



TOWN OF PALM BEACH

Town Clerk's Office

MINUTES OF THE TOWN COUNCIL MEETING HELD ON TUESDAY, SEPTEMBER 14, 2021

I. CALL TO ORDER AND ROLL CALL

The Town Council Meeting of Wednesday, September 14, 2021, called to order at 9:30 a.m. On roll call, all council members were present except Council member Cooney.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Town Clerk Nieves gave the Invocation and Council President Margaret Zeidman led the Pledge of Allegiance.

Council Member Cooney joined the meeting at this time.

III. MODIFICATIONS TO THE AGENDA

The following modifications made to the agenda:

1. ITEM NO. V.A. Legislative Update

Brian Mast, U. S. Congressman for the 18th District of Florida

TIME CERTAIN: 9:45 AM

2. ITEM NO. V.B. Presentation by the Palm Beach County Supervisor of Elections Regarding the Upcoming Elections and Senate Bill 90 Deferred to October or November Town Council Meeting

3. Deferred from the 9/13/21 Town Council Development Review Meeting:

Z-21-00383 VARIANCE(S) Zoning District: R-B Low Density Residential the application of MICHAEL T FRIES & MICHELLE R MALONE, Applicants, relative to property located at 146 SEASPRAY AVE, legal description on file, is described below. Request a variance to expand nonconforming 2-story accessory building in the rear of the property by adding a 128 square foot one-story

cabana/office addition that would result in a 5.6-foot rear yard setback in lieu of the 10 foot minimum required in the R-B Zoning District. [Applicant's Representative: Maura Ziska Esq] [Architectural Review Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property. Carried 4-3.] [The Architectural Review Commission approved the project as presented. Carried 4-3.]

TIME CERTAIN: 10:00 AM

4. ITEM NO. VI.A. Presentations by Applicants and Appointments to the Planning and Zoning Commission

Queenester Nieves, CMC, Town Clerk

TIME CERTAIN: 11:00 AM

5. ITEM NO. XI.A. Report of the Ordinances, Rules and Standards Committee Meeting Held on Thursday, July 1, 2021

TIME CERTAIN: 2:15 PM

6. ITEM NO. XII.B.4.c. Woods Hole Group Coastal Resiliency Implementation Plan Presentation

TIME CERTAIN: 1:00 PM

IV. APPROVAL OF AGENDA

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

V. PRESENTATIONS

A. Legislative Update

TIME CERTAIN: 9:45 AM

Brian Mast, U.S. Congressman for the 18th District of Florida

Congressman Mast expressed his continued concern regarding discharges from Lake Okeechobee. He discussed the Lake Okeechobee Operating System Manual (LOSOM) and noted that there are environmental dangers still present even with approval of the CC plan for Lake Worth Lagoon. He reported some Palm Beach County Commissioners favored making the water level higher for Lake Okeechobee to ensure an adequate water supply for agriculture, the result of which would mean more discharges of extremely toxic water into the Lake Worth Lagoon. He stated that this year the Lake had experienced the highest measurements in history. Congressman Mast provided some pictures of Lake Okeechobee in May 2021; the water in the Lake measured 865 parts per billion (ppb) of microcystis aeruginosa, which produces blue- green algae and toxin. Congressman Mast explained the EPA sets a standard of 8ppb beyond which it

may be harmful to the health of people and animals. Palm Beach County Commissioners are advocating for a higher water table in Lake Okeechobee which has important implications for the health of the Lake Worth Lagoon. Higher water tables in Lake O will result in discharges placing the Lagoon in continued jeopardy. Congressman Mast stated that Melissa McKinlay, District 6 Commissioner, made a point of clarifying there is a difference between discharging Lake O water into rivers such as the Caloosahatchee and St. Lucie and the Lake Worth Lagoon. According to Ms. McKinlay, silt builds up in the Lagoon causing further degradation whereas discharges into the rivers eventually makes its way into larger bodies of water. According to Congressman Mast, if Lake Okeechobee water levels are higher, there will be more discharges. While he did not agree, with all of Commissioner McKinlay findings, he nonetheless, agreed that he shares her concern. Higher water levels will result in more discharges affecting the water supply in Palm Beach County. Congressman Mast recommended a flow cap of 300 cubic feet per second maximum.

Council President Pro Tem Lindsay stated this is a complicated issue. If there were more discharges into the C51, this would mean St. Lucie Estuary would also get more discharges. Congressman Mast explained the St. Lucie Estuary and the Indian River Lagoon are already at 1000's cubic feet per second and the Caloosahatchee already flows thousands of cubic feet per second, Lake Worth Lagoon has negotiated the maximum flows down to 300 cubic feet per second. Congressman Mast explained he wanted agriculture to have all the water they needed but not to the point where toxic water would need to be discharged.

Council President Pro Tem Lindsay asked what else the Town could do. She noted that the Town recognizes that keeping the Lake at a lower level is better not just for the Town of Palm Beach but for all concerned, except agriculture. She believed our position contributed to pressure on the Palm Beach County to request increase levels of water.

Congressman Mast advised a continued dialogue with the Army Corps of Engineers, reaching out to the Palm Beach County Commissioners.

Council President Zeidman expressed concern that the Palm Beach County Commissioners did not understand the harm caused by continuing to advocate for high levels in Lake Okeechobee. She asked Congressman Mast, "what part do they not understand?" Congressman Mast felt they wanted more water but not the harm that came with that, which is not realistic.

Council Member Crampton asked why the allocation system was not set up to deal with this type of situation, if there is more water there, then farming people need, why is it not possible to allocate appropriate to their need and then let the rest of the water be appropriated to other areas. Congressman Mast explained that came from State law, which was a completely different fight. Congressman Mast

responded that was a separate fight for a separate day. He explained consumptive use permitting which requires changes at the State level.

Council Member Araskog inquired about the Consumptive Use Permit (CUP); in addition, she asked about options at the State level. Congressman Mast stated this was an entirely different fight. The South Florida Water Management District issues CUP; the Corps of Engineers are not under any obligation whatsoever to fulfill those consumptive use permits.

Consensus of Council was to have the Mayor prepare a letter to Palm Beach County Commissioners reflecting the Council's views and bring it back next month. Lisa Interlandi offered her assistance which the Mayor graciously accepted.

Council Member Araskog requested an alert as to whom to contact.

- B.** Presentation by the Palm Beach County Supervisor of Elections Regarding the Upcoming Elections and Senate Bill 90
Wendy Sartory Link, Palm Beach County Supervisor of Elections

This item was deferred to the October/November Town Council Meeting

- C.** Deferred from the 9/13/21 Town Council Development Review Meeting:
Z-21-00383 VARIANCE(S) Zoning District: R-B Low Density Residential The application of MICHAEL T FRIES & MICHELLE R MALONE, Applicants, relative to property located at 146 SEASPRAY AVE, legal description on file, is described below. Request a variance to expand nonconforming 2-story accessory building in the rear of the property by adding a 128 square foot one-story cabana/office addition that would result in a 5.6-foot rear yard setback in lieu of the 10 foot minimum required in the R-B Zoning District. [Applicant's Representative: Maura Ziska Esq] [Architectural Review Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property. Carried 4-3.] [The Architectural Review Commission approved the project as presented. Carried 4-3.]

TIME CERTAIN: 10:00 AM

Town Clerk Nieves swore in Patrick Seagraves, John Eubanks and Michelle Malone Fries.

Ex parte communications declared by Council Members Cooney, Araskog, Crampton, Council President Zeidman, Council President Pro Tem Lindsay, and Mayor Moore.

