TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL MEETING
HELD ON TUESDAY, APRIL 8, 2008

I. CALL TO ORDER AND ROLL CALL

The Regular Town Council Meeting was called to order on Tuesday, April 8, 2008, 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 Gail Coniglio
Council Member Denis P. Coleman
Council Member Susan Markin
Council Member David Rosow

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 - Fire-Rescue Chief
Kirk Blouin, Administrative Captain, Police
Jay Boodheshwar - Recreation Director
James Bowser - Town Engineer
Paul Brazil - Public Works Director
Eric Brown - Public Works Assistant Director
Paul Castro - Zoning Administrator
Veronica Close - Planning, Zoning and Building Assistant Director
William Crouse - Human Resources Director
Jane Day - Historical Preservation Consultant
Tim Frank - Planning Administrator

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Fred Hess - Police Captain
Charles Langley - Public Works Assistant Director
John Page - Planning, Zoning and Building Director
Michael Reiter - Police Chief
Jane Struder - Finance Director
Jeff Taylor - Acting Building Official
Susan Eichhorn - Town Clerk

II. INVOCATION AND PLEDGE OF ALLEGIANCE

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

III. PRESENTATIONS

A. Recognition of Elizabeth Murphy, Planning and Zoning Commission, From February 2003 Through February 2008.

Mayor McDonald gratefully recognized Elizabeth Murphy for her service on the Planning and Zoning Commission, from February 2003 through February 2008.

B. Recognition of Nikita Zukov, Architectural Commission, From March 2001 Through March 2008.

Mayor McDonald gratefully recognized Nikita Zukov for his service on the Architectural Commission, from March 2001 through March 2008.

C. Recognition of Richard A. Raffo, Code Enforcement Board, From April 2002 Through April 2008.

Mr. Raffo was not present.

D. Recognition of Carl Cramer, Lifeguard, for 20 Years of Town Service.

Mayor McDonald gratefully recognized Carl Cramer, Lifeguard, for his years of service.

IV. COMMENTS OF MAYOR JACK McDONALD

There were none.

V. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

Council Member Coleman:
Commented on the length of Town Council Meetings, noting that yesterday's meeting had ended at 8:30 p.m., and he believed it was unjust to those persons presenting items that came later on in the agenda. He noted that there were two items today that the Town Council was already well-versed on: Royal Poinciana Plaza and PB Cats, and that a total recap of those issues was unnecessary. The Town Council did not need to hear from a lot of people saying the same thing. There should be a separation of continued restatement of facts from new information. He advised that he was not trying to short circuit public involvement, but the Town Council needed to be much more aggressive in managing the way the meetings were being conducted.

President Pro Tem Coniglio:
Publicly thanked the people in Palm Beach that have done so much for the beautification of the Town. She noted that the Preservation Foundation had generously offered to refurbish Memorial Fountain; the Garden Club had generously offered to overtake specimen tree protection; and the cooperation of the LaPuerta neighbors to beautify that beach access. It was a testament to the citizens of the Town of Palm Beach and what they contribute to the future and spirit of the community.

VI. COMMUNICATIONS FROM CITIZENS- 3 MINUTE LIMIT PLEASE

(Another opportunity for communications from citizens will be offered immediately after the lunch break.) *Morning and afternoon public comments are included below.*

Daniel McDonnell, 2784 South Ocean Boulevard, on behalf of Harold Epstein, 3200 South Ocean Boulevard, noted that Mr. Epstein had previously sent letters to the Town Council relative to the need for two additional tennis courts at Phipps Ocean Park. He presented to the Town Clerk estimates Mr. Epstein had obtained, on his own, from the contractor who had built five of the six tennis courts at Phipps Ocean Park. The estimates came in under $200,000 including lighting for those two courts.

David Leavitt, 1480 Via Manana, requested clarification on an earlier motion relative to PB Cats and that there would not be Town Council representation on the Board of Palm

Beach Cats. *(Council Member Markin responded that she would volunteer to withdraw as an advisor, noting that she had never been a Board member.)*

Ms. McNamara commented on the decision of the Town Council to delay landmarking Royal Poinciana Plaza.

Ellen Howe, representative for a group from Phipps Ocean Tennis, commented on the need for an additional two courts at Phipps Ocean Tennis.

Jere Zenko, 232 Tangier Avenue, commented on the following:

- Town surveys.
- Mr. Brazil's presentation regarding plantings in side yards/side yard dimensions.
- Vacancy savings report.
- Fines levied to the Brazilian Court.

John Ripley, President of the Preservation Foundation , commented on the decision made by the Town Council to limit comments on the Treasure Coast Regional Planning Council's plan in two weeks. He advised that the Preservation Foundation was working on a studio project with the University of Miami School of Architecture, producing an enormous amount of results in a short amount of time. He noted that they would not be able to share the results within the next two weeks and requested the opportunity to do so in May. *(President Kleid responded that the Town Council could accommodate the Preservation Foundation's request for a short period at the May 12, 2008, Town Council Meeting.)*

Mr. Ripley commented on the Public Hearing on landmarking Royal Poinciana Plaza and providing an opportunity to those who wish to be heard as well as the deferral of the landmark designation.

Allen Wyett, 1145 North Lake Way, commented on the new parking system for Worth Avenue, noting that one hour parking did not promote business. He suggested that a Worth Avenue study be conducted to make sure the Town did not lose the vitality of Worth Avenue. It was presently in great danger, due to the economy and the changing nature of retail.

Kathy Duemler questioned whether two weeks to assimilate the Charrette was enough time for the Town and the residents, noting that she believed more than two weeks was necessary. *(President Kleid responded that the Charrette had begun a long time ago, there had been three presentations from Treasure Coast Regional Planning Council, the* *public has been invited to attend those sessions, and he believed that if people were interested, it could be done within two weeks).*

VII. APPROVAL OF AGENDA

The following modifications were made to the Agenda:

DEFERRED Item X.A., Architectural Commission Annual Report, to the May 12, 2008, Town Council Meeting.

