



TOWN OF PALM BEACH

Town Clerk's Office

MINUTES OF THE TOWN COUNCIL MEETING HELD ON JUNE 13, 2023

I. CALL TO ORDER AND ROLL CALL

The Town Council Meeting of June 13, 2023, was called to order at 9:30 a.m. On roll call, all council members were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Deputy Town Clerk Gayle-Gordon gave the Invocation, and Council President Zeidman led the Pledge of Allegiance.

III. MODIFICATIONS TO THE AGENDA

The following modifications were made to the agenda:

Request to have an update regarding the FDOT project at SR A1A.

Council Member Araskog thought the Mar-a-Lago Club agenda item from the last meeting should be revisited due to the technical difficulties experienced at the May Town Council meeting.

Request for Update Regarding Conversion of Sunset Avenue to a One-Way Street.

Motion was made by Council President Pro Tem Lindsay and seconded by Council Member Crampton to allow for reconsideration of the Mar-a-Lago project as requested. Council Member Crampton seconded the motion. On roll call, the Motion passed unanimously.

Council President Zeidman stated the Mar-a-Lago item would be heard under "Other."

Mr. Randolph advised the Town Council that this item should be put on a future agenda to allow a representative from the Mar-a-Lago project to attend the meeting. Mr. Randolph said adequate notice must be given before the council hears the item. It was decided that at the end of the meeting today, Town Council will hear Council Member Araskog's comments and make a decision on whether or not to pursue this item on a future agenda.

Motion was made by Council Member Crampton and seconded by Council Member Cooney to withdraw the motion to reconsider and add Council Member Araskog to the end of the meeting agenda to make her comments. Subsequently, the Town Council will determine if this item needs to be placed on a future agenda. On roll call, the Motion passed unanimously.

Mr. Randolph advised the Town Council to let Harvey Oyer, who represents Mar-a-Lago, know today what direction the council will take.

Harvey Oyer, Shutts and Bowen, LLP, Attorney representing Mar-A-Lago, stated he would be available on July 12th if the Town Council reconsidered the agenda item. He would be unable to stay today for an afternoon discussion.

Council Member Cooney asked for an update from the Police Chief about the conversion of Sunset to a one-way street. Chief Caristo provided a brief update on traffic mitigation measures that the Town Council had discussed in February. He stated that an alternative method had been piloted, allowing for a right turn only, and that was ineffective. The staff will continue working to make the street one-way because it would make sense and improve safety.

Council Member Araskog recommended that public education pertaining to the change be done through the newspaper, the alert system, and the Civic Association. She thought another public education campaign would be helpful when people returned home for the season.

ITEMS TO BE CONSIDERED UNDER ANY OTHER MATTERS

1. Re-consideration of Guardhouse at Mar-A-Lago Club
2. Zoning in Progress (ZIP) Regarding Restaurants, Bars, Nightclubs

IV. APPROVAL OF AGENDA

Motion was made by Council Member Araskog and seconded by Council Member Crampton to approve the agenda, as amended. On roll call, the Motion passed unanimously.

V. RECOGNITIONS

- A. Recognition of Nicholas Coniglio for his service on the Recreation**

Advisory Commission from April 2016 to April 2023

Danielle H. Moore, Mayor

Mayor Moore recognized Nicholas Coniglio for seven (7) years of service on the Recreation Advisory Commission and presented him with a plaque from the Town.

Mayor Moore announced employee years of service milestones:

Five (5) Years - Robert Richardson, Firefighter/EMT (FR) and Leonardo Montalvo, Firefighter/Paramedic (FR); Ten (10) Years - Justo Quintana, Combination Plan Reviewer (PZ&B) and Eric Ward (PD); and Twenty-Five (25) Years - Erin Mellon, Water Resources Technician II (PW).

Gerald Satern, Fleet Mechanic Supervisor (PW), will be retiring in June after sixteen (16) Years of Service.

Mayor Moore thanked Eric Brown, who attended the Employee Appreciation Party the day after he retired. He brought his wife, the Mayor of Westin, Florida. She thanked them for attending the party.

VI. PRESENTATIONS

A. Presentation by Palm Beach County Commission on Ethics

Gina Levesque, Intake and Compliance Manager

Ms. Levesque spoke to the Town Council about the Palm Beach County Commission on Ethics and their goal to enhance public trust in government. She said the Commission was created to provide oversight, transparency, and accountability for over 12,000 officials, public employees, and advisory board members. The Commission has jurisdiction over lobbyists, principles, and employers of lobbyists and vendors. The Commission is independent of any county or municipal government, and its commissioners are five community members appointed by independent groups throughout the county. The Code of Ethics is a twelve (12) page document that creates a backstop to enhance public trust by ensuring that public officials and employees conduct themselves independently and impartially and do not use their offices for any private gain. The availability of the local Commission on Ethics staff to train and answer questions through advisory opinions may prevent ethical misconduct from becoming criminal misconduct. Ms. Levesque stated that all advisory opinions, gift forms, voting conflict forms, outside employment forms, and complaints are on the commission's website under the databases tab.

Council Member Crampton said there had been some controversy in the media and elsewhere about the financial reporting requirements that will change next year. Ms. Levesque responded that the change in financial reporting is not under the jurisdiction of the Palm Beach County Commission on Ethics.

Mayor Moore said that if an official is in office on December 31, 2023, the new Form 6 will be required for financial disclosure. The new form is quite detailed. However, Mayor Moore was informed that there is an opportunity to consolidate reporting items. She noted that this change had been pending approval for several years.

