



TOWN OF PALM BEACH

Town Clerk's Office

MINUTES OF THE TOWN COUNCIL MEETING HELD ON AUGUST 10, 2021

I. CALL TO ORDER AND ROLL CALL

The Town Council Meeting was called to order at 9:35 a.m. via Zoom. 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 President Zeidman led the Pledge of Allegiance.

III. MODIFICATIONS TO THE AGENDA

The following modifications were made to the agenda:

Item Nos. X.A, X.A.a and X.A.c were deferred to the September 14, 2021 Town Council Meeting.

Motion was made by Council Member Crampton and seconded by Council President Pro Tem Lindsay to approve the modifications to the agenda. On roll call, the Motion passed unanimously.

IV. APPROVAL OF AGENDA

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

V. PRESENTATIONS

- A.** Legislative Update
TIME CERTAIN 9:45 A.M.
Bobby Powell, Jr., Florida State Senator

Senator Powell, representing District 30 in northern Palm Beach County, provided a legislative review of the most recent session, including his committee assignments. He described the major session issues, the bills that were passed, particularly those affecting local municipalities, and his legislation. He reviewed the 2021 budget highlights.

Council Member Crampton commented the Science Center was planning a major expansion, and asked about the monies received under the American Rescue Plan. Senator Powell responded the Governor was holding some of the funds for direct allocation.

Mayor Moore thanked Senator Powell for his presentation and commented the Town was focused on home rule. She commented the Town already had an ARCOM process.

Council President Zeidman thanked Senator Powell for a complete presentation. She commented on the matter of home rule, and that the Council had to take things into their own hands to protect the residents during the past year.

Council President Pro Tem Lindsay asked Senator Powell about the continued assault on home rule, and asked what could be done to stop it. Senator Powell responded it was the power of the people talking to the legislature.

Council Member Araskog thanked Senator Powell for coming and his fight for home rule.

- B.** Scholarship Awards provided by the Rotary Club of Palm Beach Foundation
Danielle H. Moore, Mayor

Mayor Moore congratulated the following scholarship awardees:

Endrit Basha, Miranda Boodheshwar, Casey Castro, Desiree Lovell, Kelly Martin, Nicholas Pataca, Sofia Rivero and Luke Stone.

- C.** Scholarship Awards provided by the Palm Beach Country Club Foundation
Danielle H. Moore, Mayor

Mayor Moore congratulated the following scholarship awardees:

Joshua Alber, Tyler Alber, Bianca Badolati, Nicholas Badolati, Christopher Barber, Joseph Barber, Miranda Boodheshwar, Christina Caristo, Michael Caristo, Casey Castro, Leroy Blum, Frank Guelli, Joseph Guelli, Maxwell Guelli, Kevin Lebraun, Amanda Marx, Dakota Minot, Armanda Nieves, Nicholas Pataca, Kaitlyn Pinto, Sofia Rivero, Emily Rojas, Lewis Rosado, Jack Stone, Luke Stone, Zachary Tedesco and Christopher Wilson.

D. Scholarship Award Provided by the Palm Beach Civic Association and Citizens' Association of Palm Beach

Allison Tardonia, Vice President of Membership and Sponsorship, Palm Beach Civic Association and Fred Aldridge III, Co- Chair/Treasurer, Citizens' Association of Palm Beach

Allison Tardonia and Skip Aldridge congratulated Endrit Basha, son of Duke Basha, Assistant Purchasing Manager, who received the Civic and Citizens' Associations scholarship award. He will be studying computer technology. Endrit Basha expressed his gratitude.

Mayor Moore expressed her congratulations to the recipients.

VI. COMMENTS OF MAYOR DANIELLE H. MOORE

Mayor Moore expressed her condolences to Council Member Araskog and her family on the loss of her father. She expressed disappointment this meeting could not be in person because of the surge of the COVID-19 variant. She commented on the outstanding work of Mr. Potts on the water issue.

VII. COMMENTS OF TOWN COUNCIL MEMBERS

Council President Pro Tem Lindsay expressed her condolences to the Araskog family. She thanked Jay Boodheshwar for his part in the Town's participation in the updated water manual for Lake Okeechobee. An optimized version would be adopted in 2022.

Council Member Araskog thanked everyone for their support, indicated she would be present as much as possible today, thanked Council President Pro Tem Lindsay for her important comments on the water manual, and hoped lawn and maintenance could be sent to ORS.

VIII. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

There were no communications from citizens at this time.

IX. APPROVAL OF CONSENT AGENDA

The following items were pulled and heard under Item No. XI.A. as follows:

1. Item No. IX.B.3. RESOLUTION NO. 082-2021 heard as Item No. XI.A.1
2. Item No. IX.B.5. RESOLUTION NO. 084-2021 heard as Item No. XI.A.2
3. Item No. IX.C.2. Children's Home Society, Relative to the Charitable Solicitation Ordinance heard as Item No. XI.A.3

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

A. MINUTES

1. Town Council Meeting Minutes
Queenester Nieves, CMC, Town Clerk

July 14, 2021, Local Planning Agency Meeting Minutes
July 14, 2021, Town Council Development Review Meeting Minutes

The following meeting minutes are being deferred to the September 14, 2021, Town Council meeting.