ADD Item XI.B.10., Local Planning Agency for the Comprehensive Plan.

Motion made by Council Member Coleman, seconded by President Pro Tem Coniglio to approve the Agenda as amended. On roll call, the motion carried unanimously.

VIII. CONSENT AGENDA

A. MINUTES: MARCH 10, 2008
APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING

B. MINUTES: MARCH 11, 2008
APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

C. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL COMMISSION AT ITS MEETING ON MARCH 26, 2008.

D. RESOLUTIONS

1. RESOLUTION NO. 27-08 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Emergency Medical Fee Schedule to $450 for BLS Transports, $470 for ALS 1 Transports, $590 for ALS 2 Transports and $9 per Mile for Mileage; Providing for an Effective.
[William Amador, Fire-Rescue Chief]

2. RESOLUTION NO. 28-08 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the per

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Hour Fee for Special Assignment Overtime as Deployed by the Fire-Rescue Department. [William Amador, Fire-Rescue Chief]

3. RESOLUTION NO. 29-08 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving an Entry and Testing Agreement Between the Town and T-Mobile South LLC and Authorizing the Town Manager to Execute the Same on Behalf of the Town.
[Thomas G. Bradford, Deputy Town Manager]

E. OTHER

1. Town Attorney's Report Regarding Qualifying Period for Elections and Other Potential Charter Changes.
[John C. Randolph, Town Attorney]

2. Formation of Selection Committees.
[H. Paul Brazil, Director of Public Works]

a. Committee to Select a Consultant to Advise the Town on Water Supply Issues.
[H. Paul Brazil, Director of Public Works]

b. Committee to Select a Consultant for Biological Monitoring of Offshore Hardbottom, Reefs, and Artificial Reefs. [H. Paul Brazil, Director of Public Works]

c. Committee to Select a Consultant for the Sand Transfer Plant Upgrade Project.
[H. Paul Brazil, Director of Public Works]

d. Committee to Select General Coastal Consultants.
[H. Paul Brazil, Director of Public Works]

e. Committee to Select Traffic Engineering Consultants.
[H. Paul Brazil, Director of Public Works]

f. Committee to Select Electrical and Mechanical Engineering Consultants.
[H. Paul Brazil, Director of Public Works]

3. Approval of Selected Contractors for General Utility Projects.
[H. Paul Brazil, Director of Public Works]

4. Authorization to Purchase Hydraulic Pump for Stormwater Pump Station.
[H. Paul Brazil, Director of Public Works]

5. Authorization for Annual Beach and Offshore Survey.
[H. Paul Brazil, Director of Public Works]

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

IX. PUBLIC HEARING

A. RESOLUTION NO. 23-08 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 the Royal Poinciana Plaza 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 No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach.
[John S. Page, Director of Planning, Zoning, and Building]

Planning Administrator Tim Frank, as Project Coordinator for the Landmarks Preservation Commission, presented Resolution No. 23-08, noting that there was proof of publication and the necessary documentation.

Mr. Frank advised that the architect for the subject property, Royal Poinciana Plaza, was John L. Volk. The Landmarks Preservation Commission had studied the property and found that the necessary criteria had been met in order to designate the property as a Town of Palm Beach landmark.

Historical Preservation Consultant Jane Day presented the Designation Report regarding Royal Poinciana Plaza, noting that this was a voluntary designation.

Ms. Day responded to questions and concerns of members of the Town Council.

Gene Pandula, Architect and Chairman of the Town of Palm Beach Landmarks Preservation Commission commented on the landmark designation; the intentions of the

Commission; and the possibilities, which dealt with the juncture between the principles and practices of historical preservation. He advised that the decision today, theoretically, should be made on the four criteria, noting that use and profitability were not part of the conversation.

Motion made by President Pro Tem Coniglio, seconded by Council Member Coleman to accept the Designation Report, as part of the record. President Kleid declared that the motion carried through the consensus of the Town Council.

Brian Kosoy, resident of the Town and managing partner of the local group that had just assumed control of the subject property, Royal Poinciana Plaza, commented as follows:

- Royal Poinciana Plaza was a broken property because of ambivalent ownership and lack of professional management.
- Royal Poinciana Plaza represented an opportunity to fix and revitalize an important property in his own community.
- Royal Poinciana Plaza could with the help of the Town Council, be brought back to life and become a source of community pride.
- The Group hoped to end the acrimonious relationship between the Town and property ownership, requesting the Town Council put off the decision to landmark the property for six months to allow them to work with and talk to all interest parties, neighbors, and community leaders.
- The Group was not opposed to landmarking Royal Poinciana Plaza, but believed it was a tool that should be used only after a great deal of thought and with a viable plan in place for the structures and their future.
- The Group requested a chance to give the community what it had heard it wanted in meetings and through the Charrette process: increased greenspace, a pedestrian walk through the two parallel buildings, waterfront dining, and perhaps, a viable theater.

Mr. Kosoy thanked the Town Council for their time and consideration, and provided pictures of the exterior of the property.

Charles Siemon addressed the Mayor and Town Council, on behalf of the new ownership of Royal Poinciana Plaza, advising that he was a professional planner and land use lawyer:

- The difficulty of large scale historical preservation.
- The Group cared about the community and not just the economics of redevelopment, and requested the Town Council allow them time, unfettered by any prejudgements of what if any of this should be landmarked.
- The Group was requesting six months to bring in the best designers, to work on a plan, to present that plan.

- The legal consequences in the granting of landmark designations.
- The Group was willing, on the record, to absolutely guarantee, in anyway the Town Council wanted, that there would be no prejudice to anybody's interest if this delay was granted.
- The Town Council had every right, every authority, and every expectation to landmark the property, if the Group did not honor their representation to seek a win/win solution; he strongly urged the Town Council to grant a six-month delay placing all of the pressure and burden on the Group.