Council Member Araskog had spoken with the Commission on Ethics, shared her conversation with the Town Council, and discussion ensued.

Ms. Stone informed the Town Council that there would be a Florida League of Cities in-person training in July for all elected officials in the county. They would have someone on hand to explain Form 6 requirements.

Mayor Moore suggested a workshop be conducted for Palm Beach Town Council members.

VII. COMMENTS OF MAYOR DANIELLE H. MOORE

No additional comments.

VIII. COMMENTS OF TOWN COUNCIL MEMBERS

Council President Pro Tem Lindsay thanked Mayor Moore for the summer kick-off party. She said it was a wonderful experience.

Council Member Cooney was disappointed to hear that the newsroom employees of the Palm Beach Post and Palm Beach Daily News had to make the tough decision to go on strike. He said local journalism is important for democracy, and there has been a deterioration in the caliber of local news coverage, which he believes is a disservice to residents. Council Member Araskog stated that several employees were terminated which has led to a reduction in reporting. Council President Zeidman thought the newsroom staff was trying their best to stay engaged with local government.

IX. COMMUNICATIONS FROM CITIZENS – 3-MINUTE LIMIT, PLEASE

Diane Bueller, Friends of Palm Beach, stated that trash is abundant. Crews have been busy every day, and the sargassum has arrived but is not as bad as in prior years. Turtle nest numbers in towns south and north of Palm Beach have almost doubled, which is a positive sign. She encouraged the Town Council to remind residents of the need for lights off since lights would spook the turtles and cause them to dump their eggs and leave the beach. A clean-up will be hosted Saturday, June 17, 2023, at 1576 South Ocean Blvd.

Douglas Batten, representing Batten Construction, stated that the recent ordinance, effective December 20, 2022, prohibits noise-generating construction on Saturdays. This ordinance represents the most significant scheduling impact on construction companies they have ever experienced. He acknowledged the intention of the ordinance to preserve the peace and quality of life for Palm Beach

residents and visitors. However, the ripple effect on construction schedules has been significant. He was fearful that the new ordinance would cause every significant Worth Avenue District project to require an extension of time under typical conditions. Mr. Batten said the new ordinance impacts 26% of potential workdays from the schedule with no provision for extension of daily hours or project durations. He hoped to discuss, understand, and reach a balanced solution that would uphold the community's tranquility without bringing construction to an impractical standstill.

Council President Zeidman acknowledged that there have been discussions pertaining to the impact on construction. Council Member Araskog said the problem is with the notion of setting a precedent if Worth Avenue rules are modified from other construction projects. She thought it would be beneficial to put this discussion on the future agenda for Worth Avenue. She believes the whole Town Council needs to look at the issue.

Mayor Moore mentioned that condominiums in the South end also have six-month restrictions.

X. APPROVAL OF CONSENT AGENDA

The following items were pulled from the Consent Agenda and heard under Item No. XIII.A.:

- X.C.2. Request to Hold Preservation Foundation of Palm Beach Event in Bradley Park
- X.B.10. RESOLUTION NO. 072-2023

Motion was made by Council Member Cooney and seconded by Council President Pro Tem Lindsay to approve the Consent Agenda, as amended. On roll call, the Motion passed unanimously.

A. MINUTES

1. Town Council Meeting Minutes
Pat Gayle-Gordon, Deputy Town Clerk
 - a. May 9, 2023, Town Council Meeting Minutes
 - b. May 10, 2023, Town Council Meeting Development Review Minutes
2. Approval of Major Matters Considered by the Architectural Review Commission at its Meeting of May 24, 2023.
Wayne Bergman, Director of Planning, Zoning and Building

B. RESOLUTIONS

1. RESOLUTION NO. 049-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to Mock Roos Consulting Engineers

for Town-wide Stormwater Pump Station Condition Assessment in the amount not to exceed \$100,000.

Dean Mealy, Procurement and Contract Manager

2. RESOLUTION NO. 064-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order in the amount of \$64,350 to Kimley-Horn and Associates, Inc. for Construction Phase Services for the A-39 Wastewater Pump Station Structural Repairs.

Dean Mealy, Procurement and Contract Manager

3. RESOLUTION NO. 065-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, awarding ITB No. 2023-29, Parking Lot Expansion at Par 3 to R & D Paving in the Amount of \$129,203.60 and Establishing a Project Budget of \$142,123.

Dean Mealy, Procurement and Contract Manager

4. RESOLUTION NO. 066-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding ITB No. 2023-40, Sanitary Sewer Repairs at Multiple Locations to Johnson Davis in the Amount of \$240,000 and Establishing a Project Budget of \$276,000.

Dean Mealy, Procurement and Contract Manager

5. RESOLUTION NO. 067-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, awarding a purchase order to Kimley-Horn and Associates, Inc. in the amount of \$175,100 for a Town-wide Wastewater Pump Station Condition Assessment.

Dean Mealy, Procurement and Contract Manager

6. RESOLUTION NO. 068-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving retro-active authorization for issuance of purchase orders to Duval Ford for three F-150 vehicles in the amount of \$99,652.56.

Dean Mealy, Procurement and Contract Manager

7. RESOLUTION NO. 069-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding RFP No. 2023-36, Emergency Food Services to TooJays and GRL Investment Group LLC.

