

TOWN OF PALM BEACH SHORES
TOWN COMMISSION REGULAR MEETING
March 15, 2010

John M. Workman, Mayor
Alan D. Fiers, Vice Mayor

Commissioner Roby DeReuil
Commissioner Lisa A. Tropepe
Commissioner Scott McCranel

Town Attorney Keith Davis
Town Clerk Carolyn Gangwer
Town Administrator Cindy Lindskoog

- 1. CALL TO ORDER**
 - a. Roll call
 - b. Pledge of Allegiance
- 2. APPROVAL OF MINUTES:**
 - a. February 22, 2010 regular meeting
- 3. AGENDA APPROVAL:**

Additions, substitutions, deletions
- 4. DEPARTMENT REPORTS:**
 - a. Financial report for February 2010
 - b. Police department report
 - c. Fire department report
 - d. Staff reports
 - 1) Town Administrator
 - 2) Town Clerk
 - e. Legal update
 - f. Planning and Zoning Board report
- 5. MAYOR, COMMISSION REPORTS:**
 - a. *Commissioners' Priority Items*
- 6. PUBLIC COMMENTS:**
- 7. MISCELLANEOUS BUSINESS:**
 - a. *Update on Comprehensive Plan amendments – consultant Walter Keller*
 - b. *Discussion: hedge code*
 - 1) Results of questionnaire
 - 2) Recommendation of Planning and Zoning Board
 - c. *Discussion: new Fire Chief*
 - d. *Discussion: Sailfish Marina*
- 8. ORDINANCES, RESOLUTIONS, PROCLAMATIONS:**
 - a. *Resolution No. R-6-10*

Authorizing the Inlet Park Fishing Pier project and making application to the Florida Inland Navigation District for 50% of the cost of the project.
- 9. ADJOURNMENT.**

MINUTES

The regular monthly meeting was called to order at 7:00 pm by Mayor John Workman. The assembled stood and pledged allegiance to the flag. Roll call revealed that all members were present. Also in attendance were Town Attorney Keith Davis, Town Police Chief Steven Kniffin, Acting Fire Chief Tom Pirro, Town Administrator Cindy Lindskoog and Town Clerk Carolyn Gangwer.

APPROVAL OF MINUTES: The **February 22, 2010 Commission meeting minutes were approved** on a motion by Commissioner Lisa Tropepe and second by Commissioner Scott McCranels.

AGENDA APPROVAL: The **agenda was approved as published** on a motion by Vice Mayor Alan Fiers and second by Commissioner Roby DeReuil.

DEPARTMENT REPORTS:

a. Financial report for February 2010.

Mayor Workman noted that 75% of the budgeted revenues have been collected to date. Expenses are at 38% of budget, halfway through the fiscal year. Vice Mayor Fiers moved to **approve current expenses of \$236,521 and current disbursements (including accruals) of \$352,458.** After a second by Commissioner Tropepe, the motion carried unanimously.

b. Police department report.

Chief Kniffin reviewed the list of arrests during the month of February, noting that it was a busier month than January. Commissioner Tropepe asked about the grant for fingerprinting? Chief Kniffin explained that this is an annual FDLE grant, based on the town's crime statistics. This year the amount is \$1500, which will be used to purchase a fingerprint reader.

c. Fire department report.

Mayor Workman commended Chief Pirro and the department for putting out the brush fire on the dunes yesterday. Chief Pirro reported that 11 volunteers reported to that call. He noted that he has received several proposals for the pager system and that the department siren is being evaluated.

d. Staff reports:

Town Administrator Cindy Lindskoog reported:

- Town Administrator Lindskoog reported working with Commissioner DeReuil and Mayor Workman on coming up with a solution for the doors at the Community Center. A final Certificate of Occupancy should be issued as soon as the town completes close out with West Construction.
- Ms. Lindskoog met with FIRM representative regarding Community Center lighting. After this is approved, lighting at the beach parking lot can be addressed.
- The Maranatha Church will be back before the Commission next month to request approval of 6 more months of usage of the Community Center.
- A budget amendment may be needed to cover the expense of repairing the fire department siren and paging system.
- POA President Gil Trower has tickets available for the Spring Fling event on March 27th.
- Ms. Lindskoog asked if the Commission wished her to reach out to Marriott management regarding the shower and availability of water at the Linda Lane beach walkway? Commissioner McCranels stated that he would like to see the town formally request to have water provided from Marriott's line so that the shower could again be used. Vice Mayor Fiers suggested that the town should pay Marriott for the water, if they agree to hook up the shower. After further discussion, Town Administrator Lindskoog will send a

letter to Marriott requesting that the shower be hooked back up to their water line. If they decline, then the town will offer to pay for the water.