July 13, 2021, Town Council Regular Business Meeting
July 15, 2021, Town Council Special Meeting, Proposed FY22 Budget
July 27, 2021, Town Council Special Meeting, Covid-19

2. Approval of Major Matters Considered by the Architectural Review Commission at its Meetings of July 28-29, 2021.
Wayne Bergman, Director of Planning, Zoning and Building

B. RESOLUTIONS

1. RESOLUTION NO. 072-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Providing for the Designation of Ten (10) Additional Trees as Historic and Specimen Trees in Lake Drive Park, Providing an Effective Date.
H. Paul Brazil, P.E., Director of Public Works
2. RESOLUTION NO. 081-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to Flowbird North America in the Amount of \$97,740 for Parking Kiosk Upgrades to Thirty-Six (36) Parking Kiosks Previously Purchased from Cale America, Inc.
Jay Boodheshwar, Deputy Town Manager
3. RESOLUTION NO. 082-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of RFP No. 2021-16, Permitting Software for the Building Enterprise Fund to

Tyler Technologies, Inc., in the Amount of \$249,785 for Implementation and Training, \$74,030 for One-Time License Fees and Five-Year Annual Maintenance Contract of \$351,000 for a Total Five-year Contract Award of \$674,815, Pending Successful Vendor Performance and Budget Authorization.

*Dean Mealy, Purchasing Manager – **Pulled and Heard as Item No. XI.A.1***

4. RESOLUTION NO. 083-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of Invitation to Bid No. 2021-14, Tree Trimming to a Primary, Secondary, and Tertiary vendor in the Annual Amount of \$166,850 and a Proposed Five-Year Award in the Amount of \$855,250 Contingent upon Satisfactory Vendor Performance and Budget Authorization.

Dean Mealy, Purchasing Manager

5. RESOLUTION NO. 084-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of a Purchase Order to Aegion/Insituform Technologies, LLC for Lining of Sewer Pipes Within the A5 and A6 Basins From the National Cooperative Buyboard in the Amount of \$442,974.50 and Establish a Project Budget of \$487,271.

*Dean Mealy, Purchasing Manager - **Pulled and Heard as Item No. XI.A.2***

C. OTHER

1. Request to Consider Ordinance Nos. 19-2021 and 20-2021 at a Public Hearing Prior to 5:00 p.m.

Wayne Bergman, Director of Planning, Zoning and Building

2. Request from the Children's Home Society, Relative to the Charitable Solicitation Ordinance

*Jay Boodheshwar, Deputy Town Manager - **Pulled and Heard as Item No. XI.A.3***

X. COMMITTEE REPORTS

- A. Report of the Ordinances, Rules and Standards Committee Meeting Held on Thursday, July 1, 2021

Julie Araskog, Committee Chair

This item was deferred to the September 14, 2021, Town Council Meeting

- a. Recommendations Regarding Modifications to Construction Hours

Jay Boodheshwar, Deputy Town Manager

This item was deferred to the September 14, 2021, Town Council Meeting

- b. Recommendations Regarding the Addition of Synthetic Turf Regulations

in the Town Code

Wayne Bergman, Director of Planning, Zoning and Building

Motion was made by Council Member Crampton and seconded by Council President Pro Tem Lindsay to defer this matter to the ORS Committee. On roll call, the Motion passed unanimously.

C. Discussion Regarding Application of Existing Regulations Pertaining to Native Plants

Wayne Bergman, Director of Planning, Zoning and Building

This item was deferred to the September 14, 2021, Town Council Meeting

B. Report of the Business and Administrative Committee Meeting Held on Thursday, July 8, 2021

Lew Crampton, Committee Chair

Chair Crampton reported the committee had continued their discussion about parking, mainly looking at commercial parking issues, and solutions that included rates, placards, hours of enforcement, and getting employee parking off the streets. Private underground lots had already been approved to take the overflow, which would help in the marina district. The current Resolution 059-2021 when passed would allow off-site private lots to be used during daylight hours. Discussion would continue at the next meeting.

Motion was made by Council Member Cooney and seconded by Council Member Crampton to accept the report of the Business and Administrative Committee Meeting held on July 8, 2021. On roll call, the Motion passed unanimously.

a. RESOLUTION NO. 059-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town of Palm Beach Master Fee Schedule by Modifying Parking Placard and Metered Parking Fees, and Providing an Effective Date.

Jay Boodheshwar, Deputy Town Manager

Deputy Town Manager Boodheshwar explained the history of the data regarding fees, which would be established by passage of Resolution 059-2021.

Council President Pro Tem Lindsay commented on the under-utilized Phipps beach parking where the fee was being reduced from \$6 to \$4 to encourage more parking at that location.

Council President Zeidman commended the work of the Business and Administrative Committee on parking. She reminded everyone that with increased use of beach parking there were increased services, necessitating higher fees.

Council Member Araskog stated she was fine with the increase.

Mayor Moore asked about the construction at Phipps Ocean Park. Deputy Town Manager Boodheshwar commented there was a way to provide some access during construction. Town Manager Blouin noted that construction was several years away and parking would be modified at that time.

Council Member Crampton commented the Committee was not only focused on raising revenue for the Town, but also serving residents and commercial interests by making traffic flow more smoothly.

Council President Zeidman agreed with the previous comment.

Motion was made by Council Member Crampton and seconded by Council Member Araskog to approve Resolution No. 059-2021. On roll call, the Motion passed unanimously.

XI. REGULAR AGENDA

A. Matters Pulled From Consent Agenda: If needed

1. RESOLUTION NO. 082-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of RFP No. 2021-16, Permitting Software for the Building Enterprise Fund to Tyler Technologies, Inc., in the Amount of \$249,785 for Implementation and Training, \$74,030 for One-Time License Fees and Five-Year Annual Maintenance Contract of \$351,000 for a Total Five-year Contract Award of \$674,815, Pending Successful Vendor Performance and Budget Authorization.

Dean Mealy, Purchasing Manager

Council Member Crampton explained this was the software to make operations within Planning, Zoning and Building move more efficiently and would help with code reform in the future, as well as the process of permit management.