Maura Ziska, attorney for the owner, Michelle Malone Fries presented the zoning request for the project and explained the request and the hardship. She mentioned three letters of support, received. Noted the house built in 1920 is non-conforming to the setbacks and there is a non-conforming two-story guesthouse in the back garage building. The owner is requesting to build a 120 square foot addition to the two story non-conforming building in the back, this would require a 5.6 rear setback to match the existing building, the hardship that runs with the land, and there is precedents on Sea Streets to allow such additions to match existing building setback lines. Ms. Ziska stated the issue with the neighbor in the rear is that there is an encroachment

Patrick Segraves presented the architectural plans proposed for the addition to the home, built in 1920. The plans are to extend the back building by 7 feet and have a trellis roof covering. This building extension will not be seen from the street. Not impactful to the neighborhood.

Zoning Manager Castro provided staff comments. The application went to the Architectural Commission and it was a split vote, 4-3. The impact of the proposed structure on the architecture of this non-conforming guesthouse as well as the vote of 4-3 to approve the project subject to a variance. The two-story guesthouse is a non-conforming structure. Today's code would only allow a one story structure on this size of a lot. The request is to line up with the existing non-conforming set back of the two-story guesthouse. If the applicant were to move the addition four feet off the rear property line, they would not need a variance. The reason is for aesthetics the way it would line up. He noted the applicant must demonstrate a hardship based on section 134.201. It is the applicant's burden to demonstrate hardship.

John Eubanks, 605 N. Olive Avenue, representing Mr. Firestone at 151 Seaview, behind the subject property, reviewed the criteria for hardship, presented reasons there was not a hardship, and stated it was the burden of the applicant to show a proper hardship. He commented the issue with the property line between his client and the applicant was a separate issue. He felt hardship had not been demonstrated and the variance should be denied.

Owner Michelle Malone Fries made a statement regarding the desire to preserve the original house, and felt the only option would be to demolish the house and redevelop the property.

Ms. Ziska spoke about the town working with new owners to preserve older homes.

Council Member Araskog asked if the applicant was willing to work with the

neighbor. Ms. Fries responded, describing the events regarding the property line. Council Member Araskog asked Mr. Eubanks the same question. Mr. Eubanks responded they were willing to look at anything, but his client had a survey that he believed was correct.

Council President Zeidman expressed dismay that owners would come to the Council knowing that they had purchased a home with certain limitations but then would seek a variance. She stated she understood the effect on neighbors when property owners talked to Council about demolishing and rebuilding a home at a higher level and she understood coming to the Council to resolve disputes. However this current dispute about the property line “muddies the waters” because those items were not what was being considered today in front of this Council. She asked to focus on what could be done, and it sounded like the applicant was not amenable to what Council Member Araskog had asked, because they felt they could not get anywhere, and Mr. Eubanks was right that such variances had been turned down before.

Council Member Crampton commented on granting variances for convenience, and in this case, the applicant could move the addition 4 feet and not need a variance, so there was only a self-created hardship.

Council Member Araskog agreed with Council Member Crampton and asked to look at different variances for smaller homes during code reform. She commented on the issue with the neighbor as well as demolition of the home.

Mayor Moore commented 151 Seaview was the least affected neighbor, and the aerial view showed that every property was nonconforming. She felt the Council should be open-minded and consider the most affected neighbor was in full support of this project.

Council President Pro Tem Lindsay commented in dense conditions like this all the neighbors matter. She asked to defer this one month to see if both owners could find resolution.

Council President Zeidman commented the choices were to defer for one month and try to find a resolution. She asked if it were possible to move the addition to the north, which would get rid of the need for a variance.. Pat Seagrave commented it would not work with the architecture of the house; the owner advised a set of stairs and elevation change would not allow that move.

Council President Zeidman advised granting this variance would put the Council in legal jeopardy because the variance was of the owner’s making and was in dispute with the neighbor to the south.

Council Member Araskog asked about the ARCOM vote. Mr. Seagraves and Zoning Manager Castro responded.

Motion made by Council Member Araskog and seconded by Council Member Crampton to defer Z-21-00383 for one month to the Town Council Development Review meeting on October 13, 2021. On roll call, the motion passed unanimously.

VI. BOARDS AND COMMISSIONS PRESENTATIONS AND APPOINTMENTS

A. Presentations by the Applicants and Appointments to the Planning and Zoning Commission

Queenester Nieves, CMC, Town Clerk

Gail Coniglio a 40-year resident spoke of overdevelopment and her desire for low density, as well as for Code reform should proceed carefully and slowly. Noted in the past five years there has been an absolute mansionization and overdevelopment in the community. She hoped she could advocate for the neighbors as an applicant for P&Z to preserve and protect the residential character and the commercial landscape in a low-density situation. She was proud of staff for identifying Code reform and moving forward with some needed changes. She believes her experience and broad perspective makes her a qualified voting member of the Planning and Zoning Commission.

Council Member Araskog asked if she had read the zoning code and comp plan, if she had been around when FAR versus CCR was discussed, and if she had studied RB and RA. Ms. Coniglio indicated she was familiar with all those items.

Council Member Crampton commented Ms. Coniglio's service to the Town had been exemplary and asked if she would be willing to serve as alternate. Her response was yes, but she felt her experience qualified her to be a voting member.

Council President Pro Tem Lindsay inquired into the ownership on Royal Palm Way and confirmed that Ms. Coniglio only owned the former tropical fruit shop and green smoothie property. Ms. Coniglio explained her position on Worth Avenue development.

Council President Zeidman commented she was thrilled that Ms. Coniglio had applied because of her years of experience and living in this town, her good judgment, adherence to the comprehensive plan, her broad outreach into the community, and lastly people trust her.

Mayor Moore commented the historical perspective was necessary on boards along with members who were new to the town.

Council Member Araskog wondered if it was a good plan to have both Ms. Coniglio and Mr. Kleid on the Commission since they had both been on Town Council together for many years. Ms. Coniglio responded Mr. Kleid brings a different perspective. She noted Mr. Kleid is more on the legal side and lives in the south end. Her perspective will be from a resident from the North end.

William Gilbane, current alternate member, provided his background and experience. Mr. Gilbane stated he was involved in the interface with FEMA and residents of the communities that were devastated because of the Super storm Sandy, with the ongoing future planning for those communities. He had just completed renovation of a home and knew the importance of saving historic homes. He was committed to continuing as an alternate if not chosen. He believed he could add value in every area and would welcome the promotion to a voting member.

Council Member Araskog asked if he had read the zoning code and comprehensive plan, Mr. Gilbane responded he had not completed reading those. In response to whether he had studied RB and RA. Mr. Gilbane advised he became familiar with his district and with CCR when he did his home renovation. His experience was with FAR when working in New York City. He had begun to understand the Worth Avenue guidelines.

Mary Elizabeth Spear, full time resident, provided her memberships and involvement in the town, and her career experience working as a Chief Financial Officer also responsible for security and IT duties for non-profits in San Francisco and Utah. She was aware of the frequency of environmental disasters, and as such in San Francisco earthquakes and established off site data center. Implemented sensitive parking spaces on the University property. She looked forward to being an alternate.

Council Member Araskog asked if she had read the zoning code, comprehensive plan, or Worth Avenue Guidelines, and was familiar with FAR and CCR. Ms. Spear responded no. Council Member Araskog asked her to stay involved and to re-apply in the future if not appointed.