Dean Mealy, Procurement and Contract Manager

8. RESOLUTION NO. 070-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, awarding ITB No. 2023-28, Seaview Tennis Courts Resurface and Fence Replacement Project to Professional Tennis Court Services in the amount of \$326,375.18 and Establishing a project budget in the amount of \$375,331.

Dean Mealy, Procurement and Contract Manager

9. RESOLUTION NO. 071-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to Insight Public Sector for Phase 2 of the Town's computer and storage infrastructure in the amount of \$90,570.

Dean Mealy, Procurement and Contract Manager

10. RESOLUTION NO. 072-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Purchase Order to Business Information Systems, DBA BIS Digital for Town Council Audio Video Technology in the Amount of \$202,203 and Establishing a Five-Year Award in the amount of \$261,556.80.

*Dean Mealy, Procurement and Contract Manager –
Pulled and Heard as Item No. XIII.A.2*

11. RESOLUTION NO. 074-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding ITB No. 2023-26, AC Replacement Project to Pilar Services Inc. for Par 3 Clubhouse in the Amount of \$79,050 and Establishing a Project Budget of \$86,955 and to Florida Mechanical LLC for Town Hall and Central Fire in the amount of \$110,760 and Establishing a Project Budget in the amount of \$121,769.

Dean Mealy, Procurement and Contract Manager

12. RESOLUTION NO. 075-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding ITB No. 2023-41, A-39 Wastewater Pump Station Structural Repairs to Murray Logan Construction, LLC in the Amount of \$490,628 and Establishing a Project Budget in the Amount of \$563,500.

Dean Mealy, Procurement and Contract Manager

13. RESOLUTION NO. 076-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, awarding a Purchase Order to Asset Works for Fueling Station Hardware and Software in the Amount of \$73,652.88 and Establishing a Project Budget in the Amount of \$80,000.

Dean Mealy, Procurement and Contract Manager

C. OTHER

1. Acceptance of Donation from the Palm Beach Police and Fire Foundation
Darrel Donatto, Fire Rescue Chief
2. Request to Hold Preservation Foundation of Palm Beach Event in Bradley Park

XI. BOARD/COMMISSION ANNUAL REPORT

A. Annual Report of the Code Enforcement Board

Bram Majtlis, Chair

Mr. Majtlis summarized the activities of the Code Enforcement Board and staff from May 1, 2022 through April 30, 2023. He recognized the members who serves on the Code Enforcement Board and staff. Mr. Majtlis was elected as Chairman at the May 2023 meeting, and Scotch Peloso was elected as Vice Chairman.

Mr. Majtlis reported that the Code Enforcement staff received 2,380 complaints, an increase on last year's one thousand eight hundred twenty-eight (1,828). One thousand four hundred nineteen (1,419) of the complaints were initiated by Code Enforcement Officers as compared to the previous year's number of eight hundred eleven (811). A total of 5,237 inspections were completed, an increase on the previous year of four thousand one hundred eight-five (4,185). Eight hundred forty-three (843) code violation warnings were written, and 673 verbal warnings were given. There were 140 Notice of Violation letters issued. Sixty-eight Notices of Violation citations were issued. One hundred and one (101) Board Orders were issued. One hundred seventeen (117) Right of Way violations were written, which increased from the previous year.

Council Member Crampton asked staff to let the Town Council know what percentage of the activity of the Code Enforcement Board has increased. Council President Zeidman stated that the complaints that staff initiated over the previous year were 59 percent. Council Member Crampton asked if, in general, the Code Enforcement Board would welcome additional staff to help increase the activity of the Board. Mr. Majtlis said yes.

Council Member Cooney complemented the Code Enforcement Board on the great job they are doing. He was delighted to see increased activity, particularly with the new state law prohibiting anonymous complaints. He does see potential for improvement in the communication between the Police and the Planning, Zoning and Building Departments.

Council President Pro Tem Lindsay thanked Council Member Cooney and Mr. Randolph for a great outcome in the recent large issue that was resolved. She asked if a trend had been noticed or if there was an area of Code Enforcement where improved education would be helpful.

Mr. Blouin noted that the Code Enforcement adjudicates code enforcement cases, and some of the changes have been made in conjunction with direction from the Town Council. He said there had been a concentration on construction over the past few

years. In addition, he noted there is an increased need for enforcement in the evenings and at night in commercial areas.

Council President Zeidman asked where most of the code violations were occurring. Carla Marcote, Code Enforcement Specialist, said most complaints are construction and permit related.

Council President Pro Tem Lindsay suggested looking at the code to determine if anything can be done to get staff out in front of the violations. Council President Zeidman agreed. She recognized that everything that can be done is being done to control construction at the Vineta. However, the residents who live in that area will want to know why they are expected to call in violations rather than having proactive code enforcement.

Council Member Araskog thought there was a large sum of money in the Planning, Zoning and Building Department. She believed that more Code Enforcement Officers were necessary. She inquired about the use of contract employees in code enforcement. Mr. Blouin said the intent is to hire additional Code Enforcement personnel.

Police Chief Caristo said the increase in Code Enforcement cases has been significant. He said an increase in pace has been due to the addition of two nighttime Code Enforcement Officers. He said it is a process to get the right people in place, and that is something his staff is working on. He said Code Enforcement personnel definitely coordinates with the Planning, Zoning and Building and Public Works staff.

Council Member Crampton stated that the Town Council is listening to the residents' complaints regarding parking, valets and nuisance establishments and will ensure that the staff has the needed resources to handle these issues.