Lee Munder, resident and partner of the Group, presented a brief history of his background and commented as follows:

- The Town Council should delay the landmarking of the Royal Poinciana Plaza until the Fall, in order that his team along with members of the Town, could offer a comprehensive plan for its redevelopment. He noted there was no downside to granting their request, and the pressure was on them to deliver to the Town and show their intentions.
- The Group would like to offer that as a gesture of good will to the Town Council and all of their neighbors, effective immediately, they were instructing their counsel to extinguish legal procedures in the Appeal by Poinciana Management, Inc., as appellate against the Town of Palm Beach relative to the 1979 Agreement. The Group inherited standing from Sidney Spiegel.

Mr. Munder thanked the Town Council for their consideration, noting that now was the time to cooperate and not litigate and hoped the gesture of good will would be met in kind.

Attorney Siemon advised that he would have a copy of the recorded lease immediately faxed to Town Hall and read a passage from the lease. He noted that it was not just a lease, but it was also a power of attorney and a power of substitution. He represented to the Town Council, as an officer of the Court of the State, that was the language that was in the lease, which gave the Group the right to have standing before them.

Mr. Kosoy, Mr. Siemon, and Mr. Munder responded to questions and concerns of the members of the Town Council.

Discussion ensued relative to standing, and Town Attorney Randolph advised that landmarking this property would provide another layer of standing for people to object to. He noted that anyone could appeal a decision whether or not the property was landmarked in some format or another.

Public Comments:

The following people commented in support of landmarking Royal Poinciana Plaza:

- John Mashek, on behalf of the Preservation Foundation
- Patrick Flynn, on behalf of the Palm Beach Theater Guild
- Arnold Hoffman, 150 Bradley Place
- Douglas Hulse, Palm Beach resident and Treasurer of Palm Beach Theater Guild
- Mrs. McNamara
- Deborah Pollack, 584 Island Drive
- John Ripley, President of the Preservation Foundation
- Vivian Highberg
- John Grosskoph, General Manager of Palm Beach Towers
- Brian Reeves, 2840 South Ocean Boulevard
- Lori Volk, Vice Chairman of the John R. Volk Foundation
- Rachel Lorentzen
- Janet Gordon, resident of the Town

The following people commented in support of delaying the landmarking of Royal Poinciana Plaza:

- Kathryn Grace Jordan, 250 Bradley Place
- Jeff Smith, Architect and resident of the Town

Discussion ensued, and Town Attorney Randolph advised that it was a public hearing with limitations on subject matter and time, but everyone had the right to be heard. The consensus of the Town Council was to allow further public comment.

- Christopher Kellogg, 475 North County Road, corrected the record, noting that the facade of the theater could be changed. He presented to the Town Clerk a magazine article "John Volk's Poinciana Playhouse Leaves Lasting Legacy in Palm Beach, published in the Palm Beach County Cultural Council's "Art & Culture."

Mr. Kosoy provided copies of the recorded Memorandum of Lease to Town Attorney Randolph and Town Manager Elwell.

Motion made by President Pro Tem Coniglio, seconded by Council Member Coleman, to redirect the motion to accept the Royal Poinciana Landmarking Draft into the record. On roll call, the motion carried unanimously.

Motion made by Council Member Rosow, seconded by President Pro Tem Coniglio, to adopt Resolution No. 23-08 designating the property at 340 Royal Poinciana Way as a landmark of the Town of Palm Beach on the basis it meets the criteria identified in the Designation Report of Section 54-161 of the Town of Palm Beach Code and the Landmarks Preservation Ordinance No. 2-84; and inserted into Resolution No. 23-08 the comments of the Landmarks Preservation Chairman and Consultant concerning the elements of the structures as integral to this designation.

After discussion, President Kleid, Council Member Coleman, and Council Member Markin spoke in support of landmarking Royal Poinciana Plaza but believed that there should be a six-month delay to allow the developers to bring back a plan for Town Council review; President Pro Tem Coniglio commented that if the Town Council landmarked today, it would only be fair to provide the opportunity to plan, economically and feasibly, to the property owners; Council Member Rosow urged landmarking of Royal Poinciana Plaza.

Town Attorney Randolph read Resolution No. 23-08 by title, as printed above.

Discussion ensued and Town Attorney Randolph clarified that if a motion was made to landmark the Royal Poinciana Plaza pursuant to Resolution No. 23-08 and the motion failed, it did not necessarily mean it was considered by the Town Council for landmarking and had not been landmarked; particularly, if that was followed up with a motion to postpone consideration of landmarking until November.

Council Member Rosow withdrew his motion to adopt Resolution No. 23-08 and President Pro Tem Coniglio withdrew her second to the motion.

Motion made by Council Member Markin to postpone the landmarking hearing for Royal Poinciana Plaza until the November 2008, Town Council Meeting. Prior to that time, the Town Council would expect to get a full development plan from the current property owners; the property owners would provide the Town with a security statement, or deposit, or bond to ensure that nothing happened to the Royal Poinciana Plaza in the interim period; and the property owner would dismiss the litigation with prejudice. Council Member Coleman seconded the motion.

For the record, Attorney Siemon stated the following:

- The Appeal would immediately be dropped with prejudice and with no conditions.

- The property would be maintained in the absolute status quo that it was today until the November 2008, Town Council Meeting, if this was granted.

- The status quo of operating that facility would include maintaining the air conditioning at a temperature that preserves the interior of the theater.

- The 90-day requirement would be waived, per the request of Attorney Siemon.

- The lawsuit, which was currently held in abeyance relating to the landmark procedures, would not be pursued during this period of time.

- The Group would not consider anything heard here to be estoppel against this Town Council hearing a landmarking proposal in the future.

Mr. Pandula responded to questions and concerns of the Mayor and Town Council as did Town Attorney Randolph.