Richard Kleid appeared via Zoom, and provided his history of service to the town, which he believed uniquely, qualified him. He believed the code was antiquated and needed a thorough review. Explained his background, as a real estate attorney and his experience in zoning matters would be beneficial. He asked to remain on the Planning and Zoning Commission.

In response to Council Member Araskog, Mr. Kleid advised he had read the zoning code, comprehensive plan, Worth Avenue Guidelines, and was familiar with FAR, CCR, and all the zoning variations, and wanted to remain a voting member, not an alternate.

Council President Zeidman stated Mr. Kleid was currently Vice Chair of the Planning and Zoning Committee, expressed appreciation for his service and thoughtful decisions.

Council Member Crampton spoke about Mr. Kleid's qualifications.

Martin Klein, 1016 North Ocean Blvd, appeared via Zoom, seeking appointment to the Planning and Zoning Commission. He stated he has read the zoning code, comprehensive plan, and Worth Avenue Guidelines. He described his history, dedication, talent, ability to achieve consensus, and vision.

Council Member Araskog asked how long was Mr. Klein the chair for Planning and Zoning, and when did you begin your service.

In response to Council Member Araskog's question of how long he was Chairman of Planning and Zoning Commission, Mr. Klein noted he had been Chair on several different occasions, probably totaling 5 or 6 years, and had served on and off approximately 20 years. He began his service in the 1970's.

Council President Zeidman thanked Mr. Klein for his years of service.

Nicky McDonald, 234 Merrain Road, currently an alternate, appeared via Zoom and expressed her desire to become a voting member. She described a recent vote on Yard & Company, and stated she would like to have a voice in planning. She had read the zoning plan and comp plan, but not Worth Avenue Guidelines, familiar with FAR, CCR, and zoning districts..

Mario Nievera, resident since 1990, appeared via Zoom and felt his experience as a south end resident, local business owner and landscape architect qualified him to serve. He served about a year as a Landmark commissioner. Stated he realized it was better for him to be on the presentation side of the lectern, making sure the Town of Pam Beach standards and regulations are met. He wanted to insure the town continued reputation for its beauty and charm. Expressed his desire to be a part of managing the town's growth and character.

He responded to Council Member Araskog he had not read the entire zoning code or comprehensive plan but was very familiar with RB and RA and with FAR and CCR.

John Tatooles, 122 Ocean View Road, appeared via Zoom, was currently an alternate, and hoped to continue on the Commission in some capacity. He felt the south end was under-represented on the Commission, and he could contribute by providing the perspective of his neighbors on the south end in the RA section. He commented the competition was extremely well qualified and he hoped for promotion to a voting member at some point.

He responded to Council Member Araskog that he had read the entire zoning code and comprehensive plan and was familiar with FAR, CCR, RB and RA, and had not completely read the Worth Avenue Guidelines. He had served on the Planning and Zoning Commission since March.

Council President Zeidman commented she listened to the meetings, and he was doing a great job.

Council Member Cooney commented on the high quality of the applicants and the number willing to serve.

Town Clerk Nieves announced the results of the Planning and Zoning ballots: Richard Kleid and Gail Coniglio were appointed as regular members of the Planning and Zoning Commission.

Motion made by Council President Pro Tem Lindsay and seconded by Council Member Cooney to approve the appointments of Gail Coniglio and Richard Kleid as regular members of the Planning and Zoning Commission.

VII. COMMENTS OF MAYOR DANIELLE H. MOORE

Mayor Moore reported meeting with the Town lobbyist, Matt Forrest, a great advocate for the Town of Palm Beach, and he had provided an update on upcoming issues. Foremost was home rule, followed by short-term rentals. Attempt to meet with Bobby Powell and Mike Caruso in order to discuss potential north end fire station appropriations. She would be attending a meeting along with staff to hear the Army Corps of Engineers presentation on the beach.

VIII. COMMENTS OF TOWN COUNCIL MEMBERS

Council Member Araskog thanked all who reached out to her during the past month and especially thanked her town family, helping her to get through the loss of her father. She commented the previous day's meeting had been difficult, and felt she must protect the town from potential litigations. Commented because of the many Covid breakthrough cases, she cautioned all to remain vigilant.

Council Member Crampton noted he received calls and requested to take look

at crossing guards material at the Par 3 cross street, the orange warning light was inoperable over the weekend. He asked to beef up the warning system. Council Member Crampton stated the governor indicated the Town would be fined if there was a mandate for mandatory vaccines for Town employees. Also requested of Deputy Town Manager Boodheshwar for a report on incentives to encourage vaccinations of Town employees.

IX. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

There were no citizens wishing to comment.

X. APPROVAL OF CONSENT AGENDA

Item No. X.B.10 RESOLUTION NO. 113-2021 pulled and heard as item no. XII.A.1.

Motion 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
Queenester Nieves, CMC, Town Clerk

July 13, 2021, Town Council Meeting
July 15, 2021, Special Town Council Meeting - Proposed FY22 Budget
July 27, 2021, Special Town Council Meeting - COVID-19
August 10, 2021, Town Council Meeting
August 11, 2021, Local Planning Agency Meeting
August 11, 2021, Town Council Development Review Meeting
2. Approval of Major Matters Considered by the Architectural Review Commission at its Meeting of August 25, 2021.
Wayne Bergman, Director of Planning, Zoning and Building

B. RESOLUTIONS

1. RESOLUTION NO. 085-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Consent to Deemed Assignment of Investment Advisory Agreement(s) with PFM Asset Management, and Authorizing the Town Manager to Execute all Documents Necessary on Behalf of the Town.
Jane Le Clainche, Director of Finance
2. RESOLUTION NO. 105-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida,

Designating Town Depositories for Fiscal Year 2022 Pursuant to Section 2-517 of the Town Code of Ordinances and Designating Parties to Sign Checks or Warrants on Behalf of the Town Pursuant to Section 2-36 of the Town Code of Ordinances.

Jane Le Clainche, Director of Finance

3. RESOLUTION NO 106-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing an Agreement with the State of Florida, Division of Emergency Management, Agreement No. Y5252, for Funding through the American Rescue Plan Act of 2021, Coronavirus Local Fiscal Recovery Fund, in the Amount of \$4,415,526.00, and Authorizing the Mayor to Execute all Documents Necessary on Behalf of the Town.

Jane Le Clainche, Director of Finance

4. RESOLUTION NO. 107-2021 A Resolution of The Town Council of The Town of Palm Beach, Palm Beach County, Florida, Approving Proposed Fixed Costs for Property, Liability, Workers' Compensation, Automobile and Ancillary Coverages for FY2022 in the Amount of \$1,061,517 and Variable Costs in the Amount of \$1,100,000; Approving a Non-Exclusive Insurance Broker Services Agreement with Relation Insurance Service of Florida, Inc. "Relation", in the Amount of \$40,000; Approving a Non- Exclusive Insurance Broker Services Agreement with Arthur J. Gallagher Risk Management Services, Inc., "AJG," in the Amount of \$7,500; Approving a Third Party Administration Services Agreement with Preferred Governmental Claim Solution "PGCS" in the Amount of \$53,230; Conditioning All Matters Contained Herein Subject to Approval of the Fiscal Year 2022 Budget; and Authorizing the Town Manager to Execute the Non-Exclusive Insurance Broker Services Agreements with Relation, AJG and PGCS on Behalf of the Town.

Carolyn Stone, Assistant Town Manager

5. RESOLUTION NO. 108-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to Electronic Data Collection CPR in the Amount of \$46,700 to Support the Parking Ticket Management Software, Contingent upon FY22 Budget Authorization.