Town Manager Blouin confirmed this would make permit processing more efficient and help with communications to builders, architects, and developers, and he was excited about the improvements this would make.

Director of Planning Zoning and Building Wayne Bergman explained this was a totally online process which would allow applications to be submitted from residents' homes and they would not have to come into Town Hall.

Motion was made by Council Member Crampton and seconded by Council President Pro Tem Lindsay to approve Resolution No. 082-2021. On roll call, the Motion passed unanimously.

2. RESOLUTION NO. 084-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of a Purchase Order to Aegion/Insituform Technologies, LLC for Lining of Sewer Pipes Within the A5 and A6 Basins From the National Cooperative Buyboard in the Amount of \$442,974.50 and Establish a Project Budget of \$487,271.

Dean Mealy, Purchasing Manager

Mayor Moore commented she wanted to be sure residents realized there would be a significant cost savings to the Town.

Director of Public Works Brazil explained at the beginning of the collection system there were old clay pipes, which allowed groundwater into the system, which then required maintenance. He explained that this Resolution would allow forcing a liner into the pipes which would then harden, making them the equivalent of new pipes without the disruption replacement of pipes would cause. This would result in a huge savings to the residents. He recommended approval of the Resolution.

Motion was made by Council Member Cooney and seconded by Council President Pro Tem Lindsay to approve Resolution No. 084-2021. On roll call, the Motion passed unanimously.

3. Request from the Children's Home Society, Relative to the Charitable Solicitation Ordinance.

Jay Boodheshwar, Deputy Town Manager

Council President Zeidman explained this request was for a one-time waiver which would allow the Children's Home Society to get back on schedule. She asked if staff would be involved at the time of an event. Town Manager Blouin responded not unless they requested Police Officers at the event.

Council Member Araskog expressed concern if COVID was rampant at the time of events.

Council President Zeidman noted this was a private event on private property and she hoped the organizers would make a decision closer to the time of the event taking into consideration community spread of the coronavirus. The Town Manager also expressed concern over the timing of the event.

Motion was made by Council Member Araskog and seconded by Council President Pro Tem Lindsay to grant the waiver of the two-event limit to the Children's Home Society. On roll call, the Motion passed unanimously.

B. Old Business

1. COVID-19 Update

Kirk W. Blouin, Town Manager

a. COVID-19 Monthly Report

Darrel Donatto, Fire Rescue Chief

Chief Donatto summarized his report which had been submitted in writing. He reported that in June the positivity rate was 2.28% and is now 17%. The number of new COVID cases in Palm Beach County per week was doubling every 28 days, and hospitals were 90% or greater in capacity. This was due to the Delta variant, which was very transmissible. For every person who got it, between 5 and 9 other people would get it. Other more dangerous variants would continue to develop here and in other countries. The Delta variant started with one person in India, and was now the dominant strain in the United States. Right now, the only thing out there to provide the best protection was the vaccine. 15 residents of Palm Beach had died. He encouraged people to get vaccinated, and also to practice social distancing and wear a mask. He felt we were still in the early stages of COVID because of the large number of unvaccinated people all over the world.

Council President Zeidman commented the Delta variant was increasingly being seen in children as young as 5. She expressed her personal concern that not enough persons were vaccinated and that even the vaccinated can be infected and can transmit the virus to children who are not yet eligible to be vaccinated. Chief Donatto responded pediatricians and hospitals were seeing more cases of younger patients with the Delta variant.

Council Member Crampton asked what the Town was considering about requiring employees to be vaccinated. Town Manager Blouin reported employees had been encouraged to get vaccinated. He described an incentive program which was offered to everyone that showed proof of vaccination. A disincentive was that if an unvaccinated employee was sick, they had to tap into their personal sick leave bank. In a couple of weeks Dr. Alonzo would be speaking to all Town employees to answer vaccine questions to address their fears, and education would be ongoing. He thanked President Zeidman for arranging the presentation by Dr. Alonzo. Additionally, he stated that once FDA granted full authorization on the vaccine, the Town would consider requiring vaccinations, testing and enhanced participation in the insurance program.

Chief Donatto added that the Delta variant, in addition to being much more transmissible than the original virus, was also much more severe. When testing with nasal swabs there was about 1,000 times more viral particles than with the original COVID-19, and the variant spread around the body, producing a much more severe illness. Because of that, some vaccinated people were also getting sick because the variant overwhelmed their system. Although very few ended up hospitalized, they had to be quarantined and stay home from work. He reported several Fire Rescue employees had just decided to get vaccinated after seeing the effects of the variant on unvaccinated co-workers.

Council Member Crampton asked if the Town was giving any thought to introducing a booster shot program for residents when it became available. Chief Donatto responded he felt booster shots would be available only in the commercial market. Council President Zeidman commented that mRNA boosters could be fashioned to protect from variants.

Council President Pro Tem Lindsay reported getting phone calls regarding how long the vaccines last, and asked for that to be addressed at the next meeting. Also, younger people were getting the virus and then did not believe they needed to be vaccinated. Chief Donatto responded those who had the virus had some immunity, but studies had shown the natural immunity wasn't to the same level as vaccinated immunity and wasn't as durable or did not last as long. Therefore, it was strongly recommended if a person had COVID, they still become vaccinated to have a greater degree of immunity and longer lasting immunity. The duration of present vaccines was still unknown. This was a global issue, and variants would continue.

Council Member Araskog commented she personally knew more people who had break-through cases. There was a great amount of misinformation, so education was needed. She was wondering about booster shots for auto-immune compromised people, and if the Fire Department could give those. Chief Donatto commented Delray was giving shots mandated for their employees. He commented the Fire Department would certainly step in if needed. It was clarified Delray was giving the vaccine to their employees and not booster shots.