After further discussion, Town Manager Elwell clarified the motion made by Council Member Markin as follows:

Motion made by Council Member Markin was to continue the Public Hearing of Resolution No. 23-08 until the November 2008, Town Council Meeting; the November agenda will include a public presentation of the redevelopment plan for the Royal Poinciana Plaza; at that time, the Town Council will consider that and everything heard today (including the conditions discussed) to take action regarding the question of landmarking. The property owners would provide the Town with a security statement, or deposit, or bond to ensure that nothing happened to the Royal Poinciana Plaza in the interim period; and the property owner would dismiss the litigation with prejudice. The motion was seconded by Council Member Coleman.

- **The Appeal would immediately be dropped with prejudice and with no conditions.**

- **The property would be maintained in the absolute status quo that it was today until the November 2008, Town Council Meeting, if this was granted.**

- **The status quo of operating that facility would include maintaining the air conditioning at a temperature that preserves the interior of the theater.**

- **The 90-day requirement would be waived.**

- **The lawsuit, which was currently held in abeyance relating to the landmark procedures, would not be pursued during this period of time.**

- **The Group would not consider anything heard here to be estoppel against this Town Council hearing a landmarking proposal in the future.**

- **Council Member Markin reiterated the request that the Group maintain a website related to the project.**

On roll call, the motion carried 4/1 with Council Member Rosow dissenting.

X. BOARD/COMMISSION ANNUAL REPORT

A. Architectural Commission. [Morgan Dix Wheelock, Chair and John S. Page, Director of Planning, Zoning, and Building]

Deferred Item X.A., Architectural Commission Annual Report, to the May 12, 2008, Town Council Meeting.

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The luncheon recess was taken at 12:10 p.m.
The Town Council Meeting of April 8, 2008, was reconvened at 1:40 p.m.

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XI. REGULAR AGENDA

A. Old Business

1. Further Review of Feral Cat Situation.
[Sarah E. Hannah, Assistant Town Manager]

Assistant Town Manager Sarah Hannah referred to her memorandum to the Mayor and Town Council dated March 31, 2008, and included in the backup material, to provide a feral cat management update.

Brian LaRue, Executive Director of PB Cats, Inc., addressed the Mayor and Town Council and provided a quarterly report.

Jan Corbin, on behalf of Island Cats, addressed the Mayor and Town Council in opposition to the PB Cats, Inc. Program. She urged the present leaders of PB Cats, Inc. to resign immediately, and that the Town Council accept the proposal before them to replace PB Cats with Island Cats.

Alex Hufty Anlyan, 154 Atlantic Avenue, on behalf of Island Cats, requested that the Town no longer subsidize PB Cats, Inc. Program in order to get the program back on track. She requested that the Town provide her the opportunity to raise money for the feral cat program, as they had allowed her to do for the Recreation Department.

Sara Davison, Executive Director of the Animal Rescue Fund of the Hamptons in Wainscott, New York addressed the Mayor and Town Council. She commented that the goal of any feral cat program should be a permanent, humane reduction of feral cat populations, noting that any program would be sabotaged without community support. She recommended, in order to avoid that, the community be brought in and a truce be declared in order to get on with the very important work of trapping.

After discussion relative to the inability of PB Cats, Inc. and Island Cats to arrive at an amicable agreement, **Council Member Rosow made a motion to withdraw Town funding to any feral cat organization for one year; the Town amend ordinances to allow anyone to feed, neuter, and trap the cats; and requested documented and certified reports for the Town Council to revisit in one year. Motion died for lack of a second.**

Discussion ensued and **President Pro Tem Coniglio made a motion to continue to sanction PB Cats, Inc., with the requirement that there will be two members included on the Board from Island Cats; to work in a cooperative effort, even though PB Cats, Inc. was working very hard and was making strides in obtaining funds; and that the Town Council would no longer participate in that direction.**

After discussion, **President Pro Tem Coniglio amended her motion, seconded by Council Member Rosow, to include that there would be no Town Council involvement in any further discussion between PB Cats, Inc. and Island Cats for another year.**

President Pro Tem Coniglio clarified that the motion was not to take the funding away from PB Cats, Inc., but in a year, the Town Council would discuss whether or not they would go forward and continue funding them.

Discussion ensued, and Town Manager Elwell explained that the money provided to PB Cats, Inc. by the Town was given to them in installments, and the two installments had been made for this year. The next payment would be made after October 1, 2008, if the Town Council

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authorized continued funding in the next year's budget and that there was no authorization, at this point, for more money for Palm Beach Cats, Inc.

President Pro Tem Coniglio clarified her motion as follows:

Palm Beach Cats, Inc. would continue to be sanctioned by the Town of Palm Beach, with the requirement that there will be two members included on the Board from Island Cats; The motion does not include a request for additional funding from the Town of Palm Beach; and there would be no Town Council involvement in any further discussion between PB Cats, Inc. and Island Cats for another year. The motion was seconded by Council Member Rosow. On roll call, the motion carried unanimously.

Town Manager Elwell advised that a related matter for staff was enforcement of the Town Code. Code Enforcement should respond on a complaint basis for this particular purpose.

After discussion, it was the consensus of the Town Council that Code Enforcement would actively participate in enforcing the Code related to these matters in the same manner as all the other Codes were enforced.

2. Update on Proposed Improvements at Lake Drive Park.
[Jay Boodheshwar, Director of Recreation]

Director of Recreation Jay Boodheshwar referred to his memorandum to the Mayor and Town Council dated March 27, 2008, and included in the backup material, to provide an update on the proposed improvements at Lake Drive Park.