Motion was made by Council Member Araskog and seconded by Council Member Cooney to accept the Annual Report of the Code Enforcement Board. On roll call, the Motion passed unanimously.

A break was taken at 11:00 a.m. and the meeting resumed at 11:15 a.m.

XII. COMMITTEE REPORTS

- A.** Report of the Ordinances, Rules and Standards Committee meeting held on May 23, 2023
Julie Araskog, Chair

Council Member Araskog stated that this was an overview, but the committee is still getting into the meat of the discussion. She said some recommendations are being looked into. She said she and Council Member Cooney had agreed to a meeting with

Mr. Randolph and Lieutenant Alber to devise a plan before the committee meets. The second thing the committee looked at was discussion regarding the use of motorized vehicles and devices on the sidewalks in the business district of Palm Beach.

Motion was made by Council President Pro Tem Lindsay and seconded by Council Member Cooney to accept the Report of the Ordinances, Rules, and Standards Committee meeting held on May 23, 2023. On roll call, the Motion passed unanimously.

Council President Zeidman noted that there were complaints from the residents regarding noise issues particularly from the Meat Market. She said part of the problem is the use of the sub woofer bass which reverberates into the adjacent condos and that the neighborhood has changed over time to include more residential. She said the establishment was grandfathered in as a cabaret which has allowed for late-night music and dancing in an area that abuts residential properties. Mr. Randolph said the details could be reviewed during the study with the Police Department and the ORS committee. Responding to Mr. Blouin, Mr. Randolph stated that rezoning could be looked at, but consideration must be given to the Bert Harris Act.

Council President Pro Tem Lindsay said the Meat Market personnel had been contacted. This has been an ongoing problem, and they state they will change, but they do not make any changes. Mr. Randolph said there were elements that could be considered, such as reducing the hours.

Council Member Crampton felt this discussion had elevated the issue with the Meat Market. He said it was more than having a commercial establishment adjacent to a residential area.

Chief Caristo addressed the noise issues that have been addressed with the Meat Market. He said the staff is actively working on Code Enforcement Action to address the situation.

Council Member Cooney stated that he was aware of the noise emanating from the Meat Market but also noted that residents knew when they were moving to an area adjacent to commercial establishments.

XIII. REGULAR AGENDA

A. Matters Pulled From Consent Agenda: If needed

1. Request to Hold Preservation Foundation of Palm Beach Event in Bradley Park
Carolyn Stone, Deputy Town Manager - Business Enterprise and Culture

Council Member Araskog wanted to ensure that staff checked the park to ensure it was not being overused. She also thought there needed to be an increase in

refundable damage deposits, as well as a further breakdown of the number of people using the park.

Council Member Cooney pointed out a prohibition regarding Phipps Plaza Park which states “Prohibition will sunset 8/14/22” that should be removed from the application form due to that area being a residential neighborhood. It was duly noted.

Motion was made by Council Member Araskog and seconded by Council Member Cooney to approve the request by the Preservation Foundation of Palm Beach to hold the event in Bradley Park. On roll call, the Motion passed unanimously.

2. RESOLUTION NO. 072-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Purchase Order to Business Information Systems, DBA BIS Digital for Town Council Audio Video Technology in the Amount of \$202,203 and Establishing a Five-Year Award in the amount of \$261,556.80.

Dean Mealy, Procurement and Contract Manager

Mr. Andy Jadoo, Director of Information Technology (IT), highlighted the upcoming City Council Chambers Audio/Visual updates. Mr. Blouin asked if the upgrade would improve the compatibility issues since there are two programs being used. Mr. Jadoo said the refresh would improve those issues. He said the new system would consolidate the existing three systems into one.

Mr. Bob Miracle, Deputy Town Manager, Finance and Administration, stated that the timeline would be two weeks in the council chambers, during which no meetings will be held in that room. The staff has been working with the vendor, and once the request is approved, a two-week schedule will be determined. It will likely be in August or September.

Mr. Jim Palmer, Information Technology Manager, provided details about the upgrades and changes that would be made to the Council Chamber and the Audio-Visual (AV) equipment.

Mr. Cooney expressed reservations about the recent change to using Microsoft Teams rather than Zoom for meetings. He thought it would be more difficult for members of the public who understood how to use Zoom. Mr. Jadoo gave the assurance that the Teams platform is also user-friendly.

Motion was made by Council Member Cooney and seconded by Council Member Crampton to approve Res. No. 072-2023. On roll call, the Motion passed unanimously.

B. Old Business

1. Town-wide Undergrounding Project
H. Paul Brazil, P.E., Director of Public Works

- a. Review of Project and Dashboard, Summary of Project Status
- b. Review of Right-of-Way Impacts from Ongoing Construction

Ms. Patricia Strayer, Town Engineer, presented an update on the undergrounding project. Ms. Strayer said the residents would be notified as the project progresses. The goal is to have the project to remove the poles from Sloan's Curve to the intersection of S. County Road and S. Ocean Blvd. completed before the Thanksgiving holiday.

Council Member Crampton asked Mr. Miracle about any financial shortfall that may emerge during the construction. Mr. Miracle said the residents would not be asked to contribute anything additional. He said the Town Council had approved the marina, with its finances, to contribute \$2.6 million annually for funding the underground project. If there were a shortfall, staff would look to increase that contribution over the next few years. Council member Crampton asked what the targeted completion date is currently projected. Ms. Strayer estimated four years from now.