Town Clerk Carolyn Gangwer reported:

- A reminder that the annual Town Commission Reorganization meeting has been rescheduled to Wednesday, March 31st at 7:00 pm at the Community Center. The Property Owners Association will be providing refreshments at the close of the meeting.
- Ms. Gangwer gave a brief update on the DolceVita property at 151-155 Ocean Avenue. It appears that a portion of the ownership will change hands. There have been lien search requests, as well as many calls with questions about the property. To date, no units have been sold, she reported. Ms. Gangwer noted that nothing has changed with the 106 Inlet Way property, which currently has an approved development order for a small hotel and restaurant. This order is good for five more months, with no extension possible.

e. Legal update

Attorney Davis reported that the red light cameras used by the City of Aventura have been found unconstitutional. This is not technically binding on Palm Beach County, but he is monitoring this. Florida State Statutes say that this is a state function, and there are many mitigating circumstances such as who's actually driving the car, etc.

f. Planning & Zoning Board report.

Board Chairman Rick Ziegler reported that two extensions of time on development orders were granted, and a new, fully code compliant two story home on Blossom Lane was approved. In addition, the issue of window air conditioning units was reviewed, and current code was found to be adequate for enforcement. Finally, the hedge issue was discussed, again, and a recommendation sent to the Town Commission.

MAYOR, COMMISSION REPORTS:

Vice Mayor Fiers stated that some issues regarding District B zoning are moving forward. The Town Attorney is assisting with gleaning portions of Monroe County's transient rental codes that would apply to Palm Beach Shores. In addition, starting next week, the Vice Mayor will be meeting with the Property Owners Association and others regarding some relaxation of lot coverage requirements in District B, to try and encourage some of the owners to convert their use from transient rentals to ownership. He characterized these proposed changes as 'non-controversial'. If anyone wants to review what is being proposed, the Town Clerk has copies of the plans and other documents.

Commissioner Tropepe stated that she recently had a conversation with Riviera Beach Councilperson Dawn Pardo about the removal of the bus stop at the corner of Ocean Avenue. Ms. Pardo said that she was unaware that the bus stop had been removed, and that she will ensure that this is addressed by the City.

Commissioner DeReuil noted that the Comprehensive Plan amendments appear later on the agenda.

Commissioner McCranels noted that his issue concerning the Linda Lane beach walkover shower has already been addressed.

PUBLIC COMMENTS:

Jack McDevitt of Claremont Lane raised the issue of the unresolved 2008 tax liability between the Sailfish Marina and the Property Appraiser. Mayor Workman previously provided Mr. McDevitt some information on this, and will check to see if there is anything new.

Jody Samanich of Sandal Lane urged the Commission to look at long term rentals which might be problems, as well as short term, transient rentals when the District B review is done.

Gil Trower, president of the Property Owners Association:

- The annual Arbor Day celebration is this Friday at 10:00 am on the parkway.
- An educational financial seminar is scheduled for March 24th at 2:00 pm at Town Hall.
- Spring Fling is Saturday, March 27th at 6:00 pm.
- The Final Four basketball tournament games will be shown on wide screen at the Community Center in April.
- The Seaside and Property Owners have offered to purchase and install window coverings at the Community Center.

Barb Platner of Claremont Lane urged folks to attend the weekly Wednesday afternoon event at the Community Center from 1:00 – 4:00 pm.

MISCELLANEOUS BUSINESS:

a. Update on Comprehensive Plan amendments – consultant Walter Keller.

Mr. Keller explained that he is working on amendments to the town's Comprehensive Plan, per the comments included in the state review. One outstanding issue is the town's Water Facility Use Plan, which is entirely dependent on the City of Riviera Beach, who provides the town's water. Riviera Beach prepared a plan which was deemed incomplete, so they are refining and updating it. Mr. Keller has been informed that Riviera Beach's Water Facility Use Plan should be complete in the next few weeks.

Another issue which needs to be addressed is update of the town's annual capital improvements list. Mr. Keller stated that he needs some direction on where the town is going with this, and he provided a list based on previous discussions with the Commission.

Discussion ensued regarding what should be included in the capital improvements list. Included in discussion was what is the dollar amount of a capital improvement (this is up to the town), and what happens if an item is on the list, and is not done? Attorney Davis noted that the capital improvements list needs to be reviewed annually, with the updated list submitted to the state.