Dean Mealy, Purchasing Manager

6. RESOLUTION NO. 109-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to MCCI, Laserfiche in the Amount of \$50,000 as a Sole Source Acquisition to Support the Town's

Electronic Document Management System Used by the Town,
Contingent Upon Budget Approval.

Dean Mealy, PurchasingManager

7. RESOLUTION NO. 110-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to Superior, LLC dba Central Square for Annual Purchase of Software Maintenance in an Amount Not To Exceed \$125,321 to Support Police Operational Requirements, Contingent Upon FY22 Budget Approval.

Dean Mealy, PurchasingManager

8. RESOLUTION NO. 111-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to GovConnection Inc. for the Purchase of Dell Laptops for Public Safety in the Amount of \$95,330.

Dean Mealy, PurchasingManager

9. RESOLUTION NO. 112-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to Tyler Technologies, Inc. for Annual Software Support and Licensing in an Amount Not To Exceed \$95,000, Contingent Upon FY22 Budget Approval.

Dean Mealy, PurchasingManager

10. RESOLUTION NO. 113-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to AEGION/Insituform Technologies LLC for Lining of Sewer Pipes Within the A6 Basin from the National Cooperative, Buyboard in the Amount of \$1,425,890 and Establish a Project Budget of \$1,641,773, Contingent upon FY22 Budget Approval. Savings in the Amount of \$566,470 by Re-Engineering Approach to the Award of the Contract. **Pulled and Heard as Item No. XII.A.1**

Dean Mealy, PurchasingManager

11. RESOLUTION NO. 114-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Change Order to the Award of Bid No. 2019-30, Plans, Review, And Inspection Services in the Amount of \$60,000 for FY21 and a New Contract Amount of \$300,000 and to Approve a Change Order to the Remaining Three Years of the Contract Award from \$240,000 Annually to \$325,000 Annually, Contingent Upon Budget Approval.

Dean Mealy, PurchasingManager

C. OTHER

1. Health Insurance Rates for Calendar Year 2022

Carolyn Stone, Assistant Town Manager

XI. COMMITTEE REPORTS

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

Julie Araskog, Committee Chair

TIME CERTAIN: 11:00AM (MOVED TO 2:15 PM)

Chair Araskog indicated her report would be available for everyone to read, and provided a summary for this presentation. Discussion had taken place regarding matching landscape hours to construction hours but there had not been time to include that in today's report. She advised the State of Florida regulated fines for these workers and asked to institute a 3-strike law. Town Attorney Randolph responded. The Committee discussed sending a letter to all construction companies, landscapers and residents regarding artificial turf regulations and hours, however, members preferred social media, but she was concerned not everyone used social media. Artificial turf regulations would be included in next month's report, but discussion had taken place on how to proceed in situations where residents with artificial turf had not applied for a permit. The Committee's recommendation was to see if they met code at time of installation and possibly give them a year to go through the process free of charge. She commented on an invasive plant list and a regional list for plants that worked in Palm Beach. She discussed Saturday hours and outdoor quiet work.

Motion 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 July 1, 2021. On roll call, the Motion passed unanimously.

1. Recommendations Regarding Modifications to Construction Hours

Jay Boodheshwar, Deputy Town Manager

Deputy Town Manager Boodheshwar announced action items from the July 1 and September 2, 2021 ORS meetings. The recommendations were that Council adopt as a future change in the code to require only quiet work from 8:00 am to 9:00 a.m. amending construction hours year-round; and to prohibit the arrival at construction sites before 7:30 a.m. with restricted activity until 8 a.m. The third item related to the Saturday hours, for which there had been a robust discussion. He reported Council Member Araskog felt eliminating the quiet construction hours during peak season on Saturday and possibly adding an extra hour during the workweek to offset that loss be considered. Mr. Boodheshwar commented the landscape hours and noise would be discussed at the next meeting. He stressed if

construction hours changed in the code it would affect lawn maintenance, because of a specific cross-reference in the code that lawn maintenance hours must follow construction hours. An ordinance would be developed to be brought back to the next meeting or the meeting after that.

Council Member Araskog noted the only thing not allowed for lawn maintenance during quiet work were leaf blowers and other noisy motorized equipment not specifically mentioned. She stated residents wanted quiet on weekends, and there was construction everywhere right now.

Council Member Crampton was in favor of the first two items, but did not agree with eliminating Saturday hours right now. He asked to find a way to balance quiet enjoyment with completing projects more quickly. He felt the construction-monitoring program just instituted would help, because there would be enforcement. Council Member Crampton wanted a 6-month pilot program with enforcement in the neighborhood and if it did not work, and then eliminate Saturday hours. He commented Brad Gary had a good idea of rewarding contractors who did the right thing, and felt that coupling that with an enforcement on Saturdays was worth trying. He felt eliminating Saturday hours would lengthen the time to complete projects, resulting in endless construction.

Council Member Araskog spoke about the number of hours that needed to be made up, which was the reason she had proposed half a year.

Council Member Cooney asked to think about the reality that many contractors quit before 4 p.m.

Council Member Araskog clarified the makeup time would only be for a half year also.

Council President Pro Tem Lindsay was okay with the first two items. She felt Saturday hours was also a geographic issue—north of Peruvian was where she received 100% complaints. She would like only for specific areas, and to be clear it was indoor work only.

Council Member Cooney commented the committee discussed the option of geographical areas, and he favored doing it across the board for clarity.

Discussion ensued regarding the current massive amount of construction, enforcement.

President Zeidman felt it was hard to manipulate hours. She felt quiet Saturday work should be inside all year, and a letter to construction companies stating the rules, and enforcement mandatory. She felt, removing Saturday hours would

result in all projects being lengthened.

Council Member Araskog discussed arrival and departure noise and that it was not an enforcement issue.

Mayor Moore thought it was an enforcement issue, and gave examples. She was not sure there was a solution.

Council Member Cooney had disagreed initially but now heard from many residents who would be thrilled to have no Saturday hours.

Council President Pro Tem Lindsay thought residents needed to make the decision. Residents did not want Saturday hours and some top contractors did not work Saturdays. She did not know the answer.

Council President Zeidman pointed out big companies came to Council to ask for Saturday hours and that was going to continue.

Town Manager Blouin shared for 33 years this had been a chronic complaint. Code enforcement was going to be bolstered, but the reality was with so much activity going on there would be noise and cars. When enforcement responded, they might find there were really no violations. The primary reason for complaints was people just did not want construction. Staff would go with whatever was decided.

Public comments:

Anne Pepper, 333 Seaspray Avenue, commented relying on enforcement has not been effective. The movement and noise were exhausting. Many towns allowed no Saturday hours. She felt the suggestion from ORS should be tried for six months with no Saturday work.

Motion made by Council Member Araskog, and seconded by Council Member Cooney, for Saturday work hours eliminated in season according to what is called Season in the code, for one season, beginning the Monday preceding Thanksgiving until April 30. Saturday hours allowed in the off-season and will only be indoor quiet work from 9:00 a.m. to 5:00 p.m. Motion passed, with Council Member Crampton dissenting.

Motion made by Council Member Araskog, and seconded by Council Member Cooney to allow interior quiet work offseason on Saturdays from May 1 until the Monday before Thanksgiving from 9:00 a.m. to 5:00 p.m. On roll call, Motion pass unanimously.

Motion made by Council Member Cooney, and seconded by Council

Member Crampton, for construction hours to be amended to year round, Monday through Friday 8:00 a.m. through 9:00 a.m. are designated for interior quiet work only. On roll call, Motion passed unanimously.