Mayor Moore asked if the Firefighters Union was encouraging their members to be vaccinated. Chief Donatto responded they were strongly recommending vaccinations.

b. Discussion Regarding Board, Commission, and Committee Meeting Format and Participation

Council President Zeidman reported she had communicated in writing,

in May, to the Chairs of Town Boards with the decisions made by Town Council at their May 2021 meeting, that all decision making Boards were required to be physically present for their meetings. These Boards include the following: ARCOM, LPC, Code Enforcement and the Retirement Board. She provided background, including the Governor's order, and the State statute. She stated that she was of the opinion that the Boards and Commissions should not meet in person because of new information from the CDC that even those who are vaccinated can become infected and can transmit the virus. She expressed concern that Board members would need to fly back and forth and could become infected and then transmit the virus to grandchildren. She felt that until we have more information it is best to have all Boards and Commissions meet virtually. After consulting with Town Attorney Randolph, she recommended for the remainder of August that members of ARCOM, LPC, Code Enforcement, and Retirement Board be kept on Zoom so as not to have to fly back and forth, and the quorum and the voting would be handled the same as if in person.

Council Member Cooney expressed his full support and asked about physically present quorums. He recommended staying on Zoom.

Town Attorney Randolph responded if council members agreed with President Zeidman they should vote in favor of her recommendations. He also advised if going back to full Zoom meetings without a quorum present his advice was the same as before, that they were doing it in the face of a Governor's order that said that "all government bodies" are required to be "physically present." If someone challenged a decision made at a virtual meeting, hopefully that could be dealt with on a case-by-case basis. From a legal standpoint, he was much more comfortable with a quorum present, and to the extent that a quorum could be present with people in town that should be done.

Council Member Pro Tem Lindsay expressed her support for the proposed action and asked for clarification from Town Attorney Randolph. He advised if the quorum consisted of an alternate who was present, they would be able to vote first, even if regular members were on the phone. That would not preclude those on the phone from voting according to seniority. People on the phone would be able to vote if absent for a good reason and certainly a good reason would constitute fear of flying during this pandemic.

Mayor Moore was thankful the Council had passed an emergency resolution a couple of weeks ago and encouraged President Zeidman to move this forward.

Council Member Crampton commented the Council was more effective when they were together, but public health trumped efficiency and he felt the proposed action was appropriate.

Council Member Araskog recommended Council ask Town Attorney Randolph to draw up the same document he did last March, allowing

applications to be heard up to 90 days in case a meeting had to be cancelled, because the rule now was 30 days. She also proposed postponing the next ARCOM meeting, probably for four weeks. If there were not enough for a quorum, the meeting could not go forward, and postponing could allow time to work things out but also to discuss the number of applications, which had dramatically increased. This could give staff time to work out what needed to be done. She had spoken with Town Attorney Randolph and trusted Council to make the right decision, but had to leave the meeting at this point. She highly recommended postponing the upcoming meeting.

Council President Zeidman stated at virtual meetings she would prefer voting to be as if they were present in chambers. Alternates would fill in when someone was absent, according to the ordinance. She asked if there was a way that could be done rather than having those present vote regardless of their status. The Town Attorney responded that could be done if today the Council declared they were going back to all virtual meetings; however, if a quorum of four commissioners including alternates could be present in Town Hall even if in different rooms, those constituting a physical quorum would vote first. If not possible to get a quorum present, it would be totally virtual, with everyone equal and voting members would vote, and alternates would fill in if not enough voting members present.

Mayor Moore felt either the meeting should be postponed or hold the meetings virtual.

President Zeidman polled the Council whether to hold all meetings virtually for the remainder of August.

Council Member Cooney was in favor of virtual meetings for the next month.

Council President Pro Tem Lindsay agreed.

Council Member Crampton agreed.

Mayor Moore agreed, and commented for the Commission meetings all the professionals also had to attend. She felt those who might think about a lawsuit would think long and hard about doing so under pandemic circumstances. She felt safety and security came first, and did not believe a quorum would be possible.

Council President Pro Tem Lindsay suggested moving ahead but also sending a letter to the Governor explaining the position he had placed a vulnerable population in, and asking for relief.

Council Member Crampton expressed his opinion someone bringing a lawsuit under these circumstances would suffer consequences, and Council should move forward to protect the public health of residents.

Motion was made by Council Member Cooney and seconded by Council Member Crampton to approve the decision that all Town Boards, Commissions and Committees will meet virtually for the month of August, this decision will be re-visited at the September Council Meeting. On roll call, the Motion passed 4-0 with Council Member Araskog absent.

Public Comment:

Michael Small, 156 East Inlet Drive, Chair of ARCOM, expressed 100% support for the Council's decision and asked if he could state before each application, "Do you voluntarily consent to and waive any objection that you might have to our conducting this hearing and consideration?"

Town Attorney Randolph advised that was acceptable but would not apply to others who might speak.

Council Member Crampton commented that was a good idea.

Rene Silvin, Chair of LPC, expressed gratitude for Council's willingness to be alert to health concerns.

For the next meeting, Council President Zeidman asked, if COVID stayed as it was now or became worse, whether the members agreed that she, as Council President, should make the decision whether to be on Zoom. The members agreed. She commented if that was the case, the Commission meetings would also be on Zoom. If the rate of virus was coming down, the meeting could be in person. Council President Pro Tem Lindsay asked the drop-dead date to make that decision. Discussion ensued.