Mr. Boodheshwar advised that staff met with representatives from the Preservation Foundation, Civic Association, Garden Club, and Royal Park Home Owner's Association (RPHOA), as directed by the Town Council at the March 11, 2008, Regular Town Council Meeting, to discuss the following issues:

- Hedge Installation
- Illyinsky Memorial Relocation
- Parking Kiosk Installation
- Reich Donation Project

Mr. Boodheshwar advised that the following individuals were identified as liaisons for their organizations, and that the group would stay engaged with periodic meetings to discuss long term plans for the park:

Town of Palm Beach:	Jay Boodheshwar
Preservation Foundation:	John Ripley
Civic Association:	Isabel Furlaud
Royal Park HOA:	Bob Schofield
Garden Club:	Sharon Stewart

Motion made by President Pro Tem Coniglio, seconded by Council Member Coleman, to approve the modified hedge installation plan. On roll call, the motion carried unanimously.

3. Revised Plan for Improvements at LaPuerta Way Beach Access. [H. Paul Brazil, Director of Public Works]

Director of Public Works Paul Brazil referred to his memorandum to the Mayor and Town Council dated March 28, 2008, and included in the backup material, to report on the revised plan for improvements at the LaPuerta Way beach access.

Motion made by Council Member Rosow, seconded by President Pro Tem Coniglio, to approve the modified plan for improvements at the LaPuerta Way beach access. On roll call, the motion carried unanimously.

Council Member Markin requested that a notification process is instituted to inform adjacent neighbors regarding these types of projects.

4. Town Hall Renovation Project

a. Authorization for Financing.
[Jane Struder, Director of Finance]

Finance Director Jane Struder referred to her memorandum to the Mayor and Town Council dated March 28, 2008, and included in the backup material, to discuss the Town Hall Renovation Project. She advised that additional backup had been provided to the Town Council last night regarding bank qualified debt. She introduced Michael Hole of Citigroup Global Markets who would discuss the available options for financing Town Hall renovations.

Michael Hole, Citigroup Global Markets, referred to his memorandum, included in the backup, to report on the current market environment and options available for financing.

After discussion, **President Pro Tem Coniglio made a motion, seconded by Council Member Markin, to authorize the bank loan alternative method of financing.**

Discussion ensued, and at the request of President Kleid, **President Pro Tem Coniglio rephrased her motion to authorize the bank loan alternative as the means of financing. The motion was seconded by Council Member Markin.**

Mr. Hole responded to questions and concerns of members of the Town Council. He clarified that if the Town Council was to vote on banks versus bonds, they would be voting to authorize bringing this back in June as a bank loan, move ahead, and borrow that money. If the Town Council did not want to borrow the money now, nothing would be done, and it would be set up as a reimbursement.

Town Manager urged the Town Council to consider authorizing this today. Staff would come back to the Town Council, prepared for the Town Council to give final approval for this in June, primarily for the liquidity issue that Mr. Hole discussed.

The consensus of the Town Council was that this item would be revisited, based on rates, in June.

On roll call, the motion carried unanimously.

b. Pre-Construction Services Agreement with Hedrick Brothers Construction.
[H. Paul Brazil, Director of Public Works]

Director of Public Works Paul Brazil referred to his memorandum to the Mayor and Town Council dated March 26, 2008, and included in the backup material, to review the three phases of the Pre-Construction Services Agreement with Hedrick Brothers. Staff recommended that the Town Council authorize the Town Manager to enter into the agreement in the amount of $88,157 from the Town Facilities Fund to accomplish necessary plan review, site investigation and cost estimating.

Motion made by President Pro Tem Coniglio, seconded by Council Member Markin, to authorize the Town Manager to enter into a Pre-Construction Services Agreement with Hedrick Brothers Construction in the amount of $88,157. The expenditure would be made from the Town Facilities Fund. On roll call, the motion carried unanimously.

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5. Status Report on Townwide Hiring Freeze.
[Peter B. Elwell, Town Manager]

Town Manager Elwell referred to his memorandum to the Mayor and Town Council dated April 1, 2008, and included in the backup material, providing a monthly status report on the Town hiring freeze. He recommended this as the final monthly status report on the Townwide hiring freeze presented in this setting.

Town Manager Elwell advised that even with the freeze there would be specific circumstances related to specific positions, noting that presently there were two such vacant positions in the Public Works Department. He advised that the rainy season was coming up, and a unit of Public Works, directly responsible for the drainage system, had been four people short for an extended period of time due to the freeze. He explained that Mr. Brazil had made a request of him yesterday to hire two people to fill in two of those four vacant positions, and he intended to authorize that due to the essential nature of the maintenance and operation of the drainage system.

Town Manager Elwell responded to questions and concerns of the members of the Town Council.

William Diamond, 220 Wells Road, questioned why the Town did not hire those two people just for the rainy season on a contractual basis.

Town Manager Elwell responded that the Town was not excessively staffed in that area, having only added a couple of people while having added multiple pump stations. He advised that, in the past couple of fiscal years, staff had thoroughly reviewed the staffing for that area, and in fact, deferred hiring additional personnel for that function. The Public Works Department now found themselves short four people and unable to properly maintain and operate the system as the rainy season approached.

Director of Public Works Paul Brazil advised that these positions were very specialized and were not obtainable from the private sector.

It was the consensus of the Town Council to accept the Status Report on Townwide Hiring Freeze as presented.

6. Pending Matters from the Comprehensive Review of Town Operations.

a. Telecommunications Legal Expenditures.
[Thomas G. Bradford, Deputy Town Manager]

Deputy Town Manager Thomas Bradford referred to his memorandum to the Mayor and Town Council dated March 21, 2008, and included in the backup material, to provide a report on telecommunications legal expenditures for the last three fiscal years. He noted that budget allocation would be considered during the FT09 budget review.

The Town Council accepted the report as presented by Mr. Bradford.

b. Early Retirement Incentive Program and/or Employee Severance Plan.
[William C. Crouse, Director of Human Resources]

Director of Human Resources William Crouse referred to his memorandum to the Mayor and Town Council dated April 1, 2008, and included in the backup material, to provide a report on two options for an Early Retirement/Buy-out Incentive Program to bring about a savings in salaries and benefits.