After further discussion, Vice Mayor Fiers moved to **include resurfacing and upgrading the town's perimeter roads, upgrading a portion of the town's storm drainage system and burying overhead lines within 5 years**. After a second by Commissioner Tropepe, the motion carried unanimously.

b. Discussion: hedge code.

Mayor Workman gave a brief background on the hedge issue. A questionnaire was put into the town newsletter for 2 consecutive months, and presentations on the issue have been given to town civic groups. He thanked the Planning and Zoning Board for their diligent work on this issue.

Planning and Zoning Board Chairman Rick Ziegler reviewed the process by which that board arrived at their recommendation to the Town Commission. They waited until most seasonal folks were back in town to discuss this issue. Chairman Ziegler noted that there was not much difference in the number of people who preferred choice #2 (a required 5'-6" setback from the road for all landscaping, and, after that, no limit other than for safety triangle) and choice #3 (allow unlimited growth within the town's 10 foot strip to accommodate the current non-compliant plantings, provided all safety triangle issues are met). The Planning and Zoning Board felt it was important to allow people to manage the growth of vegetation on their properties. In addition, people told that board that the reason that they bought their property in Palm Beach Shores was because of the beautiful vegetation in both their back and front yards. The Chairman concluded that their recommendation was made based on the results of the questionnaire and on many hours of discussion at public meetings.

Mayor Workman read the recommendation of the Planning and Zoning Board aloud to the assembled: **that current code should be amended to allow unlimited growth within the town's 10 foot strip to accommodate the current non-compliant plantings, provided that the safety sight triangle is maintained, and that height of hedges located to the side and rear should be unlimited, as long as they are kept out of overhead power lines.**

Mayor Workman stated that he is in favor of maintaining the 30' safety sight triangles at intersections, and asked Chairman Ziegler if the 10' driveway safety triangles would be strictly enforced, also? Mr. Ziegler responded that the Planning and Zoning Board strongly recommended maintaining all sight triangle for safety, but didn't feel that the Code Enforcement officer should spend all of his time measuring lines of sights around driveways (only if there was a complaint)

There was extensive discussion about the hedge issue:

Commissioner McCranels stated that he is fine with either Choice #2 or Choice #3, as long as the vegetation is maintained and the safety triangle is per code.

Commissioner DeReuil thanked the Planning and Zoning Board Chairman for taking on this arduous task. Mr. DeReuil is in favor of enforcing the sight triangle, and stated his concern about how the recommendation of the P&Z Board might affect the street corridor. Currently, a 90' corridor exists between front of house and front of house, with a 40' road corridor. With Choice #2, which Commissioner DeReuil characterized as a compromise between current code and the P&Z's recommendation, the road corridor would be reduced from 40' to 31', which he could 'live with'. Mr. DeReuil opined that when the safety triangle is strictly enforced, many of the plantings in the driveway islands will need to be cut back or removed.

Commissioner Tropepe asked Attorney Davis for clarification of the town 10 foot strip as depicted on the Plat of Palm Beach Shores? Mr. Davis reviewed current town code relative to Town property: "The ten foot strip of town property on both sides of the streets may be used by the owner of the abutting property with the same restrictions as to use for front yards . . . the placement of . . . hedges and shrubbery is governed by PF. 9.2 . . ." Mr. Davis noted that O-16-07 amended the code on town property by prohibiting planting of anything on the first 3 feet

of town property, and a limitation of 3 feet in height of anything beyond that point to the 10 foot point.

Commissioner Tropepe opined that Choices #2 and #3 are somewhat similar. Choice #2 is not too different from current code. Ms. Tropepe opined that safety is paramount. She asked Chief Kniffin what he thought about allowing ficus hedges as close as 2 feet from the roadway. Chief Kniffin explained that he has issues with allowing growth so close to the road – cars have no ability to pull off in an emergency. The Chief noted that Ocean Ridge and Lake Clarke Shores prohibit anything within 4 to 5 feet from the roadway.

Commissioner Tropepe asked the Town Attorney for his opinion on the Chief's statement. Mr. Davis opined that he is not very concerned that Palm Beach Shores must do something because other towns do it that way, but agreed that safety is certainly an important issue.

Mayor Workman noted that, for a number of years, there have been very few (if any) complaints about how the town looks – ie: trees and vegetation located along the roadways, etc.

PUBLIC COMMENTS:

Chuck Platner of Tacoma Lane recalled that the POA Environmental Committee suggested that trees be at least 5'-6" away from town streets. One of the reasons for this is the problem of fronds and foliage hanging over into the streets, which makes it difficult for motorists to pull out of the way of pedestrians. Mr. Platner stated that he has no problem with lower shrubs and decorative foliage around mailboxes.