Consensus of Council was Council President Zeidman would make the decision for holding September public meetings in person or on Zoom on or before September 10, 2021. Council members would be notified by letter from President Zeidman sent out by the Town Manager.

c. RESOLUTION NO. 093-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, concurring with the Request of the Town's Chief of Police, to Extend the Chief's Declaration of the Existence of a State of Emergency within the Corporate Limits of the Town to September 14, 2021, Unless Earlier Terminated by the Chief of Police, at Which Time the Town Council will Address the Need for any Extension of the Declaration of Emergency; Providing for an Effective Date.

Motion was made by Council Member Crampton and seconded by Council Member Cooney to approve Resolution No. 093-202 relating to the emergency declaration by the Chief of Police and consideration at an appropriate point in

September. On roll call, the Motion passed 4-0 with Council Member Araskog absent.

A lunch break was taken at this point. The meeting reconvened at 1:45 p.m.

2. Town-wide Undergrounding Project:

TIME CERTAIN 1:30P.M.

H. Paul Brazil, P.E., Director of Public Works

a. Review of Project and Dashboard, Summary of Project Status

Town Engineer Patricia Strayer reviewed the location and status of each current project phase. She presented a chart showing the different construction cost proposals, the master plan opinion of costs, the difference, and the percentage difference. There was a total overage of 5.2%. She reported today's construction industry had a cost increase of 12.8% over a year ago. This project was going at a much faster pace than any other undergrounding project in the State.

Council Member Crampton commented this was well managed. He felt the increase of 5.2%, which included chicanes, was a reasonable number when total construction costs overall had increased 12.8% in the past year.

Council President Pro Tem Lindsay asked if the 12.8% increase was a blip or if costs were expected to rise each year. Town Engineer Strayer commented two phases did not have increases, and she did not anticipate a 12.8% increase. Public Works Director Brazil commented there had been unusual single time increases in the past due to other work around the project. He felt 12.8% increases every year would not be sustainable; people would stop building.

Council Member Crampton felt costs were still within reasonable parameters. Town Engineer Strayer clarified some years were expected to be high and some low.

Council President Zeidman requested clarification of the Four South overage. Town Engineer Strayer detailed the major reasons, which included falling 18 months behind because of difficulties getting easements, and delay due to difficulty locating equipment on properties, along with inflation.

b. RESOLUTION NO. 086-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of Phase 4 South GMP, Town-Wide Overhead Utility Undergrounding Project to Burkhardt Construction, Inc. in the Amount of \$10,873,182

and Establishing a Project Budget of \$11,960,500.

Town Engineer Strayer presented and read by title Resolution No. 086-2021.

Motion was made by Council Member Crampton and seconded by Council President Zeidman to approve Resolution No. 086-2021. On roll call, the Motion passed 4-0 with Council Member Araskog absent.

c. RESOLUTION NO. 087-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to Kimley-Horn and Associates, Inc. for the Town-Wide Overhead Utility Undergrounding Project, Phase 4 South Construction Phase Services in the Amount of \$333,659 and Establishing a Project Budget of \$383,659.

Town Engineer Strayer presented and read by title Resolution No. 087-2021.

Motion was made by Council Member Cooney and seconded by Council Member Crampton to approve Resolution No. 087-2021. On roll call, the Motion passed 4-0 with Council Member Araskog absent.

d. RESOLUTION NO. 088-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of ITB No. 2021-05, Town-Wide Overhead Utility Undergrounding Project Phase 5 South to Wilco Electric, LLC in the Amount of \$6,629,360.64 and Establishing a Project Budget of \$7,623,764 and Award Phase 5 North to C. R. Dunn, Inc. in the Amount of \$6,416,941.56 and Establishing a Project Budget of \$7,379,502.

Town Engineer Strayer presented and read by title Resolution No. 088-2021.

Motion was made by Council President Pro Tem Lindsay and seconded by Council Member Cooney to approve Resolution No. 088-2021. On roll call, the Motion passed 4-0 with Council Member Araskog absent.

e. RESOLUTION NO. 089-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving a Purchase Order to Kimley-Horn and Associates, Inc. for Town-Wide Overhead Utility Undergrounding Project, Phase 5 South Construction Phase Services in the Amount of \$334,159 and Establishing a Project Budget of \$384,159.

Town Engineer Strayer presented and read by title Resolution No. 089-2021.

Motion was made by Council Member Crampton and seconded by Council Member Cooney to approve Resolution No. 089-2021. On roll call, the Motion passed 4-0 with Council Member Araskog absent.

f. RESOLUTION NO. 090-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving a Purchase Order to Kimley-Horn and Associates, Inc. for the Town- Wide Overhead Utility Undergrounding Project, Phase 5 North Construction Phase Services in the Amount of \$334,157 and Establishing a Project Budget of \$384,157.

Town Engineer Strayer presented and read by title Resolution No. 090-2021.

Motion was made by Council Member Cooney and seconded by Council Member Crampton to approve Resolution No. 090-2021. On roll call, the Motion passed 4-0 with Council Member Araskog absent.

g. RESOLUTION NO. 091-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of a Purchase Order to Burkhardt Construction, Inc. for Construction Management Services for Phase 5 North and South in the Amount of \$1,919,800 and Establishing a Project Budget of \$2,158,800.

Town Engineer Strayer presented Resolution No. 091-2021. She commented there was a 50% chance the entire amount could be reimbursed. She read Resolution No. 091-2021

Motion was made by Council President Pro Tem Lindsay and seconded by Council Member Crampton to approve Resolution No. 091-2021. On roll call, the Motion passed 4-0 with Council Member Araskog absent.