Mr. Crouse responded to the questions and concerns of Town Council Member Rosow.

Motion made by Council Member Rosow, seconded by Council Member Coleman, to approve Option 1: Early Retirement Incentive Program at an incentive level of 60% of the employee's base annual salary paid out over a 2-year period; and approval of a separate incentive program option for drop participants. On roll call, the motion carried unanimously.

c. Review of Sick Leave Policy and Short Term Disability Alternative.
[William C. Crouse, Director of Human Resources]

Director of Human Resources William Crouse referred to his memorandum to the Mayor and Town Council dated April 3, 2008, and included in the backup material, to provide a report on the coordination of a Revised Sick Leave Policy with Short Term Disability Policy.

Motion made by Council Member Markin, seconded by Council Member Rosow, to approve retaining the current Sick Leave Policy, and to cap the sick leave for new employees at 1,040 hours effective April 9, 2008. On roll call, the motion carried unanimously.

d. Extraordinary Longevity.
[William C. Crouse, Director of Human Resources]

Director of Human Resources William Crouse referred to his memorandum to the Mayor and Town Council dated April 3, 2008, and included in the backup material, to provide a report on extraordinary longevity.

Motion made by President Pro Tem Coniglio, seconded by Council Member Markin, to retain extraordinary longevity. On roll call, the motion carried unanimously.

In response to Council Member Markin, Mr. Crouse advised that he would provide a report regarding the amount of overtime within each department, and whether it was by senior employees or younger employees, including information on how that would affect the amount of money paid into pensions.

e. Responses to RFP for a Consultant to Assist the Town Council in Reviewing the Town's Retirement System. [William C. Crouse, Director of Human Resources]

Director of Human Resources William Crouse recognized Mr. Raymond Snow, Chairman of the Police Officers' Retirement Board of Trustees and Mr. Robert Garvy, Chairman of the General Employees Retirement Board of Trustees as well as other Board members who were in the audience.

Mr. Crouse referred to his memorandum to the Mayor and Town Council dated March 26, 2008, and included in the backup material, to report on the responses to the RFP for a consultant to assist the Town Council in reviewing the Town's Retirement System. He advised that staff recommended that the Town Council interview Bolton Partners, Inc. and The Segal Company if the Town Council decided to retain a pension plan consultant.

Mr. Robert Garvy, Chairman of the General Employees Retirement Board of Trustees reported that at the request of the Town Council, a survey of the Board had been conducted relative to their views on possible changes to the retirement plan was very strong and unanimous that there be no changes whatsoever to the defined benefit plan for the general employees of the Town.

Mr. Raymond Snow, 255 Monterrey Road, Chairman of the Police Officers' Retirement Board of Trustees noted that Board Secretary Chris Proscia, and Board Members James Wearn and Gerald Goldsmith were present.

Mr. Snow reported that the Firefighter's Retirement Board of Trustees and it's Chairman Richard Krock concurred and endorsed his comments today. He noted that all three retirement boards had met over the past two months. It was the strong and unanimous opinion of all three boards that the Town's status quo be maintained. He referred to the memorandum included in the backup, explaining that the memorandum was authored mainly by Attorney Robert Klausner who was one of the nation's leading experts in pension plans, and that he represented retirement systems throughout Florida including the Town's Police Officers' Retirement Board of Trustees.

Attorney Klausner responded to questions and concerns of the members of the Town Council.

Motion made by President Pro Tem Coniglio, seconded by Council Member Coleman, that a consultant to assist the Town Council in reviewing the Town's Retirement System not be retained. On roll call, the motion carried unanimously.

f. Electronic Data Management/IS Staff/Risk Assistant. [Thomas G. Bradford, Deputy Town Manager]

Deputy Town Manager Thomas Bradford referred to his memorandum to the Mayor and Town Council dated March 26, 2008, and included in the backup material, to provide a report on purchasing a Townwide document management system, the hiring of an additional Information Systems staff member, and the elimination of the risk assistant.

The Town Council accepted the report as presented by Deputy Town Manager Bradford, and the recommendation of staff to address the three pieces of this item, collectively, during the FY09 budget review.

B. New Business

1. Audit Matters.

a. FY 2007 Comprehensive Annual Financial Report (CAFR). [Jane Struder, Director of Finance]

Finance Director Jane Struder introduced Mark Veil, partner with Caler, Donten, Levine, Druker, Porter & Veil, P.A., the Town's auditing firm. She stated that he was before the Town Council to make a brief presentation regarding audit results for FY07.

Mr. Mark Veil, Town Auditor, presented a summary of the Comprehensive Annual Financial Report (CAFR) for the FY07, which was included in the backup.

Mr. Veil responded to questions and concerns of the members of the Town Council.

Motion made by President Pro Tem Coniglio, seconded by Council Member Coleman, to accept the FY07 Comprehensive Annual Financial Report (CAFR). On roll call, the motion carried unanimously.

b. Extension of Agreement for Audit Services. [Jane Struder, Director of Finance]

Finance Director Jane Struder referred to her memorandum to the Mayor and Town Council dated March 28, 2008, and included in the backup material, to recommend that the Town Council authorize a 2-year extension of the Audit Services Contract with Caler, Donten, Levine, Drucker, Porter & Veil.

Motion made by President Pro Tem Coniglio, seconded by Council Member Coleman, to authorize a two-year extension of the audit services contract with Caler, Donten, Levine, Drucker, Porter & Veil. On roll call, the motion carried unanimously.