Motion made by Council Member Araskog, and seconded by Council President Zeidman to prohibit arrival to construction sites by workers before 7:30 a.m. and restrict any kind of site activity until 8:00 a.m. on a year-round basis. On roll call, Motion pass unanimously.

Council President Zeidman suggested sending a letter to construction companies reviewing the changes and asking for respectful behavior, for example, not talking loudly on cell phones, slamming car doors, etc.

The Town Manager reviewed the Florida statute on enforcement.

2. Recommendations Regarding Addition of Synthetic Turf Regulations in the Town Code
Wayne Bergman, Director of Planning, Zoning and Building

Wayne Bergman, Director Planning, Zoning and Building, discussed work on synthetic turf, and advised with input from ORS at their last meeting, draft language had been developed. He reviewed the draft language and the three standards developed: (1) artificial turf must be approved by ARCOM or Landmarks and requires a permit number; (2) calculated as impervious surface and does not count towards landscape open space, which is required in all zoning districts; and (3) it shall be lead free. A section added for existing turf, providing an opportunity for those who installed artificial turf without town approval to seek approval from ARCOM or Landmarks, and as long as they have met the landscape open space requirement at installation. There would be no fee for the first year for those types of applications, and minor ones might be staff approved, while others might need a variance request. Director Bergman felt the enforcement provisions already in place were sufficient.

Council Member Araskog asked who would be penalized and fined. Director Bergman responded the property owner is fined. Council Member Araskog felt it was important that the company be fined. Town Manager Blouin explained a lien attaches to the property, which must be satisfied upon transfer of the property.

Council President Pro Tem Lindsay believed the definition should say “manufactured product” not “artificial”. She also pointed out the section regarding where artificial turf could be installed had not included between driveway pavers, and driveway strips, which was a very common use.

Consensus of Council was to include this language as “accents in driveways”.

Mayor Moore commented her contractor had told her he had done 800 installations of artificial turf on the island, and expressed concern that people would not come to the town to admit they had it. Council Member Araskog responded that had been discussed and some would come in and some would not, but this provided an opportunity for people to comply free of charge.

Council Member Cooney knew many residents that have artificial turf and liked it and he did not want to create a problem for people who were just enjoying their yard.

Mayor Moore felt some instances were acceptable and would accept whatever the Council decided.

Council Member Crampton felt there would be a bad reaction from residents. He had doubts about it being retroactive, and favored only going forward.

Council Member Araskog commented possibly if they did not meet the 45% open space, they would be required to come before Landmarks or ARCOM.

Council President Zeidman commented a person who bought a home would not know about the 45% open space requirement unless they did something to their home, and she agreed with making it positive, by dealing with where it could be placed, in limited places and with the 45%.

Director Bergman felt with only going forward that this would eventually fix itself as houses were sold, or by inserting language when more than, 50% of the artificial turf had to be replaced.

Council President Lindsay reported only two in town were large installations. She would rather educate people on the problems it created, and take care of the problem when they came in for any kind of permit.

Public Comments:

Rene Silvin did not have a comment other than he was amazed at the detail discussed.

Motion made by Council Member Araskog, and seconded by Council President Pro Tem Lindsay to pass the suggested language on page 390; which was Section 66-2 Definitions. Section 66-313-Artificial Turf Locations, but adding where installation is allowed into accents for driveways or however Director Bergman and his department decided it should be worded, accepting Section 66-314 for the standards, and eliminating Section 66-315. On roll call, Motion pass unanimously.

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

Wayne Bergman, Director of Planning, Zoning and Building

Director Wayne Bergman, spoke about how the 25% native plant requirement should be quantified. ORS review resulted in the recommendation to calculate the requirement on quantity of plants and not by the plant coverage, in each category of plant material. They also suggested increasing minimum amount of native plants from 25% to 35% in 5 categories: trees, palms, shrubs, ground cover, and vines. They also recommended using the Institute of Regional Conservation guide: *Natives for your Neighborhood*, as the sole listing for native plants for Palm Beach. In addition, use the *Florida Invasive Plants Species Guide* as the sole list for Category 1 and Category 2 invasive plants.

Council Member Araskog noted this was only for full new landscape plantings, and each category required 35%.

Council Member Cooney commented the Preservation foundation offered, at their expense, to work with the Institute of Regional Conservation to make a broader Palm Beach specific list. He was struggling with advancing from 25% to 35%.

Council President Pro Tem Lindsay thanked the committee members for their work. She said 25% was the lowest number, and she would be happy to try 35%. Council Member Araskog clarified the calculation.

Public Comment:

Susan Lerner, 6800 Country Place Road, West Palm Beach, Director of Horticulture at Preservation Foundation, thanked the Council for their work on this subject. She commented the brochure would be ready by end of the year. She spoke about a possible replacement program when removing invasive plants and trees.

Council Member Araskog commented the lists would be easy to use.

Council Member Cooney made a motion, seconded by Council Member Crampton, to accept the recommendations regarding native plants, which only counted for new installations. The motion carried by unanimous vote.

A five-minute break was taken. The meeting reconvened at 12:15 p.m.

XII. REGULAR AGENDA

A. Matters Pulled From Consent Agenda: If needed

1. RESOLUTION NO. 113-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a

Purchase Order to AEGION/Insituform Technologies LLC for Lining of Sewer Pipes Within the A6 Basin from the National Cooperative, Buyboard in the Amount of \$1,425,890 and Establish a Project Budget of \$1,641,773, Contingent upon FY22 Budget Approval. – ***Pulled and Heard as Item No. XII.A.1***

Dean Mealy, Purchasing Manager

Director of Public Works, H. Paul Brazil presented the savings, which would be realized by lining the sewer pipes. Rehabilitated pipes would last from 50 to 100 years. He reported more than \$4M in stimulus money had been received, and spending \$2M would save \$500,000 a year over 4 years. When the entire system was finished there would be savings of about \$750,000 annually, and Mr. Mealy had been able to save another \$500,000 because of volume purchasing.

Mayor Moore complimented staff on their good work.

Council Member Araskog thanked staff for moving forward and providing great quality of life for the residents.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay to approve Resolution No. 113-2021. On roll call, the Motion passed unanimously.

B. Old Business

1. COVID-19 Update

Kirk W. Blouin, Town Manager

Town Manager Blouin provided an update on vaccinations for Town employees. Vaccinations had been encouraged through active communication, a presentation with Dr. Alonzo, active training, proactive measures at the start of the Delta variant, and two incentive programs. A mandatory requirement for new employees being vaccinated was in process of being reviewed, but in light of Governor DeSantis's orders, this has ceased. Vaccinations provided at work, the Town's insurance broker had been contacted regarding an incentive or disincentive program for those who have been vaccinated to receive a discounted rate on monthly health insurance premiums. President Biden's vaccine mandate and Governor DeSantis's opposing view were being closely monitored. An antibody treatment had been made available, and vaccinations would be encouraged.

Council President Zeidman applauded the comprehensive approach described by the Town Manager, and commented those not vaccinated were missing the profound effect they could have on someone else's health, and the fact that they were much more likely to get the Delta variant.

Town Manager Blouin reported bringing weekly testing to the workplace for unvaccinated employees. Some employees have strong opinions regarding the vaccinations and natural immunity. Stated there was a lot of misinformation.

Council Member Crampton asked the percentage of vaccinated and unvaccinated employees. The Town Manager reported the data is being collected.