3. Request for Direction Regarding Completion of Retail Study
Jay Boodheshwar, Deputy Town Manager

Deputy Town Manager Boodheshwar advised this was on the agenda to give the Council an opportunity to change direction from what had been decided earlier this year, which was approval for Yard & Company to start this study in the fall. He added that was still on track, but wanted to let Council know staff was about to issue an RFP for the scope of code reform they had approved previously, and was suggesting it might make sense to possibly fold in this retail scope into this other initiative and have one contract, one project that would yield similar results. If interested, staff would need to come back next month to rescind Resolution 25 to delete that contract with Yard & Company. In the meantime, they could go ahead with the RFP.

Council President Zeidman commented Planning and Zoning had recommended the retail study.

Council Member Crampton was not comfortable changing direction until Michael Ainslie, Chair of Planning and Zoning Commission, had been consulted. He suggested a full discussion at the next meeting.

Council President Zeidman commented she had contacted Michael Ainsley and he felt this was a good way to handle it.

Deputy Town Manager Boodheshwar had also spoken with Mr. Ainsley and reported he had remained neutral, deferring to staff and Council, and he felt the Town needed to move forward with code reform, and if this was a piece of it, he would be happy.

Council President Pro Tem Lindsay recalled the circumstances at the time this was approved, and the changes that had taken place, and commented now this probably made sense. She was glad President Zeidman had spoken to Mr. Ainsley. She had voted for Yard & Company, and did not know if they could work under a full code reform person or re-apply, and would like to look into giving them some favored status. She wanted code reform to get started and finished and if this was the most cost-efficient way to do it, she would support it.

Council Member Crampton felt no decision should be made today, and would like to hear a presentation next month, with background and with a representative from Planning and Zoning present.

Council President Zeidman wanted to see how this fit into the entire code reform process in order to make a decision.

Deputy Town Manager Boodheshwar asked Purchasing Agent Dean Mealy if the code reform RFP could go forward and do an amendment next month, or include the pending contract with Yard & Company in the retail component. Purchasing Agent Mealy preferred to issue the RFP and cancel the award to Yard & Company. Discussion ensued. Town Manager Blouin noted Council had approved to add to the project of code reform a retail and marketing and business aspect, so he wondered if the RFP for code reform could go ahead, if Council approved, and at a later time to still examine the retail community and those business aspects, and push out another scope focusing just on that aspect, and separate out the code reform from the previously approved RFP from Yard & Company. Purchasing Agent Mealy explained the process, which was complicated. Deputy Town Manager asked Director Bergman if one month delay would hurt the RFP.

Director Bergman did not think waiting 30 days would hurt the code reform project. He felt the Yard & Company RFP got into more of a marketing aspect of how the town code could be changed to promote more

retail. Whether or not that component was retained going forward, since it was not a planner function, was a question, but he felt the majority of the information that Yard & Company would provide could be handled through the code reform process.

Council Member Crampton stated he did not think the two were mutually exclusive. He thought they could approve the code reform proposal today if asked to do so. He suggested waiting a month, allowing the code reform RFP to go out, and when it came time for Yard & Company to do their work to fold that in. He felt Director Bergman had the skills to put all the data together and emerge with the kind of project that would make the most sense for the Town.

Mayor Moore wanted to make sure Yard & Company was comfortable with Council Member Crampton's suggestion.

Council President Pro Tem Lindsay felt there was consensus to come back next month to get more information and asked that Yard & Company be contacted for their position.

Council President Zeidman thought the retail dovetailed with the larger code reform, and no decision was necessary today. She agreed with waiting until next month and asked if the Deputy Town Manager and Director Bergman had been given enough direction.

Deputy Town Manager Boodheshwar responded there was a Planning and Zoning Commission meeting before the next Council meeting, so they would make a presentation to Planning and Zoning Commission, come back to Council next month, and hold off issuing the broader RFP until that time.

This item was deferred to the September 14, 2021, Council meeting.

4. FY22 Proposed Budget Update

a. RESOLUTION NO. 092-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Adopting the Town Marina and Building Enterprise Fund Reserve Policies; Providing an Effective Date.

Jane Le Clainche, Director of Finance

Finance Director Le Clainche reviewed changes made at the last Council meeting and others made since then to the proposed budget. She reviewed changes to the General Fund, Building Enterprise Fund, and Capital Improvement Fund. Director Le Clainche noted another option to consider for payment of the Fire Rescue Station was financing, with bank

interest rates now between 2.25% and 2.5%.

Council Member Crampton asked if she had compared bank funding or financing with reserves. Director Le Clainche felt it would be a good idea to finance unless the construction cost went up much higher, so suggested waiting until that number was determined, then checking rates, and bringing it back to Council at that time. Council Member Crampton agreed.

Consensus of Council was to wait until bids were in.

Director Le Clainche reviewed Enterprise Funds - Reserve Policies which would be adopted with passage of Resolution No. 092-2021.

Council Member Crampton congratulated Director Le Clainche on the policies, which he considered wise and prudent.

Motion was made by Council Member Crampton and seconded by Council President Zeidman to approve Resolution No. 092-2021. On roll call, the Motion passed 4-0 with Council Member Araskog absent.

Director Le Clainche announced the Budget Public Hearing dates for Monday, September 13, 2021 and Thursday, September 23, 2021. Both hearings will begin at 5:01 PM.

5. Request to Amend the Long-term Ground Lease of 5976 Okeechobee Boulevard, West Palm Beach, Florida, to AHS Residential
TIME CERTAIN 11:00 A.M.
Janis Cheezem, Akerman LLP

Town Manager Blouin provided a brief overview, reporting the ground lease had been revisited to provide language to establish firm milestones and timelines for testing, remediation of contaminated soil, and making the property suitable for development. Remediation costs had been agreed upon.