2. Adoption of Five Top Priority Townwide Goals for FY 2009. [Peter B. Elwell, Town Manager]

Town Manager Peter Elwell referred to his memorandum to the Mayor and Town Council dated March 31, 2008, and included in the backup material, to identify and review the following five top priority Townwide goals for FY 2009:

1. Commence construction of upgraded sand transfer plant at Lake Worth Inlet and obtain Federal funding for pipeline extension.
2. Construct Reach 8 Beach Restoration Project and provide protection for a truncated portion.
3. Adopt a long-term plan defining the future scope and financing of the Town's coastal protection program.
4. Adopt a budget that maintains the Town's high levels of service while complying with the severe state-imposed caps on budget growth. If this cap was exceeded, be very explicit about the specific reasons for Town Council vote to override.

5. Address water quality and quantity issues to improve service provided by West Palm Beach (short and long) term and consider options for water independence or alternative suppliers (long term).

Motion made by President Pro Tem Coniglio, seconded by Council Member Markin, to adopt the top five priority Townwide goals for FY 2009, as enumerated above. On roll call, the motion carried 4/1 with Council Member Rosow dissenting.

Council Member Rosow referred to the e-mail he sent to the Mayor and Town Council relative to the process for adopting Townwide goals for FY 2009, noting that he believed the Town Council should be looking, longer term in trying to identify those issues the Town Council should engage in for the future.

After discussion, it was the consensus of the Town Council to accept the suggestion of Town Manager Elwell to bring back a proposal of how to improve the process for adopting Townwide goals as the Town Council looked ahead to next year.

3. Review of Donations Received by Medical Care Foundation of the Palm Beaches for the Area Medical Care Guide Produced by the Town's Medical Care Commission. [Jack McDonald, Mayor]

Mayor McDonald commented that during the preparation of the Area Medical Care Guide, the Medical Care Commission (MCC) had solicited contributions, collecting $28,000, which was being held by the MCC. Mayor McDonald requested that the Town Council make a decision regarding where those funds should go since the Town Council had funded the Area Medical Care Guide with a $50,000 contribution.

In response to President Kleid, Mayor McDonald advised that on April 30, 2008, the MCC would sunset, at which time, their final report was due. The report would be delivered at the May Town Council Meeting.

In response to Council Member Coleman, Mayor McDonald noted that the following might have been alternatives for the money, at the beginning, but he did not believe all of those reasons existed today:

1. The money would be placed into the General Fund and would be reimbursement for the money allocated by the Town Council.
2. Return to those who donated the funds.
3. The money could be given to the Medical Care Foundation to update the guide.

Norman Goldblum, 109 Everglade Avenue, commented as follows:

- The Medical Care Foundation had been dissolved.
- The Area Medical Care Guide had cost a great deal more than $50,000 and all of the members of the MCC had put in their own money for the Guide as well as to start the Foundation.
- The money collected from the hospitals was used to pay for the overruns of the Area Medical Care Guide.

In response to Council Member Coleman, Mr. Goldblum advised that he believed there were two choices for the money:

1. The money should go to the Town Council; or
2. Prorated back to the hospitals that donated the money. If the money was prorated back to the hospitals, the Town Council should then accept the responsibility of updating the Area Medical Care Guide each year.

In response to Council Member Markin, Town Attorney Randolph advised that the Town could legally accept the money from a 501 (c) 3 organization to use for a specific purpose.

Judy Goodman, on behalf of Good Samaritan Hospital, commented as follows:

- Good Samaritan Hospital and St. Mary's Hospital had been solicited by the Town, on Town letterhead, instructing them to send their donations to a private foundation, which was the key issue.
- The hospitals made restricted grants to the Foundation because of the unusual solicitation. The restrictive grants could only be used for the purpose of upgrading the Area Medical Care Guide.
- The issue was not related to the Area Medical Care Guide, but to how the solicitation for funds was done.

Robert Friedman, 2500 South Ocean Boulevard, Vice Chairman of the Medical Care Commission, commented that the dissolving of the Foundation had not been finalized, and consideration was being given to continue the Foundation with its own Board of Directors. He requested that he wanted noted for the record that there were options available for the Town Council to review, which were noted in the letter provided to the Mayor by the MCC Chairman.

After discussion, **a motion was made by Council Member Rosow, seconded by Council Member Coleman, directing that the funds collected for the Area Medical Care Guide produced by the Town's Medical Care Commission be returned on a pro rata basis**

to those who donated, including the Town of Palm Beach. On roll call, the motion carried unanimously.

4. Request by the City of West Palm Beach for Town Participation in Sponsorship of the City's Fourth on Flagler Event.
[Sarah E. Hannah, Assistant Town Manager]

Assistant Town Manager Sarah Hannah referred to her memorandum to the Mayor and Town Council dated March 17, 2008, and included in the backup material, to review the request made by Cinde Martin, Sponsorship Consultant to the City of West Palm Beach for the Town to become an official sponsor of the City's Fourth on Flagler Event.

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

5. Additional Funding for Professional Services to Obtain Permits for Reach 8 and to Participate in an Appeal of the National Marine Fisheries Service Acropra Rule.
[H. Paul Brazil, Director of Public Works]

Director of Public Works Paul Brazil provided a memorandum to the Mayor and Town Council dated March 27, 2008, and included in the backup material, requesting Town Council approval for additional funding for professional services to obtain permits for Reach 8 and to participate in an appeal of the National Marine Fisheries Service Acropra Rule.

Motion made Council Member Rosow, seconded by President Pro Tem Coniglio, to authorize funding in an amount not to exceed $300,000, from the reserves in the Coastal Protection Fund to support consultant and legal efforts to obtain a permit for the Reach 8 restoration project and to participate in an appeal of the National Marine Fisheries Service Acropra Rule. On roll call, the motion carried unanimously.

6. Consideration of Potential Addition to Phipps Ocean Park Tennis Courts.
[David A. Rosow, Town Council Member]

Council Member Rosow suggested that consideration of the potential addition to Phipps Ocean Park tennis courts be considered during the budget process.

In response to President Kleid, Town Manager Elwell advised that if two additional courts were put in, money would be needed for the planning and construction of the courts. He commented that staff could provide fuller information during the budget process.

