town Council to review.

After further discussion, President Kleid advised that the consensus of the Town Council was that traffic calming was a low priority and would only be applied when circumstances called for a standard policy.

President Kleid thanked Mr. Bradford for his comprehensive report.

10. Staff Report Regarding Hybrid Vehicles.
[H. Paul Brazil, Director of Public Works ]

Director of Public Works Paul Brazil referred to his memorandum to the Mayor and Town Council dated April 3, 2007, and included in the backup material, to provide a report regarding alternative vehicles. He explained that some months ago the Town Council directed staff to investigate the use of alternate vehicles to replace some of the smaller fleet vehicles to make the Town less dependent on foreign oil, less emissions, less pollution as well as provide some cost savings to the Town. He commented on the following alternatives:

- Hybrid Vehicles
- Flexible Fuel
- Small Diesel Engine Vehicles

Mr. Brazil explained that small diesel engine vehicles had not been considered in the past because of previous Town Council concerns over buying foreign vehicles. He noted that the line had been blurred between what was really American made, and noted, as an example, that Ford Rangers were made by Mazda. He commented that if the Town Council was not as concerned with what was perceived to be American made, it might give the Town more flexibility to buy smaller diesels, which could be expected to get more than 50 miles per gallon. He noted that a Ford Ranger would get 10 to 15 miles per gallon depending on the age of the vehicle.

Mr. Brazil advised that staff was requesting direction from the Town Council with regard to the foreign issue, and that the Town Council should consider implementing a formal plan to integrate some form of alternative vehicles into the Town's vehicle replacement program, which would be included in the FY 08 Budget.

Council Member Brooks discussed replacement of vehicles on the depreciation schedule. He suggested that they arbitrarily take a vehicle that was due for replacement on the depreciation schedule and choose an alternative vehicle for replacement, either hybrid or diesel, in order to build an empirical case and database, before looking to replace the entire fleet.

Mr. Brazil advised that the transition would be made through attrition, and suggested that every time a transition was made, staff would learn more by following the history of that vehicle.

In response to Mr. Brooks, Mr. Brazil advised that it would be budgeted in the FY 08 Budget.

After further discussion, **President Pro Tem Coleman advised that his motion would direct staff to use diesel engine vehicles as an alternative.**

In response to Council Member Brooks, Mr. Brazil noted that there were two vehicles that were scheduled to be replaced that were relevant to this conversation. He advised that vehicles were replaced every ten years.

**Council Member Brooks seconded the motion.**

Mr. Elwell clarified the motion, noting that the direction to staff was not to be concerned over the foreign label issue, the maker of the vehicle, but to employ the Town's current policy of purchasing the most cost effective vehicles, employ that specifically to the new diesel technology, and try to buy diesels in order to save fuel. He explained that it was basically to merge the Town's cost-effective policy and a new conscientiousness of fuel efficiency. He advised that staff was not proposing to the Town Council the purchase of hybrid vehicles.

**On roll call, the motion directing staff to merge cost effectiveness with a new consciousness of fuel efficiency through the use of diesel engine vehicles, putting together a program to be presented with the FY 08 Budget carried unanimously.**

11. Adoption of Top Five Townwide Goals for FY 2008
[Peter B. Elwell, Town Manager]

Town Manager Peter Elwell referred to his memorandum to the Mayor and Town Council dated April 5, 2007, and included in the backup material, to identify and review the following five top priority Townwide goals for FY 2008:

1. Construct Reach 8 Beach Restoration Project.
2. Commence construction of upgraded sand transfer plant at Lake Worth Inlet.
3. Hold Undergrounding Project referendum in February 2008 and lead up to that with a broad and detailed public information campaign.
4. Commence Town Hall renovations and finalize plans to relocate the Human Resources Department and the Office of Information Systems to West Palm Beach.
5. Continue to improve the breadth and intensity of code enforcement.