Attorney Janis Cheezem provided a more extensive overview, including the brokerage commission, and suggested the Council might want to approve the amended and reinstated ground lease subject to an agreement of the broker to defer 50% of the commission until the final termination right had passed. She clarified that the tenant would be required to post a bond so that once remediation of the soil had begun, that work could not be stopped until completion. Town Manager Blouin noted they were also requesting another amendment to give him authority to delay payment until after all termination rights had passed and then the Town would be obligated to make half the payment to the broker on his commission at 4%.

Council Member Crampton congratulated the Town Manager and staff on their help with this issue. He asked about the brownfield designation and amount of time to do the remediation action plan. Attorney Cheezem explained the timeline which would need approval by the Florida Department of Environmental Protection. She explained the brownfield designation was a funding mechanism.

Town Manager Blouin acknowledged all the help from members of staff. Attorney Cheezem reported the Town staff had been wonderful to work with. Council President Pro Tem Lindsay also commended staff, and felt they could go forward with this on other town-owned lands. Attorney Cheezem thought the brownfield designation would go forward.

a. RESOLUTION NO. 094-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Amended and Restated Ground Lease Agreement Between the Town of Palm Beach, Florida (Town) and CRE Fund at Okeechobee Boulevard, LLC (Tenant), Subject to Certain Guaranties by AHS Residential, LLC (Guarantor) for Property Consisting of Approximately 29.38 Acres Located Outside of the Town's Boundaries at 5976 Okeechobee Boulevard, West Palm Beach, Florida (Property).

Kirk Blouin, Town Manager

Motion was made by Council Member Crampton and seconded by Council President Pro Tem Lindsay to approve Resolution No. 094-2021, subject to the Town Manager's re-negotiations of the due date for payment of the first 50% of the brokerage commission. On roll call, the Motion passed unanimously.

6. Overview and Update Regarding the City of West Palm Beach Expert Panel Review of City's Management of Cyanotoxins in Raw Water Supply
TIME CERTAIN 10:30 A.M.

John Potts, Senior Consultant, Kimley-Horn and Associates

Director of Public Works Paul Brazil introduced John Potts, and explained his role would be attending the meetings of the City of West Palm Beach Expert Panel to review the city's management of cyanotoxins in the raw water supply as an observer for the Town of Palm Beach, and report back monthly to the Town. He provided his professional qualifications. Mr. Potts reported there had been three meetings to date regarding drinking water quality. The panel had been reviewing data, and at the last meeting had introduced the preliminary findings and recommendations element. They had determined that chlorinating the water as it left the plant was not possible since it would violate other water treatment standards. The panel was working on improving and making it possible for the existing plant to

perform as expected, including their ability to predict algae blooms. He announced the next meetings.

Council Member Crampton commented the City had made a major improvement in their ability to treat the water approximately 3 years ago, and asked if he was confident they were using the highest and best technology, and if he believed it was possible to determine a point to predict a problem in the future. Mr. Potts reported the plant could operate at the level required, but that would depend on other factors, and there were so many sources that it might not be possible to pinpoint where future problems would arise.

Council President Zeidman expressed how concerned the Council had been about what had happened, and how glad she was that Mr. Potts was working with the Town. She asked about regulatory bodies that limited the ability of the local agency to react. Mr. Potts gave an example of whether bottom muds in Clear Lake and Lake Mangonia could cause algae when the lake dropped to a certain level, and the regulation that did not allow more water into the lake until after it dropped, which needed to be revisited. Mr. Potts reported that issue had been re-adjusted after the panel discovered this, and the City was being very proactive as discoveries were made from the data. He was pleased with the experts on the panel. His goal was not to intervene.

Council President Pro Tem Lindsay asked whether using surface water versus underground water affected the possibility of algae problems. Mr. Potts responded the toxins did not exist underground, but the City of West Palm had no choice, so needed to address the contaminants in surface water. Upon expiration of their contract, the Town of Palm Beach would have the option to go with another water supplier who used an underground supply.

Council Member Crampton believed the City of West Palm Beach had a very sustainable water supply, and would ask his technical questions of Kimley-Horn next month.

Council Member Cooney asked what the Town could do to assure residents about water quality while this process was in place. Mr. Potts felt the treatment processes for capturing this containment were now very thorough.

A 5-minute break was taken at this time. The meeting reconvened at 11:00 a.m.

C. New Business

1. Discussion Regarding the Maximum Number of Residential Permit Parking Decals/Visitor Passes Permitted

Jay Boodheshwar, Deputy Town Manager

Deputy Town Manager Boodheshwar presented this item for discussion and direction. Concern had been expressed regarding a code change made in 2019 that increased the number of decals and visitor passes that could be purchased in RPP areas. Prior to that change in 2019, the code allowed property owners within an RPP area to purchase up to two decals for their vehicles, and up to 2 visitor passes, which were transferrable to guests or service workers. When the code changed in 2019 it was changed from 4 to 8, but also changed that 2 and 2 ratio to no required ratio, to give flexibility. There was no limitation on each so long as one did not exceed 8 spaces. The Town had received complaints that some neighbors were taking advantage on a specific street with 8 vehicles in the street—people basically using the street as a parking lot. He asked if Council would like a modification to the code to address this, such as possibly reducing the number of decals one can purchase and leave the flexibility, or set a specific ratio. He asked for Council's direction.

Mayor Moore stated she liked to see as much flexibility as possible, and asked if this had been discussed with the people who were doing it to reach a resolution. She did not want what was happening on one street to cause a wholesale change.

Deputy Town Manager Boodheshwar responded he did not know if the neighbor had reached out, but his neighbors were following the letter of the law.

Mayor Moore did not want to overreact, but felt it unfortunate people did not talk to each other to reach solutions. She would support whatever decision Council made.