Mr. Miracle said the Town is approximately 4.1 percent or \$2 million short on the revised cost opinion. There is approximately \$10 million that has been devised with financing over a period of five years to settle that deficit. Mr. Blouin confirmed the information and stated there would be no additional residential assessments. The plan will be revised as necessary.

Council President Pro Tem Lindsay was appreciative of the push to get sidewalks finished by October.

Ms. Strayer said the staff members were taking action to control pricing as best as possible and manage inflation.

There was additional discussion about the financing of the project. Mr. Blouin assured the Town Council that there would be no more residential assessments. The plan would be revised as necessary.

Mayor Moore said that a positive point to this, with regard to gas hits, is that the undergrounding project is helping FPU with locates.

Council Member Cooney noted that the town staff has been managing the project appropriately and proactively addressing how to minimize gas hits.

Ms. Strayer reviewed the Right of Way impacts from ongoing construction.

Council Member Araskog asked when the bridge painting project would be complete. Mr. Brazil stated they are allowed a whole calendar year to complete the project. The bridge painting began in May, 2023.

Council Member Crampton asked about a new project coming from FDOT on A1A. He did not think residents on the south end were clear about what the changes were from the old plan to the new plan. Mr. Blouin said it was not a new project, but a revised project.

Jason Debrincat, Assistant Director of Public Works, presented the proposed improvements for bicycles and pedestrians. He said this is a continuation of an FDOT project.

Council Member Crampton reiterated that there is now a five-foot bicycle lane on each side of the street, eleven-foot-wide driving lanes for vehicles, and a six-foot concrete pathway on the west side of the street for pedestrians. Mr. Debrincat affirmed.

Mr. Ron Matzner, 3120 South Ocean Blvd, on behalf of the Citizens Association of Palm Beach, stated they still have safety concerns with the transition going north of a five-foot bicycle lane. He said residents do not know what the transition would be from a five-foot lane. This is cause for concern about safety. He said the citizens association could not endorse this project until they knew what would happen with the middle project.

Council President Pro Tem Lindsay asked if the newer plan would have less impact on the east side of the road and on monuments that have been knocked down. Mr. Debrincat said there is no impact on the east side. They are adding two feet of pavement to the existing base with minor regrading. It will be an improvement.

The Town Council reached consensus to direct staff to attend the meeting and object to the marked bicycle lane due to safety concerns.

2. Code Enforcement Board Referral-Trevini Restaurant and Palm Beach Parking Valet Violations
Nicholas Caristo, Chief of Police

Carla Marcote, Code Enforcement Specialist, stated this case was brought before the Code Enforcement Board on April 20, 2023. At that time, the evidence showed that on February 23, 2023, the valet was in violation of using cones to mark spaces on the street, preventing patrons from parking. Inspections were performed and on March 15, 2023, the valet was in violation again for using the Publix parking lot to park their

valet cars from the overflowing parking garage. They were warned that the public parking lot was not part of their agreed-upon parking schematic. Previously on March 7, 2023, Palm Beach Parking was in violation by using Publix as a location to park vehicles. Additionally, they were using the driveways and parking over the sidewalk. Two citations were issued for continued violations. They were brought to Code Enforcement and were found to be in violation. A fine of \$150 was issued for administrative fees and \$750 for the two citations. Code Enforcement has referred this item to the Town Council because, in Trevini's zoning agreement, there is specific language stating that they must use the underground site parking. The business has grown, and the goal is to bring the violator into compliance. An agreement has been reached with a dentist at 245 South County Road to use his parking lot for the overflow. A letter of agreement has been provided. Ms. Marcote said staff will be asking for the zoning to be amended to permit the use of off-site parking.

Mayor Moore said she had spoken to Don earlier about more valets to help with the overflow. She was glad this had come before the Town Council, and she believes some accommodation is being made to reach compliance. She supported the request and said the use of Publix property must stop.

Council Member Cooney said Palm Beach Parking does a great job, and he mentioned that the problems they have been having may have been due to too many tables outside. He suggested re-evaluating the outdoor seating. In addition, the zoning plan had contemplated a plan for storing the appropriate number of cars. Council Member Cooney had looked at the seating plan, calling for a certain number of outdoor chairs. He said the more seats, the more vehicles.

Council President Zeidman suggested a letter be sent to the restaurants as a reminder of their approved seating capacities. Council President Pro Tem Lindsay stated she would like to see this type of letter drafted and signed by Police Chief Caristo.

Council Member Araskog said one of the issues experienced in the town is that businesses have not followed their approved seating plans.

Mr. Don Wrights, Palm Beach Parking, thought that as a valet parking service, they were entitled to mark off three spots for egress and ingress in front of the restaurant. He advised that not all of the businesses in Palm Beach knew they needed to have a temporary valet permit for their parties.

Mr. Wrights asked about the gray area associated with a temporary valet parking permit which is needed by businesses vs. a private event. He asked if that rule only applies to anyone who operates a business. Mr. Wrights asked if anyone else wished to have a party, whether they would need the permit, particularly if the party was being held in a private home. Mr. Wrights was advised to speak with Code Enforcement staff members.

Ms. Marcote mentioned that special event permits include terms and conditions based on the individual nature of the event.

Ms. Marcote asked if the Town Council would approve the off-site parking request.

Mr. Randolph advised there was initially a site plan review for off-site shared parking. He thought this issue should be presented to the Town Council through zoning. In addition, when it comes back the Town Council will be able to discuss the number of seats over and above what was previously approved.

Mr. Randolph said if the arrangement presented by Ms. Marcote was suitable to the Town Council, it could be approved.