**Motion made by President Pro Tem Coleman, seconded by Council Member Brooks, to adopt the top five priority Townwide goals for FY 2008, as enumerated above. On roll call, the motion carried unanimously.**

12. Authorization to Proceed with Consultant Design and Construction Services for Human Resources and Information Systems (HR/IS) Building at 701 North Dixie Highway Site in West Palm Beach. [H. Paul Brazil, Director of Public Works]

Council Member Gail Coniglio requested that the Town Council reconsider last month's decision to relocate Human Resources and Information Systems (HR/IS) to 701 North Dixie Highway before allocating $148,000 for the building design at that site. She cited the following reasons for relocating to the Public Works site:

- The cost of the project at the Public Works site was $1,460,000 versus the estimated cost at the police garage of $1,660,000, an increase of $200,000.
- The Public Works parcel was located in an industrial park, and was less valuable than the 701 North Dixie property, which was appraised in February of 2005 at $2,250,000.
- Both properties were Town-owned and would accommodate a two-story building that would fill the needs of both HR/IS.
- The Public Works location would allow for all off Island functions at one site.

President Kleid advised that he suggested along with Ms. Coniglio to go that particular route - relocating to the Public Works site. He stated that the Town Council had gone over and over this many times, and it was at the point, where they were rehashing the same business.

President Pro Tem Coleman advised that he would support Ms. Coniglio, but first he wanted Mr. Elwell to refresh his memory as to any preference for the Public Works site.

Mr. Elwell advised that he did not have a preference. He noted that a minus for relocating to the Public Works site was that some of the current functions would be displaced. The Town would have to provide for those functions on an adjacent Town-owned lot. Parking would be displaced into an area that was now used for storage, and storage would be displaced elsewhere.

Council Member Brooks commented that, as the senior member of this Town Council, he had been involved in five years of discussion on this issue. He requested that the Town Council make a decision. He asked how the Town Council could face the citizens to inform them that the options for relocating HR/IS were still being studied. He noted that the motion to relocate to the police garage carried by a narrow consensus. The Town should move on with this project and get it done.

Council Member Markin stated that the Town Council was aware of what her choice was in the first place. She believed that the Town Council had an obligation to the residents and the taxpayers to make sure that whatever solution was decided on, it would not, exorbitantly, cost more than remaining in Town Hall, which would have been more efficient in the first place.

Jere Zenko, 232 Tangier Avenue, commented that the land at 701 North Dixie had the potential for extraordinary value and for the Town to place a public building on it was not wise or prudent. It would not serve the them honorably or well.

**Motion made by Council Member Coniglio to authorize the relocation of the Human Resources Department and Office of Information Systems to the current Public Works Property site, rather than the site at 701 North Dixie Highway. President Pro Tem Coleman seconded the motion and amended the motion to include authorizing the money for development.**

In response to Council Member Markin , Mr. Elwell commented that there was a zoning issue relative to the Public Works site that did not exist at the other site, which was related to the fact that Public Works was located in an industrial zone rather than an office zone. The Town would address that issue by placing only permitted functions in the building. HR would be placed inside the existing Public Works building, and some Public Works functions would come out and be placed in the new building with IS.

Council Member Coniglio apologized to Mr. Brooks noting that he did have a long history in this battle, but no money had been spent from the time the Town Council had made the decision to today, and she wanted the Town to be as fiscally responsible as they could be. She explained that this was her last opportunity to request the Town Council to reconsider their decision. She addressed Mr. Elwell, asking if he would be unhappy with the Public Works choice or would that be a good choice for the Town and its functions?

Mr. Elwell responded that he would not be unhappy, and that site would work perfectly well and it was cheaper.

**Council Member Coniglio made a motion to authorize the location of HR/IS at the building site of Public Works and allocate the funds that were needed for that building design to go forward as of today.**

Mr. Elwell quantified that $125,000 would need to be authorized today in order for staff to get started on the project.

**Council Member Coniglio amended the motion to authorize funding in the amount of $125,000 for planning and design related to relocation of the Human Resources Department and Office of Information Systems to the current Public Works property site, rather than the site at 701 North Dixie Highway. The motion was seconded by President Pro Tem Coleman. On roll call, the motion carried 3/2, with Council Member Coniglio, President Pro Tem Coleman, and President Kleid casting affirmative votes; Council Member Brooks and Council Member Markin casting dissenting votes.**

XI. ANY OTHER MATTERS

There were none.

XII. ADJOURNMENT

There being no further business, the Special Town Council Meeting of April 9, 2007, was adjourned at 4:00 P.M.

APPROVED:

Richard M. Kleid
Town Council President

ATTEST:

Susan A. Eichhorn
Town Clerk