Council Member Araskog asked if anyone had contacted the Governor, regarding his Declaration, and if there was a program for boosters or antibody testing. She asked to be respectful of anyone's right to privacy regarding vaccination.

a. COVID-19 Monthly Report

Darrel Donatto, Fire Rescue Chief

Fire Rescue Chief Donatto provided a written report, commenting that the most recent wave was much more severe than all previous waves, and the rise in cases was steep but the drop in cases per day was coming down rapidly. He felt sometime in October, rates should be back to June numbers. Hospitals were full, and numbers were still overwhelming. He asked everyone to think about the steep growth of Delta and the fear was the next variant could be worse if more people across the world were not vaccinated. He spoke about the antibody treatment that was available. Science was not very clear on boosters at this time, a third shot had not been approved. Antibody testing was still expensive and not widely available, and Fire Rescue would not be able to administer it.

Council President Zeidman thanked Chief Donatto for being proactive.

Council President Pro Tem Lindsay asked about who could receive the antibody treatment. Chief Donatto clarified it had been approved for two groups of people who were positive but not yet hospitalized, and at severe risk of disease; and those who had been exposed to a positive patient and were at severe risk for disease.

Lunch break taken until 1 p.m.

b. Discussion Regarding Board, Commission, and Committee Meeting Format and Participation for Upcoming Meetings *Margaret A. Zeidman, Council President*

Council President Zeidman recommended that all boards and committees meet virtually during the month of September, and stated she expected a huge drop in cases during October.

Council Member Araskog expressed concerns of being taken to court in the future. Council President Zeidman advised that Town Attorney Randolph had said at the outset that we would deal with this issue on an individual basis should it come to our attention that a resident or presentee wanted an in person hearing.

Motion made by Council Member Crampton and seconded by Council Member Cooney to hold all Board, Commission and Committee meetings virtually for September 2021. On roll call, the Motion passed unanimously.

c. RESOLUTION NO. 115-2021 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 October 12, 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 made by Council President Pro Tem Lindsay and seconded by Council Member Crampton to approve Resolution No. 115-2021. On roll call, the Motion passed unanimously.

2. Request for Direction Regarding Completion of Retail Study
Wayne Bergman, Director of Planning, Zoning and Building

Director Bergman recalled staff had offered the option to combine the retail study with zoning code reform, which Council had delayed to this meeting. In the meantime, the Planning and Zoning Commission had considered the retail study and voted 4-3 to delay the start of the study. He reported receiving a letter from Michael Ainslie, Chair of Planning and Zoning Commission, and he had provided a copy to each member of the Council.

Council Member Crampton favored moving forward with the study, which has been approved and funded. He commented Worth Avenue had done well, but some of that was art galleries and other businesses that would probably only last a year. He felt the two studies could go on at the same time.

Council Member Araskog felt Worth Avenue had done well, not just art galleries, and the retail study needed to be done when not in a pandemic, and she would like code reform done first. She asked if staff would have time to do this now. Director Bergman responded staff would find a way;

they might need to supplement the work force.

Council Member Cooney agreed this should move forward. The firm selected was very talented, and most of the stress regarding code reform was coming from residential, not commercial. He felt the retail contract should move forward.

Mayor Moore commented some of the problem with retail was empty storefronts, which were all owned by a single owner who did not choose to lease his property. She thought the retail study should be done in conjunction with code reform, at a later time.

Council President Zeidman stated she supported this from the beginning, and every community had a problem because of online sales. She felt this was for the market forces to figure out. There were many commercial retail areas in the town. The Yard study included marketing, but that had shifted. She agreed that there was merit to both opinions: to move forward with the Yard study or to defer. The question had become, could the company hired to tackle the code reform issues also focus on the commercial areas and secondly, should we not hire the Code Reform experts first and then supplement their background with a company like Yard who specializes in commercial districts. She voiced concern that a “generalist” planner might not be up to looking at commercial uses. Director Bergman responded Yard would bring a completely different way to look at this and you could not expect a professional planner to delve into marketing, branding, and other things Yard would provide. Council President Zeidman stated she was not interested in marketing and branding. She asked if someone hired who did residential could give an idea of how they conceptualized all the commercial spaces and re-adaptive uses, or was someone needed who specialized in center of town, midtown, mainstream commercial—were two firms needed or only one. Director Bergman responded that was a policy decision. He thought a professional planner could give ideas and be able to prepare an adaptive reuse for certain situations in certain areas, but Yard’s proposal was unique and he did not think a typical professional planning firm would provide that level. Council President Zeidman concluded one was overarching and the other zoomed in on specifics, Yard would, in commercial and retail mixed use areas. She commented she was still interested, but believed the RFP had changed to include a more comprehensive approach rather than one so specifically focused.

Council President Pro Tem Lindsay thought the people who would survive were the shopping centers on the streets and those within enclosed malls would go by the wayside. She was leaning with the Mayor. She commented it had been decided to do incremental code reform, and felt doing the retail study now had risks that the right questions might not be asked, therefore

the answers might not be right because people were all over the map about what the firm was supposed to do. The first priority that was set was to deal with the fill, then the zoning elevations and resilience, heard today. She liked Yard, but she did not think now was the time to have the study going on while dealing with the urgency of the elevations and resilience.

Council Member Araskog felt the consultant would be an expert in all of the areas and that should be figured out first, then Yard could come in and deal with specificity. She agreed with Council President Zeidman and Council President Pro Tem Lindsay.

Council President Zeidman agreed it would be putting the cart before the horse. She thought there should be an overarching planner consultant to help with code reform and look at the town as a whole first, then in areas where expertise was needed, to call Yard in at that point. She did not want to hire someone who only looked at residential.

Council Member Crampton understood the concerns with timing, Director Bergman pointed out Yard would bring a new and unique perspective, and if properly aligned could work with the consultant and provide great benefits. He did not think the town would lose anything by getting Yard into the game right now, and felt their creative input would benefit the other work done, and in the end, the town would be better off.

Council President Pro Tem Lindsay stated the town needed a plan, and Yard should come in when the town had that plan. She wanted staff to call them to say they were not out of the picture, just on ice now. Council President Zeidman agreed, but first needed to see the RFP for the consultant, and Council would know at that point or as work proceeded with the consultant, when to bring Yard in.

Council Member Crampton responded with that affirmation, he was comfortable proceeding because no one was rejecting to Yard.

Public Comment

Anne Pepper, 333 Seaspray Avenue, commented there was still a pandemic and the future state of retail was unknown, and felt Yard would bring a biased perspective. She felt conditions should stabilize for a year and several companies should be interviewed and the work reassessed.

Motion made by Council Member Araskog, and seconded by Council Member Crampton to not move forward with the Yard study at this time, but wait until code reform had been started with the planner, at

that time or a little before to decide if a retail study was what was needed. On roll call, Motion passed unanimously.

Mayor Moore asked the status of communications with Yard. Deputy Town Manager Boodheshwar responded Yard knew the direction was not final, and he would advise of decision and possible scope change. At some point, if the scope changed too much, it would have to be decided whether to issue a new RFP.

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

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

Town Engineer Patricia Strayer provided a presentation on the status of each project. All phases were on schedule and on budget. In the last two weeks, 14 property owners had agreed to easements. She discussed the FPU program, which would be completed this summer, and a proposal for Phase 7 to pay up front for paving was made. Staff agreed this was a good idea.

Council Member Cooney clarified with Town Engineer Strayer that she was proposing no paving at this time but to take the money from FPU for 2025, and she would return next month with a similar proposal if residents were doing construction jobs within this phase.