**Note: Council President Zeidman recessed the meeting at 1:00 p.m. for lunch. Meeting to be reconvened at 1:45 p.m.*

3. Consideration of Approval of Modified Four Arts Agreement Regarding Lake Trail Right-of-Way.

John C. Randolph, Town Attorney

Mr. Randolph introduced the item and stated that Mr. Harvey Oyer, Shutts and Bowen, representing the Society of the Four Arts was present.

Mr. Oyer stated there was an agreement between the Town and the Four Arts establishing an easement for the bike trail. The property appraiser recorded that as a fee simple conveyance, and it was the party's intent to only have an easement conveyance. He said after speaking with Mr. Randolph, they drafted a corrected easement. Mr. Oyer said he would answer any questions even though he felt the agreement was straight-forward.

Council Member Araskog stated that she would like Section 3. Modifications to Easement Area, to change "cannot" to "shall not". Mr. Oyer agreed to this change.

Motion was made by Council Member Cooney and seconded by Council Member Crampton to approve the amended Four Arts Agreement. On roll call, the Motion passed unanimously.

This item was heard at 11:15 a.m.

4. Phipps Ocean Park Budget Estimate Update

TIME CERTAIN: 11:00AM

Carolyn Stone, Deputy Town Manager-Business Enterprise and Culture

Carolyn Stone, Deputy Town Manager, Business Enterprise and Culture introduced Amanda Skier, President and CEO of the Palm Beach Preservation Foundation of Palm Beach to make the presentation.

Ms. Skier asked Ms. Betsy Shiverick to address the Town Council.

Due to technical difficulties, Ms. Skier was asked to read Ms. Shiverick's comments into the record. Ms. Shiverick's sentiments were appreciation to the Town Council for supporting Phipps Ocean Park. Additional comments were made on Ms. Shiverick's behalf, which were about the estimates and adjustments made to the project costs while still keeping the critical elements in the park. The Town Council's assistance with funding for infrastructure items would allow the park to be constructed as envisioned. Ms. Shiverick respectfully asked the Town Council to consider assisting with funding for the project.

Ms. Skier presented a site map of the master plan for the project. Budget items for consideration had been highlighted on the master plan. The Town Council was asked to consider assisting with the lighting plan for the parking lots. Currently, there were fewer lights than proposed. Ms. Skier stated that in speaking with Paul Brazil, it had been stated that there may be an opportunity to work with FPL's program to fund some of the new lights in the parking lots. Also, security is of utmost importance in the update to the park. A line item for \$250,000 had been added for security cameras and security gates at the vehicular entrances. She requested the Town Council's consideration to assist with the security systems. Ms. Skier stated that the design had included perimeter walls due to requests from the adjacent property owners. This would be another opportunity for the Town to assist with the cost. Restrooms, as they exist, are institutional and old. There were planned updates in the design, which added more expense to the project.

Council President Pro Tem Lindsay asked how extensive the lighting package would be given the anticipation of opening at dawn and closing at dusk. Mr. Brazil said it would be minimal. She also asked about the irrigation plan due to the native species plants used in the project. Mr. Brazil said the current pricing might include more irrigation than would be needed long-term.

Council Member Crampton said Phipps Ocean Park is of great value to the Town of Palm Beach. He stated he would be open to considering town support for certain budget items that the Town would likely do in any situation to support a park. He felt that negotiations should take place with staff and then presented them to the Town Council subsequently. He said there was a lot of positive support for the project but staff should work out the details related to budget and costs.

Council President Zeidman stated she realized the \$7 million budget shortage. However, the Town Council had not seen the budget yet. She said it would be necessary to consider the budget in its entirety, as well as prioritizing items in the budget. She asked if the overage (delta) was anticipated to decrease or increase. Mr. Brazil said he believed there were still opportunities to adjust the price without changing the character of the project. He said there was contingency built into the budget projections. Ms. Skier said the GMP would be known and could be shared with Town Council members upon receipt.

Mayor Moore acknowledged the park would be beautiful. She mentioned the Town Council has other priorities and considerations that have to be discussed and decisions have to be made. She said a commitment of \$7 million from the town would be out of the question. She said it was important to be conservative about the expenses associated with the project. She encouraged the Foundation to continue working with Mr. Brazil, Ms. Stone and Mr. Blouin.

Ms. Skier said \$7 million is the difference between the estimated cost of the project and the amount of money that had been raised for the project. She said a gift in any amount from the town would be helpful and appreciated.

Council Member Araskog was concerned about the message to the public which was initially that the town would not be spending money on the park. She thought the public should be given an opportunity to provide input. Council Member Araskog would rather see things removed from the inside of the park to reduce costs. She was not comfortable continuing to give to the project, knowing what the council is facing in terms of budget priorities.

Council President Pro Tem Lindsay was pleased that the project funding was at 60 percent. She said many of the things discussed today needed to be about funding, but the GMP would be very important to know prior to making any financial commitment.

Ms. Skier stated the 90% plans will be completed at the end of the month and then Burkhardt will need eight weeks to establish the GMP.

The Town Council provided direction to staff to continue to work with the

Preservation Foundation. Mr. Blouin stated he would be establishing a list of budget items for the Town Council consideration.