After discussion, the consensus of the Town Council was for staff to provide information relative to the potential addition of tennis courts at Phipps Ocean Park to be considered during the FY09 budget review.

7. Code Enforcement Board Appointments.
[Michael S. Reiter, Chief of Police]

President Kleid announced that, after casting ballots, the Town Council had appointed the following to the Code Enforcement Board:

Regular Member: Joel Koeppel
Madelyn Greenberg
Cynthia Van Buren

Alternate Members: James Ballentine, Jr.
William Vanneck

8. Investment Advisory Committee Appointments.
[Jane Struder, Director of Finance]

President Kleid announced that, after casting ballots, the Town Council had reappointed the following to the Investment Advisory Committee:

Regular Member: Bernard Panel
William Mikus

9. Recreation Advisory Commission Appointments.
[Jay Boodheshwar, Director of Recreation]

President Kleid announced that, after casting ballots, the Town Council had appointed the following to the Recreation Advisory Commission:

Regular Member: Danielle Hickox-Moore
Joseph Della-Guistina
Henry Jamison
Timothy O'Hara

Alternate Members: Stephen Hall
Daniel McDonnell

10. Local Planning Agency (LPA) for the Comprehensive Plan.

President Kleid advised that he believed Mr. Guttman, on behalf of the Planning and Zoning Commission, had requested that the Planning and Zoning Commission be appointed as the Local Planning Agency (LPA).

Town Attorney Randolph explained that Chapter 163 of the Florida Statutes required that there be a LPA to review amendments to the Comprehensive Plan, and the Town's Ordinance had assigned the Town Council as LPA. He suggested that this be studied further and information brought back to the Town Council.

After discussion, it was the consensus of the Town Council to direct staff to provide a report at the May 12, 2008, Town Council Meeting with additional information regarding the pros and cons of the Town Council or the Planning and Zoning Commission acting as the LPA, as well as including the consideration/recommendation of the Planning and Zoning Commission regarding the LPA.

XII. ORDINANCES

A. Second Reading

1. ORDINANCE NO. 5-08 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Providing for User Fees for Maintenance of Historic and Specimen Trees Located on Private Property, Providing an Effective Date.
[H. Paul Brazil, Director of Public Works]

Town Attorney Randolph read Ordinance No. 5-08 by title, on second reading.

Council Member Coleman moved adoption of Ordinance No. 5-08 on second reading. The motion was seconded by President Pro Tem Coniglio. On roll call, the motion carried unanimously.

2. <u>ORDINANCE NO. 6-08</u> An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 78, Peddlers and Solicitors, Article III, Charitable Solicitations, Division 2, Permit; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.
[Sarah E. Hannah, Assistant Town Manager]

Town Attorney Randolph read Ordinance No. 6-08 by title, on second reading, as printed above.

Council Member Markin moved adoption of Ordinance No. 6-08 on second reading. The motion was seconded by Council Member Coleman. On roll call, the motion carried unanimously.

3. <u>ORDINANCE NO. 7-08</u> An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 10, Animals, Article I, in General, Section 10-9, Keeping Certain Animals Prohibited; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.
[John C. Randolph, Town Attorney]

Town Attorney Randolph read Ordinance No. 7-08 by title, on second reading, as printed above.

Council Member Markin moved adoption of Ordinance No. 7-08 on second reading. The motion was seconded by Council Member Coleman. On roll call, the motion carried unanimously

B. First Reading

1. <u>ORDINANCE NO. 16-08</u> An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town

Code of Ordinances at Chapter 42, Environment, Article V, Noise, Section 42-230 Relating to Lawn Maintenance Equipment Noise; Providing For Severability; Providing For Repeal of Ordinances in Conflict; Providing For Codification; Providing an Effective Date. [John C. Randolph, Town Attorney]

Town Attorney Randolph read Ordinance No. 16-08 by title, on first reading, as printed above.

Scott Lewis, Scott Lewis Landscaping & Trimming, Inc., commented that he hoped the Town Council would slow down on enacting this new Ordinance, noting that the current Ordinance had not had a chance to be enforced. Staff should be given some time this summer to enforce it and he volunteered to assist the Town in doing so.

Discussion ensued, and it was the consensus of the Town Council to defer taking action until staff provided a report in October 2008 regarding noise compliance of lawn maintenance equipment. Landscaper Scott Lewis would also provide a report on the voluntary efforts to achieve compliance from within the industry.

2. ORDINANCE NO. 17-08 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Investment Policy of the Town at Section VIII, Performance Benchmark; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date. [Jane Struder, Director of Finance]

Town Attorney Randolph read Ordinance No. 17-08 by title, on first reading, as printed above.

Council Member Rosow moved approval of Ordinance No. 17-08 on first reading. The motion was seconded by Council Member Markin. On roll call, the motion carried unanimously.

3. ORDINANCE NO. 18-08 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Rescinding Ordinance No. 8-08 Relating to Amendments to the Town's Budgets; Providing an Effective Date.
[Jane Struder, Director of Finance]

Town Attorney Randolph read Ordinance No. 18-08 by title, on first reading, as printed above.

President Pro Tem Coniglio moved approval of Ordinance No. 18-08 on first reading. The motion was seconded by Council Member Markin. On roll call, the motion carried unanimously.

XIII. ANY OTHER MATTERS

The following issues were discussed by members of the Town Council and staff:

- The procedures for conducting Town Council Meetings as they related to the length of the meetings.
- The holding of Town Council Meetings on two consecutive days: Monday and Tuesday. Development review items would be heard on Mondays only.

XIV. ADJOURNMENT

There being no further discussion, the April 8, 2008, Town Council Meeting was adjourned at 5:27 p.m.

APPROVED:

Richard M. Kleid
Town Council President

ATTEST:

Susan A. Eichhorn
Town Clerk