Frank MacNeil of Tacoma Lane asked how many properties were not originally in compliance with existing code? There were 27 properties in violation. Mr. MacNeil opined that, with only 81 questionnaires returned, perhaps some of these 27 property owners voted more than once. Mr. MacNeil also complained about the poor quality of the meeting room sound system.

A town resident complained about the problem of trees and vegetation hanging over onto neighboring properties.

Jack McDevitt concurs with Commissioner DeReuil's comments about keeping the roadway vista with the canopy effect in place.

Continuing discussion included what constitutes a hedge, vegetation planted in 'islands' created by circular driveways, and what to do about trees planted closer than 5'-6" from the roadway.

At the completion of discussion, Vice Mayor Fiers made the following motion:

Within the town's ten foot strip:

- **Allow no plantings other than grass or ground cover not to exceed 1' in the area 3' back from the road;**
- **Allow no plantings higher than 3' beyond the 3' from the roadway to 5'-6" from roadway, with the exception of 'spot' plantings (maximum 2 each) to conceal an architectural feature such as mailboxes or signs, so long as the planting is no higher than the feature;**
- **At the 5'-6" mark, trees and unrestricted vegetation are permitted, as long as properly maintained and the safety triangle is not impeded;**

- **Require planting of 3 foxtail palm trees with new construction or new landscape plan, such trees to be planted at a 5'-6" distance from the road, along the front of the house;**
- **Enforce current safety triangle code;**
- **Unrestricted height at side and rear as long as properly maintained and as long as there is no intrusion into overhead lines;**
- **If tree or foliage grows over neighboring property, the person who planted the tree/foliage is responsible to maintain it;**

Roby DeReuil seconded the motion, adding

- **Define "continuous hedge" as meaning greater than 36" horizontally.**

Vice Mayor Fiers opined that the recommendations in this motion will surely be refined before the code is finally amended, but this is a good starting point. Commissioner McCranels agreed, commenting that no matter what, not everyone is going to be happy with what is eventually decided.

The motion carried on a unanimous affirmative vote.

c. Discussion: new Fire Chief.

Town Administrator Lindskoog reviewed how the selection process was handled. With a total of 25 responses to the ad, criteria was set up, due diligence was taken with checking on the job applicants, and two final candidates were chosen. The final choice was made after the two candidates sat before an interview panel.

The Town Commission was provided with a packet of information, including an overview of the selection process and resume of Martin DeLoach, who was chosen by the interview panel.

Mr. DeLoach was introduced to the assembled. He gave a brief overview of his experience, 10 years as a fire chief which included working with both paid and volunteer fire departments. Mr. DeLoach stated that he was looking forward to meeting the residents and working with the town.

Commissioner DeReuil stated that he liked how Mr. DeLoach answered some of the panel's questions. He asked if Mr. DeLoach would be living in town? Mr. DeLoach answered that he is planning on renting in town until he sells his house in Michigan.

Vice Mayor Fiers noted that Mr. DeLoach received several Cum Laude honors in college. He thanked the Town Administrator and Mayor for their work on this selection process.

Commissioner Tropepe stated that she is glad to welcome Mr. DeLoach to the town, and opined that he appears to have an open mind on things. Ms. Tropepe noted the on-going pressure from the county to do away with volunteer departments.

Mayor Workman noted that Mr. DeLoach currently has Firefighter I and II certification, which was one of the criteria.

Vice Mayor Fiers moved to **authorize the Town Administrator to negotiate an agreement with Martin DeLoach to become the Town's part time Fire Chief, including having Mr. DeLoach be paid an "on call" salary, with some benefits included, and to investigate**

town funds that currently are directed to the Riviera Beach Fire Department pension fund. After a second by Commissioner DeReuil, the motion carried unanimously.

Ms. Lindskoog thanked all who served on the interview panel.

d. Discussion: Sailfish Marina.

Vice Mayor Fiers reported that, over the last year, he and Jack McDevitt have had on-going discussions regarding the future of the developable area of the Sailfish Marina. Specifically, the discussions have focused on the town having the ability to make an offer on the property (that portion not under the county agreement) if the investors choose to sell. This does not mean spending money now, just “throwing our hat into the ring”. Mr. Fiers has contacted one of the owners, who informed him that the property is not for sale. However, he feels that it would be appropriate for the Mayor to send a letter to the owners asking for the first right of refusal, so that this is put on the record.