Public Comments

Robert Davidow, 2100 South Ocean Blvd., on behalf of the Board of Trustees of the 2100 Condominium Association, complimented the Preservation Foundation and town officials with whom the condo association and residents have had the opportunity to work. On behalf of the condo residents, he expressed concern about the park becoming a tourist attraction and destination, although the condominium association was in support of the project. He discussed two elements of concern with the renovation, each within 200 ft of the condo property line, and an agreement had not been reached. He said the location of the playground and the 35' coastal restoration center were both concerning. He suggested some changes that would please the condo association.

Susan Gary, 229 Onondaga Ave., suggested considering a second phase, which would delay parts of the project for a while.

Ms. Skier said there were others who would like to comment to the Town Council, but she had advised them to wait until September.

C. New Business

1. Code Enforcement Board Referral - Bricktops Restaurant and
Declarations of Use Review
Nicholas Caristo, Chief of Police

Ms. Carla Marcote, Code Enforcement Specialist, presented factual information about the Code Enforcement Board referral. This case was before the Code Enforcement Board on violation of their Special Exception #16-2010, specifically, item 10 that all garbage, including glass, shall be stored in the restaurant after 6:00 pm and must not be placed in the dumpster area until after 8:00 am the next morning; item 12, the kitchen door at the back of the restaurant shall remain closed after 6:00 pm and not reopened until after 8:00 am. This item has been referred to the Town Council for review of the special exception and possibly adding language to ensure the quality of life for the surrounding property owners. Two citations were issued with mandatory appearances before the Code Enforcement Board. The Code Enforcement Board felt that the special exception agreement, although it did not speak to noise, that it was the council's intent for the agreement to ensure the quality of life for surrounding homeowners. The Code Enforcement Board asked the Town Council to review the special exception and possibly add language that is more specific to noise with regard to the restaurant.

Mayor Moore said the business owners need to follow the rules. She believed the business owners knew the intention of the Town Council.

Mr. Randolph asked if there was a Declaration of Use Agreement. Ms. Marcote said there was a special exception use agreement, #16-2010, which was provided in the backup documents. Mr. Randolph advised that a business owner would have to be brought back to the Town Council to determine whether or not they were violating the requirements of the initial special exception.

Council Member Cooney said the special exception use agreement was standard, and conditions were attached to the approval. Mr. Randolph said the conditions in the agreement are the items that should be addressed. He was concerned with whether new conditions could be added to a special exception that had already been granted.

Mr. Mark Peak, General Manager at Bricktops, was confused about why this was being presented to the Town Council. Mr. Blouin asked him to start off by saying how he would mitigate impacts on the neighbors so as not to have any additional code enforcement violations.

Mr. Peak said they went to the board at the condominiums and spoke with them to find out what was creating the undesirable conditions. He said some changes have been made, and the back area has been rubberized to avoid clanking sounds. He said the cleaning crew enters through another door, and he is interested in improving the neighborhood's quality of life.

Council Member Cooney empathized with Mr. Peak's position because keeping wet kitchen garbage is not sanitary. He was looking for balance and an understanding of the position of Mr. Peak given the operational realities of complying with the special exception agreement.

Council Member Araskog said she understands the situation, but a compromise is necessary. She asked how many other restaurants had a similar agreement. It would be difficult to put the garbage out after 8:00 am if the garbage pickup personnel came at 8:00 am. Mr. Brazil said the garbage pickup crew was on a route, and it would be extraordinarily challenging to skip someone and return for one customer. Mr. Brazil said it is a set route, and the condominiums are commercial customers, also. He said that a specific time could not be guaranteed.

Ms. Marcote stated the Code Enforcement Board is looking for direction from the Town Council because they have exhausted their options.

Mr. Blouin said additional administrative solutions will be explored, but in the meantime Code Enforcement needs to continue following their protocols.

Mr. Randolph advised that the restaurant manager should continue to work with the Code Enforcement Board to bring his operation into compliance.

2. Proposed Addition of a Louvered Pergola to the Mandel Recreation Center

Mark Bresnahan, Director of Recreation

Mr. Bresnahan presented the Pergola for consideration. This item is for concept approval. The reason the pergola was not added to the project initially was that it was value-engineered out, and a shade tree was under consideration for this location at the time. The Town Council was supportive of the pergola.

Council President Zeidman thanked the Friends of Recreation for contributing to this project.

Council Member Araskog thought the pergola approval should be conditioned upon the approval of ARCOM.

Motion was made by Council Member Araskog and seconded by Council Member Cooney to approve the louvered pergola at the Mandel Recreation Center on condition that ARCOM approval is received. On roll call, the Motion passed unanimously.

XIV. ORDINANCES

A. Second Reading

1. Proposed Ordinance to Amend Section 106.48 of the Town Code, Relative to Unlawful Solicitation from Public Streets or Sidewalks

ORDINANCE NO. 007-2023 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Repealing Section 106.48, Titled "Unlawful To Solicit from Public Streets or Sidewalks", Providing for Severability, Providing for Repeal of Ordinances in Conflict, for Codification, Providing an Effective Date.

Mr. Randolph read the ordinance by title only.

Motion was made by Council Member Crampton and seconded by Council

Member Araskog to adopt on second reading Ordinance No. 007-2023. On roll call, the Motion passed unanimously.