Council President Pro Tem Lindsay agreed with Mayor Moore and she felt the Town should try to get the neighbor to talk to his neighbor. She wanted to see if it could be fixed and left as is.

Council Member Cooney asked how many maxed out their allowance. Mr. Boodheshwar responded only about 30 properties town-wide had purchased 8, and another 10 purchased 7. The vast majority purchased under 4.

Town Manager Blouin commented this had not been intended for daily use, and when two people on one street were using 8 per day it became a problem. He suggested modifying the ordinance in a way to allow the police to speak with the offender when there was a complaint, and to do an

investigation, running tags to see who owned the cars, and possibly limiting the number of passes.

Council Member Crampton thought that was a good idea but favored just limiting to 4, but he was willing to go along with whatever Council decided.

President Zeidman read aloud from the ordinance that the parking was temporary, and suggested changing the language to clarify the intent and to require they use their on-site parking first.

Town Attorney Randolph commented he thought there was consensus to see if this could be worked out by the neighbor, and if Council wanted to go beyond that to use the Town Manager's suggestion instead of limiting it to 4. President Zeidman stated she did not want to change it to 4 passes. Town Attorney Randolph advised he and the Town Manager could easily come up with some appropriate language. Council President Zeidman asked to have the neighbor who was causing the problem spoken to because this was supposed to be temporary, as the ordinance stated, and code enforcement could talk to the neighbor.

Town Manager Blouin said staff would speak to the neighbors to see if they would do the neighborly thing but as far as a longer-term solution either the number of passes might have to be reduced or the wording in the ordinance changed to allow the police department to make modifications or enforcement.

Council President Zeidman commented it was only one instance at this point.

Council President Pro Tem Lindsay felt it was only one instance and wanted to try to work it out.

Town Manager Blouin said they would contact the neighbor and get back to Council.

2. Request to Have the Ordinances, Rules and Standards Committee Study Sec. 42-230 - Lawn Maintenance, Relative to Hours, Equipment and Noise
Jay Boodheshwar, Deputy Town Manager

Council President Pro Tem Lindsay spoke about the number of landscaping complaints she received regarding noise, and that she had asked that this be referred to ORS for study since the complaints she received all seemed to be Peruvian Avenue and north. She wanted this area of Town looked at separately from the rest of the Town. Also, to ask them whether there should be different regulations for more populated areas of Town, and secondly, whether leaf blowers that were fossil fuel

based should be banned to reduce noise and fumes.

Council Member Cooney commented ORS was still looking at certain construction hours and days like Saturday, and had looked at doing certain rules in certain areas, with different sizes of estates and had moved away from that because of challenges of enforcement and geographical areas. So, they were trying to give staff, the public and contractors one set of rules, just for ease of understanding, both on the user end and ease of enforcement for the Town. He thought Council President Pro Tem Lindsay's idea made sense, but people on smaller lots and closer together were going to have these problems more than those on large estates. He asked the direction she was looking for to have some kind of uniformity, because noise was noise whether created by construction or landscape work. He asked for insight before the Committee began discussions, whether to create periods of quiet time for residents and periods of noise regardless of the source.

Council President Pro Tem Lindsay responded there was an increase in construction and multiple projects being done at the same time. More and more people were asking for quiet enjoyment of their homes on weekends. She asked Council Member Cooney to look at the issue to see if he could come up with anything that would satisfy the residents more than they were currently satisfied, because there was a significant level of dissatisfaction.

Council Member Crampton commented in the south end the situation was handled by building management and there were very few single-family homes. He felt the Town should be very responsive to the complaints and residents wanting quiet enjoyment of their homes. He believed this issue should be folded in with the other issues related to this, including Saturday work hours, and all the other things the Committee was considering, to get a comprehensive package that benefitted the residents and their quiet enjoyment of their property. It might mean some inconvenience for builders, but the residents took priority.

Council President Zeidman expressed her opinion that leaf blowers and the like were noisy and people had the right to enjoy their property.

Motion was made by Council Member Crampton and seconded by Council President Pro Tem Lindsay to refer Sec. 42-230 – Lawn Maintenance, Relative to Hours, Equipment and Noise, to the Ordinances, Rules and Standards Committee for study. On roll call the Motion passed 4-0 with Council Member Araskog absent.

XII. ORDINANCES

A. Second Reading

1. Amendment to the Town Charter Regarding Town Caucus and Qualifying Dates

ORDINANCE NO. 018-2021 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Charter at Section 5.03, Relating to Qualifications, to Modify the Date to Qualify for Election to the First Tuesday of December of Each Year or on a Date at Least Ninety-Five (95) Days Prior to the March Election Date, Whichever Comes First; Further Amending the Town Code of Ordinances at Chapter 34, Elections at Article II, Candidate, Division 2, Caucus, Section 34-56, Calling and Notice of Election to be Consistent with Section 5.03 of the Town Charter, Providing that the Date of the Town Caucus be Held on the First Tuesday of December of Each Year or on a Date at Least Ninety-Five (95) Days Prior to the March Election Date, Whichever Comes First; Providing for Severability; Providing for Codification; Providing for an Effective Date.

Queenester Nieves, CMC, Town Clerk

Town Attorney Randolph read Ordinance No. 018-2021 on second reading by title only.

Motion was made by Council Member Crampton and seconded by Council President Pro Tem Lindsay to adopt on second reading Ordinance No. 018-2021. On roll call, the Motion passed 4-0 with Council Member Araskog absent.

XIII. ANY OTHER MATTERS

There were no other matters to discuss.

XIV. ADJOURNMENT

The Town Council Meeting of August 10, 2021 was adjourned at 3:28 p.m. without benefit of a Motion.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Queenester Nieves, CMC, Town Clerk

Date