Dr. Vincent Allora of Edwards Lane asked what is the market value of the property? Mr. McDevitt answered that the Property Appraiser currently has it valued at 10.3 million.

Mr. McDevitt noted that the Catherine and John MacArthur Foundation has a 5 billion dollar trust, and perhaps they could be approached to see if they would be interested in helping to save the rest of the Sailfish property from redevelopment. He briefly explained how the City of Stuart has done something similar to this.

Vice Mayor Fiers moved to **authorize the Mayor to send a letter to the owners of the Sailfish Marina property, requesting that the town be given First Right of Refusal if the property is sold in the future.** After a second by Commissioner Tropepe, the motion carried unanimously.

ORDINANCES, RESOLUTIONS AND PROCLAMATIONS:

a. Resolution No. R-6-10

Resolution R-6-10 was read aloud by title only by the Town Clerk. Commissioner Tropepe gave a brief overview of the possibility of grant funding for a proposed observation pier along the west end of the inlet park:

- The possibility of funding by the Florida Inland Navigation District (FIND) for an observation pier at the inlet was discussed at last month’s meeting, and there was consensus for staff to proceed with fact finding.
- All town residents pay a portion of their tax dollars to FIND, and FIND offers annual grant opportunities – the town’s beautiful inlet park was partially funded this way.
- There will be absolutely no money spent out of this year’s town budget.
- Commissioner Tropepe has prepared all of the drawings and plans required for the initial grant application for planning funding.
- The observation pier is proposed to be located at the far west end of the inlet park walkway, extending only over the rocks, not over the water.
- The approximate cost of planning is \$25,000, with FIND providing \$12,500 and another funding source sought for the other \$12,500.
- When Commissioner Tropepe presented the initial concept to FIND, they were very supportive, and asked for 3 observation piers, due to safety concerns over people

fishing off of the large rocks. FIND had no issues with adequate parking, as this was established with the original inlet park project. In addition, FIND offered to assist the town in seeking additional funding for the pier project.

- Due to the Army Corps of Engineers' easement along the inlet, it was determined that only the one pier at the west end would be pursued.
- The cost of the actual pier construction would be approximately \$30,000. This will not come out of this year's budget, but would be considered in the next budget cycle.
- If no alternate source for funding was found, the grant application could be pulled.

Discussion ensued. Commissioner DeReuil confirmed that FIND is paid from ad valorem taxes by Florida tax payers, and no federal stimulus money is included. He stated his support of such a project, and would like to see another observation pier put in further east, where the fishing is better!

Commissioner McCranels stated that he had several concerns about the proposed pier – funding and location. The proposed location is too near where people live. He would like to see the location moved east to the end of the jetty at the end of Ocean Avenue, or perhaps south of the gazebo, at the end of the north-south parkway, where many more people would probably take advantage of it. Commissioner McCranels opined that he would not be surprised if the cost for this type of project was closer to \$80,000.

Vice Mayor Fiers agreed with Commissioner McCranels. He opined that 90% of the folks who fish at the inlet are not from Palm Beach Shores, and the proposed site at the west end of the inlet will invite trespassing through existing properties. The Vice Mayor is in favor of the more eastern locations suggested. He also has issues regarding funding such a project during the current tight economy. Vice Mayor Fiers suggested adding a step down off of the proposed pier for launching kayaks.

Mayor Workman suggested placing the first observation/fishing pier at the south extension of Ocean Avenue.

There was discussion about possible problems with getting Army Corps approvals for the more eastern locations.

PUBLIC COMMENTS:

Frank MacNeil asked why the town needs an observation/fishing pier and who is the town catering to? Mayor Workman responded that there will always be fishermen on the rocks, so the addition of a secure area for fishing would increase safety. Vice Mayor Fiers added that this would be “catering” to the residents of Palm Beach County.

Chuck Platner questioned the \$25,000 planning cost for a \$30,000 pier? Commissioner Tropepe explained that when dealing with these types of grants, the planning costs are nearly always \$25,000.

Gil Trower asked if the town will be responsible for policing fishing licenses? Chief Kniffin answered that Fish and Wildlife monitor this.

Commissioner Tropepe moved to **authorize completion of the application to FIND proposing a 10' x 40' observation pier at the extension of Ocean Avenue, on top of the rocks, with no financial commitment at this time.** After a second by Commissioner

McCranels, the motion carried unanimously. Mayor Workman reiterated that this is for consideration, only.

The meeting adjourned at 10:00 pm.

Carolyn J. Gangwer, Town Clerk

John M. Workman, Mayor