B. First Reading

1. Proposed Ordinance to Amend Chapter 106 of the Town Code Relative to Prohibiting Persons from Standing in the Public Rights of Way, Roadways or Public Sidewalks for any Purpose which Interrupts the Normal Flow of Vehicular or Pedestrian Traffic

ORDINANCE NO. 013-2023 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 106, Streets, Sidewalks and Other Public Places At Article II, Streets To Create A New Section 106-48 Prohibiting Persons From Standing In The Portion of, Public Rights of Way, Roadways or Public Sidewalks of The Town For Any Purpose Which Is Intended to or Actually Interrupts The Normal Flow of Vehicular or Pedestrian Traffic or For The Purpose of Inviting or Enticing A Person To Enter A Commercial Establishment Adjacent To Said Right of Way, Street or Sidewalk; Providing For Severability; Providing For Repeal of Ordinances In Conflict; Providing For Codification; Providing For An Effective Date.

John C. Randolph, Town Attorney

Mr. Randolph read the ordinance by title only.

Mr. Randolph stated that the ordinance had been modified to include the prohibition of persons from standing in the right of way to conduct business.

Motion was made by Council President Pro Tem Lindsay and seconded by Council Member Crampton to approve the first reading of Ordinance No. 013-2023. On roll call, the Motion passed unanimously.

2. Proposed Ordinance to Amend the FY23 Budget

ORDINANCE NO. 014-2023 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Providing for an Amendment to the Town's Budgets Adopted for the Fiscal Year Commencing October 1, 2022, and Providing an Effective Date.

Bob Miracle, Deputy Town Manager -Finance and Administration

Mr. Randolph read the ordinance by title only.

Mr. Miracle explained that a budget amendment is required to appropriate additional funds in the General Fund to balance estimated costs related to the Zoning Code Review process. Also, a budget amendment is required to appropriate additional funds in the equipment replacement fund to allow the Public Services Department to order a sewer vac truck and a rear-load garbage truck. These items are budgeted and Mr. Blouin advised the current vehicles have exceeded their useful life and these items have a long lead-time once purchased.

Motion was made by Council Member Crampton and seconded by Council President Pro Tem Lindsay approve the first reading of Ordinance No. 014-2023. The motion was then withdrawn.

Council Member Araskog suggested deferring this approval to find out how much of the budget amendment will be paid to ZoneCo and how much would be for the vehicle purchases. She would like to see the ZoneCo amendment broken down to show exactly what the payouts will be, to whom and for what purpose.

Mr. Randolph advised that this ordinance is to adopt the budget, amendment not an obligation to make the payments. He said if corrections are made, first reading would have to be tomorrow.

Motion was made by Council Member Araskog and seconded by Council President Pro Tem Lindsay to defer the first reading of Ordinance No. 014-2023 to the June 14, 2023 Town Council Development Review Meeting. On roll call, the Motion passed unanimously.

Anita Seltzer, 44 Coconut Row, expressed disappointment that the breakdown data was unavailable today since it had already been requested. There was a brief discussion. Council President Zeidman commented and stated there would be additional discussion on this on June 14, 2023.

3. Proposed Ordinance to Amend Chapter 114 of the Town Code
Relative to Local Business Tax

ORDINANCE NO. 015-2023: An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 114 Taxation, Article II, Local Business Tax, at Section 114-43 Schedule, so as to Amend the Fees Delineated for Each Business, Profession or Occupation; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.

Wayne Bergman, Director of Planning, Zoning and Building

Mr. Randolph read the ordinance by title only.

Mr. Bergman provided details of the ordinance. He said per Florida Statute 205, the town may increase Business Tax Receipt fees every two years by an amount not to exceed five percent. If approved upon the first reading, the second reading will be held, and new fees will be incorporated in mailing for new business tax receipts in July. He said the increase would represent approximately \$42,000 per year and has been reflected in the Town's long-term financial plan. He also mentioned staff recommends adoption of this ordinance and that to become effective, it requires a super-majority vote by Town Council.

Motion was made by Council Member Araskog and seconded by Council President Pro Tem Lindsay to approve the first reading of Ordinance No. 015-2023. On roll call, the Motion passed unanimously.

XV. ANY OTHER MATTERS

1. Mar-A-Lago

Council Member Araskog was not heard at the last meeting due to technological difficulties. She noted in the town requirements for granting a special exception, it states "the use is so designed, located and proposed to be operated that the public health, safety, welfare, and morals will be protected." When Captain Guelli spoke, he stated that it was unsafe and that nothing more than a motorcycle could pass during high-traffic situations. She questioned how a special exception could be approved when an unsafe condition was created. It was important to Council Member Araskog that special exception requirements be followed. She also stated that Mayor Moore had brought up the declaration of use and modified the number of people using the south gate. Council Member Araskog felt that the Town Council should re-review the declaration of use to try to get them to move the one area to the south end, inside Mar-a-Lago, which would improve safety. She stated that Captain Guelli had provided testimony that an unsafe situation would be created.

Council Member Araskog asked the Town Council to consider a motion to reconsider the Mar-A-Lago special exception.

Mr. Randolph advised that someone on the prevailing side must request reconsideration.

There was no motion.

2. Zoning in Progress

Mr. Randolph advised that a discussion of the Zoning in Progress Resolution may be best heard in July after the law is in effect. At that time, the Town Council would recognize that the Resolution is void.

Discussion ensued, and Mr. Randolph asked if it would be safe to allow

the Resolution to void upon the state law becoming effective or if the Town Council would be safer by repealing the resolution.

There was consensus among the Town Council to wait until July to discuss this item after the State law goes into effect.

XVI. ADJOURNMENT

Motion was made by Council Member Cooney and seconded by Council Member Arasko to adjourn the Town Council meeting of June 13, 2023 at 4:30 PM. On roll call, the Motion passed unanimously.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Pat Gayle-Gordon, Deputy Town Clerk

Date