Council Member Cooney was sympathetic to residents living with sub-par roads for a period, and as phases were finished, the streets were outstanding.

Council Member Araskog commented if FPU gave \$400,000, what about the cost to come back and fix patches. Town Engineer Strayer explained FPU would not charge to fix patches. Council Member Araskog wanted to look in the future construction tax or fee to help fix roads.

Council consensus was to accept the staff recommendation.

b. RESOLUTION NO. 116-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Town Manager to Dedicate Two (2) Easements Between the Town of Palm Beach and Florida Power and Light (FPL) at 202 Plantation Road for Access and Maintenance of FPL Equipment.

Town Engineer Strayer explained the request for two boxes.

There was no public comment.

Mayor Moore confirmed with the Town Engineer one box was flat.

Motion made by Council President Pro Tem Lindsay and seconded by Council Member Cooney to approve Resolution No. 116-2021. On roll call, the Motion passed unanimously.

c. RESOLUTION NO. 117-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Town Manager to Dedicate Two (2) Easements Between the Town of Palm Beach and Florida Power and Light (FPL) at 226 Via Las Brisas and 244 Via Las Brisas for Access and Maintenance of FPL Equipment.

Town Engineer Strayer explained the request for placement of two switches, which would save \$160,000, using property that looked like road right-of-way.

There was no public comment.

Council President Pro Tem Lindsay confirmed with the Town Engineer the switch boxes would be screened.

Motion was made by Council Member Cooney and seconded by Council Member Crampton to approve Resolution No. 117-2021. On roll call, the Motion passed unanimously.

4. Coastal Update:
H. Paul Brazil, P.E., Director of Public Works

a. RESOLUTION NO. 118-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing State Grant of Florida Department of Environmental Protection Contract No. 22PB8, Between the State of Florida Department of Environmental Protection and the Town of Palm Beach Under the Florida Beach Management Funding Assistance Program, Specifically Reimbursement for Phipps Ocean Park Beach Nourishment Project Monitoring, in the Amount of \$19,500, and Authorizing the Mayor to Execute Same on Behalf of the Town.

Town Engineer Strayer explained the request for State of Florida grant funding.

Motion was made by Council Member Araskog and seconded by Council Member Crampton to approve Resolution No. 118-2021. On

roll call, the Motion passed unanimously.

b. RESOLUTION NO. 119-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing State Grant of Florida Department of Environmental Protection Contract No. 22PB12, Between the State of Florida Department of Environmental Protection and the Town of Palm Beach Under the Florida Beach Management Funding Assistance Program, Specifically Reimbursement for Lake Worth Inlet Management Plan/Beach Management Agreement Monitoring, in the Amount of \$324,500, and Authorizing the Mayor to Execute Same on Behalf of the Town.

Town Engineer Strayer explained the annual request for State of Florida grant funding.

Motion was made by Council Member Crampton and seconded by Council President Pro Tem Lindsay to approve Resolution No. 119-2021. On roll call, the Motion passed unanimously.

c. Woods Hole Group Coastal Resiliency Implementation Plan Presentation

TIME CERTAIN 1:00P.M.

Bob Hamilton, Woods Hole Group, provided a brief overview of information released in August, and asked for input in order to make their report final. Their goal was to prepare for a changing climate and to build resilience for the community. He reported substantial flood risk from the Lake Worth shoreline, primarily from storm surge. Woods Hole Group wanted to put the town in a position to reduce or manage its risk at a comfortable level but also be prepared to recover from events, and had worked with town staff to understand what projects in the budgets were already in the capital plan, in order to combine the opportunity to improve resilience with the fact that the town was going to make improvements, leading to specific actions such as design of flood elevations. Their implementation plan identified priorities and public communication within a timeframe of 1-2 years, with strong emphasis on public works, and help from a federal program as well as more affordable emerging alternative technologies.

Nasser Brahim, Woods Hole Group, presented what could happen beyond 2030 with adaptation pathways framework for long-term planning, which would allow preparing for a range of possible long-term scenarios. He identified specific projects and the financial support that could be provided by the government.

Council President Zeidman asked if they had ever dealt with raising a bulkhead and seawall where there was both public and private property. Mr. Brahim

responded they had done many. Council President Zeidman commented one of the biggest things to deal with was whether to do the Lake Worth shoreline piecemeal or as a single project. Storm surge barrier would only be used during a storm and flooding would still occur in the middle of the island as well as north and south areas, which Mr. Hamilton and Mr. Brahim confirmed.

Council Member Araskog asked about state funding for a specific project. Mr. Brahim responded the state had received federal disaster funds and had more flexibility in funding this year. Council Member Araskog asked about the recommendation for raising a property an additional 3 feet. Mr. Brahim responded that would be setting the highest standard now, but depending on sea level rise might not be enough in the future. Director Brazil commented that the FEMA level plus 3 feet would be a policy decision, and this report was providing information for the Council to make that decision. Mr. Hamilton explained how they arrived at an additional 3 feet.

Council Member Crampton asked what role the Southeast Florida Regional Compact play in the Woods Hole recommendation. The Compact's effort have three overarching objectives: Share regional tools and knowledge. Increase public support, political will, and Coordinate action. Mr. Hamilton responded the Southeast Florida Regional Compact was not included because the Town of Palm Beach was not active in that group, but recommended at least checking on the good work they were doing. Council Member Crampton asked about baseline for the projected sea level rise. Mr. Brahim advised the intermediate high projections for 2040 were 1.4 feet compared to the 2000 baseline, and for 2070, was 3.29 feet. Mr. Crampton summarized his understanding of the report, which Mr. Brahim confirmed. Mr. Hamilton advised the Council's decision was where to place priorities and how quickly they wanted to effect change.

Council President Pro Tem Lindsay asked if they were suggesting to start with changing the base flood elevation to plus 3 feet. Council President Zeidman had the same question of where to start.

Town Manager Blouin explained the Town had been heavily engaged with the federal government with beach renourishment, and also was proactive on the lake side in gathering information for future grants. They also planned to engage more in regional groups. Some municipalities were now employing a Director of Resiliency.

Public Works Director Brazil recommended breaking this into manageable pieces, and first to make applicable adaptations to capital improvement projects. He would like to send this to the Public Works Committee to identify pay-as-you-go capital projects and to modify those in the next five years to be consistent with the recommendations in this implementation plan. The Committee would go through scope and cost and come back to Council with whether they were

eligible for state grants. Director Brazil also recommended directing the Town Manager to make adjustments to add recommended resiliency features to applicable project and program budgets starting in FY 2023. He reported staff had already submitted for all eligible grants for added resiliency for capital improvement projects. The big decision was prioritizing policy changes of the town code and comprehensive plan to Council for review and approval, and suggested bringing that back in manageable pieces in future meetings. Also, data collection for a phased water level monitoring plan could be implemented and brought to Council when available. He asked to continue working with Woods Hole, and was asked to present a proposal

Council Member Crampton asked about encroaching king tides and passive level of sea rise for areas not armored. Director Brazil responded that was included in the scope to be reviewed by the Public Works Committee and come back to Council.

Council Member Araskog asked about the fire station. Director Brazil responded waterproofing was included in the renovation. Council Member Araskog asked if raising the water level in the Lake Worth Lagoon was a factor, to which the response was no, that was temporary

Council President Pro Tem Lindsay commented the rebuilt bulkhead for the marina was strong enough to be lifted in the future, and asked if new construction could be built to make lifting easier and less costly in the future. Director Brazil responded a structural slab could be used, but it would still be expensive.

Council clarified for Mr. Hamilton the report was final.

Mayor Moore asked to be kept updated on grant status.

Council President Pro Tem Lindsay asked if the maps in the report could be enlarged for street names to be recognized. Mr. Brahim noted new maps could be provided under a new grant.

Public Comment:

Ann DesRuisseaux, 800 South County Road and 1090 North Ocean Boulevard, commented she purchased landmark property that frequently flooded and was being lifted. She asked Council to think about future applicants and to make decisions quickly on heights and elevating buildings, and asked them to think about reconsidering her application by making a decision to protect her landmark property.

Katie Carpenter, 151 South County Road, stated she worked for Resilient Enterprise Solutions, applauded the work of Town Council and Woods Hole

Group, and reported she had worked with South East Florida Climate Compact, who recognized that her company worked on behalf of residential stakeholders, and she would be happy to introduce the compact for the town.

Warren Belmar, 137 Sunrise, member of the Shore Protection Board, commented how lucky the town was to have both Director Brazil and Rob Weber addressing these issues, and strongly suggested providing additional staff. Director Brazil reported the Planning and Zoning department hired a project manager.

Consensus of Town Council was to have the Public Works Committee discuss the implementation plan and its effect on planned capital improvement projects and the Town Council would address future decisions related to the plan.

B. New Business

5. Proposed 2022 Town Council Meeting Schedule

Kirk W. Blouin, Town Manager

Changes requested were to change March 1 and 2 meetings to March 3 and 4 (if necessary), add July 14 for budget workshop, and change October 11 meeting to October 13 due to conflict with Sukkot.

6. How Do We Preserve Palm Beach's Unique Small Town Charm, Businesses, and Community Amid Palm Beach County's Explosive Growth?

Bobbie Lindsay, President Pro Tem

Council President Pro Tem Lindsay commented people worried about higher buildings and potential growth getting out of hand, and suggested some of these concerns be dealt with at the beginning of code reform. She spoke about the effect of West Palm Beach's growth on the town, with those residents coming and using more of the town's resources, and planning needed to be done for this. In thinking about what made Palm Beach so special it was the massing, scale, walkability, and architecture, with iconic streets. She thought to get the best result would be to make sure Council was well educated to provide guidance, and would like a workshop this fall with staff reviewing the comprehensive plan for Council, and looking at the Worth Avenue Guidelines. She wanted Council to start educating themselves to be knowledgeable on the issues presented to them, and to understand why people in the past fought for preservation.

Mayor Moore felt this was a great idea and asked that staff provide a copy

of the strategic plan to Council.

Council Member Crampton agreed the comprehensive plan was a good starting point. There are other items that need to be addressed and he believed Mayor Moore should lead a workshop.

Council President Zeidman felt the timing was right.

Council Member Araskog felt it would be good to include Planning and Zoning in the workshop. She asked if the discussion on finding ways to limit the number of restaurants could be on next month's agenda.

Public Comment

Aimee Sunny, Director of Education at the Preservation Foundation, 311 Peruvian Avenue, commented the conversation aligned with their mission, and offered help and support. They would be happy to search their archives for any helpful documents.

Deputy Town Manager Boodheshwar indicated staff could provide historical information, and a copy of the most recent plan, at the next meeting.

XIII. ORDINANCES

A. Second Reading

1. Modification of Beach Access Hours and Inclusion of Root Trail as a Public Access Point

ORDINANCE NO. 21-2021 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 74 of the Town's Code of Ordinances by Amending Article V, Beach Access Closure to Include the Beach Access Point at Root Trail as Public; Providing For Closure from Sunset to Sunrise Daily; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Jay Boodheshwar, Deputy Town Manager

Town Attorney Randolph read Ordinance No. 21-2021 by title only on second reading.

Deputy Town Manager Boodheshwar advised there was information and visuals in the backup.

Council Member Crampton asked Town Attorney Randolph if a prescriptive easement existed. Town Attorney Randolph responded it had been determined there was a prescriptive easement.

Council Member Cooney expressed appreciation for the visuals, and did not think the gates met Palm Beach design standards. There was consensus by Council that the gates were not up to Palm Beach standards.

Town Manager Blouin advised staff would hold off the order for gates and designs presented to ARCOM. Private areas would continue to have access.

Council Member Araskog asked about the beach hours. Deputy Town Manager Boodheshwar responded since Ocean Towers owned part of the beach access, staff was happy to talk with the Root Trail people offline to see if something could be done to give them after-hours access. He clarified that the ordinance presented today was straightforward to codify dusk to dawn access.

Town Attorney Randolph advised Tim Hanlon's issue was separate from this ordinance and it was up to the town whether they wished them to have a combination lock to provide accessibility to the beach after hours.

Council Member Cooney asked for a recap of why these hours chosen. Town Manager Blouin and Council Member Araskog provided the information. Council President Pro Tem Lindsay commented all public beaches had these hours, and gated openings had signs, and this access had experienced a lot of unwanted activity. She understood Mr. Hanlon's issue had nothing to do with this ordinance.

Public Comment:

Tim Leuliette, 149 Root Trail, commented the neighborhood was united in supporting Council's decision to gate, but the community had had open access here for 120 years, and their point was if Ocean Towers could have access and they were sharing that same entrance, there should be a way for them to continue the same. The entrance was at the end of Root Trail and today the vista was not in keeping with Palm Beach. This neighborhood group would like a say in the design of the gate.

Aaron Williams, Greenspoon Marder LLP Law Firm, 200 E. Broward Blvd, Fort Lauderdale, representing the retail partnership LLC, agreed with the prior speaker. He addressed their support of the proposed ordinance, and maintaining access rights that had been held by the current residents of Root Trail. They looked forward to working with the town on the gate and berm design, and requested the town confirm that all of the residents of Root Trail

would still have continued 24/7 access through the proposed gate.

Kathy Booker, 127 Root Trail, echoed concern that access be maintained and hoped to work with the town on a solution to maintain access for Root Trail residents, and the issue of the access being vulnerable to flooding as reported by Woods Hole. She asked for information on the timing of installation of flood prevention measures. She welcomed the opportunity for public comment on the gate through the ARCOM process. She asked for information from the town whether there were any other conditions or restrictions in the agreement with Ocean Towers that might create unintended consequences in restricting public access to Root Trail.

Council Member Crampton was comfortable with Attorney Randolph's position on the prescriptive easement and believed it should apply to Root Trail residents. He favored reviewing the appearance of the gate, and felt action needed on ocean water intrusion. He was in favor of allowing Root Trail residents nighttime access.

Motion made by Council Member Crampton and seconded by Council President Zeidman to adopt Ordinance No. 21-2021 on Second Reading. On roll call, the Motion passed unanimously.

Council Member Araskog stated her confusion concerning allowing nighttime access when the beach closed. Town Manager Blouin responded only privately owned areas of the beach were accessible after the beach closed.

Town Attorney Randolph thought there was an argument on behalf of the folks that had prescriptive easement, the easement was not limited, and they had the right to use the beach.

Town Manager Blouin raised other issues. Town Attorney Randolph advised the issue now related to the prescriptive right of access and the residents of Root Trail were asking Council to honor their prescriptive rights to be able to use that beach after hours. The Town Attorney recommended placing this matter on an agenda later.

XIV. ANY OTHER MATTERS

There were no other matters to come before the Town Council.

XV. ADJOURNMENT

The Town Council Meeting of September 14, 2021 was adjourned 5:23 p.m. without benefit of a motion or vote.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Queenester Nieves, CMC, Town Clerk

Date