

Monday, November 13, 2023
Commission Workshop
7 PM



Town Hall Commission Chambers
247 Edwards Lane
Palm Beach Shores, FL 33404

Mayor Alan Fiers
Vice Mayor Tracy Larcher

Commissioner Brian Tyler
Commissioner Mark Ward
Commissioner Steve Smith

Town Attorney Keith Davis
Town Accountant Darlene Hopper
Town Clerk Jude M. Goudreau

PLEASE NOTE:

THIS MEETING IS ALSO CONDUCTED USING COMMUNICATION MEDIA TECHNOLOGY

Join information.

Meeting link:

<https://townofpalmbeachshores.my.webex.com/townofpalmbeachshores.my/j.php?MTID=m20e615ba56ced49477078402f71cd17d> Meeting number: 2634 822 6218 Password: 1113

Join by phone: +1-408-418-9388 United States Toll Access code: 2634 822 6218

COMMISSION WORKSHOP AGENDA

1) Call to Order

- Pledge of Allegiance
- Roll Call

2) Guest Speaker

- SWA –Lithium Batteries Disposal (Jessica Winter)

3) Presentation

- Form 6 (Attorney Keith Davis)

4) Town Administrator Search:

- Present Candidates to Commission (Kathleen McGahran, John D'Agostino)

5) Discussion Items:

- First Draft Ordinance- Town Roads
- Town Beach Dunes- Vegetation Management (Donna Ward-EC Chair)
- District B – Short term rental

6) Project Updates:

- Road Paving Project
- Community Center Kitchen
- Watermain-Final Update
- AT&T
- Seaspray

7) Public Comments: 3 minutes per person, per topic, state your name for the record.

8) Adjournment:

PLEASE TAKE NOTICE AND BE ADVISED, that if any interested person desires to appeal any decision made by the Town Commission with respect to any matter considered at this meeting or hearing, such interested person will need a record of the proceedings, and for such purpose may need to insure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based. The meeting/hearing will be continued from day to day, time to time, place to place, as may be found necessary during the aforesaid meeting. IN ACCORDANCE WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT (ADA), THIS DOCUMENT CAN BE MADE AVAILABLE IN AN ALTERNATE FORMAT (LARGE PRINT) UPON REQUEST AND SPECIAL ACCOMODATIONS CAN BE PROVIDED UPON REQUEST WITH THREE (3) DAYS ADVANCE NOTICE. FOR HEARING ASSISTANCE: If any person wishes to use a hearing device, please contact the Town Clerk.

ORDINANCE NO. O-8-23

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF PALM BEACH SHORES, FLORIDA, AMENDING CHAPTER 62 – STREETS, SIDEWALKS AND OTHER PUBLIC PLACES., ARTICLE I. – IN GENERAL. TO ADD ENTIRELY NEW SECTION 62-4. - REQUIREMENTS FOR DISTURBING, CUTTING INTO, DIGGING UP, DRILLING, BORING UNDER, OR EXCAVATING ANY PUBLIC STREET. TO PROHIBIT CUTTING INTO NEWLY PAVED/REPAVED ROADS WITHIN THE TOWN FOR A PERIOD OF THREE YEARS AFTER COMPLETION OF THE PAVING/REPAVING, CODIFY A PERMIT PROCESS FOR WORK SPECIFICALLY IMPACTING TOWN ROADWAYS AND SET FORTH ENGINEERING SPECIFICATIONS REQUIRED FOR ALL PAVING AND REPAIRS OF IMPACTED ROADWAYS; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Town Code does not currently contain specifications for the paving or reaving of roadways within the Town after disturbances and/or cuts to Town-owned and maintained roadways; and

WHEREAS, with the anticipated road paving project to be conducted in Town in the near future, the addition of a codified permit process and backfill, compaction and construction specifications is necessary to ensure the longevity of the newly paved roadways and to eliminate the potential for uneven or substandard repairs in the event of cuts and subsequent repairs to the Town’s new roadways; and

WHEREAS, the Town Commission of the Town of Palm Beach Shores believes these amendments to the Town’s Code are in the best interest of the health, safety and welfare of the Town, its citizens, and all those doing business with the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF PALM BEACH SHORES, FLORIDA, THAT:

Section 1: Chapter 62 – Streets, Sidewalks and Other Places., Article I. – In General. of Ordinances of the Town of Palm Beach Shores is hereby amended to add entirely new Section 64-4. – Requirements for disturbing, cutting into, digging up, drilling, boring under, or excavating any public street. to prohibit cutting into newly paved/repaved roads within the Town for a period of three years after completion of the paving/repaving,

codify a permit process for work specifically impacting Town roadways and set forth engineering specifications required for all paving and repairs of impacted roadways; providing that Sec. 64-4. shall hereafter read as follows:

Sec. 64-4. - Requirements for disturbing, cutting into, digging up, drilling, boring under, or excavating any public street.

(a) No Disturbance for Three Years. Except as required by an exigent or emergent circumstance, no person shall disturb, cut into, dig up, drill into, bore under, or excavate any newly paved and/or repaved roadway within the Town for a period of three (3) years after the completion of such paving and/or repaving. In the event of an exigency or emergency requiring impact to the roadway within the initial three-years after paving and/or repaving, repair to the roadway shall be in accordance with specifications set forth in subsection (e) below.

(b) Permit required. Except as prohibited in subsection (a) above, when any person desires to disturb, cut into, dig up, drill into, bore under, or excavate any public street, or to cause the same to be done, application shall be made to the town for permission therefore. No person shall apply for a permit to perform or conduct such work without disclosing in writing on the permit application form the person on whose behalf such work is being performed or conducted. Failure of any person to fully disclose his/her/their interest/participation/representation in the permit application or to fulfill all town requirements for issuance of the permit shall result in (1) immediate revocation by the town of any permit previously granted resulting in such permit becoming null and void without the necessity of any further action, hearing or proceeding, or (2) issuance by the town of a written notice that such permit will not be granted due to violation of this provision by the person who applied for such permit. The town shall have the right to take all legal measures and seek all available remedies to enforce this provision. Such permit shall set forth minimal reasonable conditions, as permitted by law, necessary for the protection of property and personal safety, restoration of the roadway to the specifications set forth below which are satisfactory to the town, and any on-going maintenance or reparations for un-repaired conditions or damages that may be required of the person under the circumstances and extent of the work to be

performed or conducted by such person under such permit. Any violation of the conditions set forth or any violations under applicable law shall render such permit automatically null and void, without the necessity of any further action or proceeding. Such permit shall cover the length of time necessary and reasonable according to the type of activity involved.

(c) *Underground utilities; underground facility.* All persons shall fully comply with F.S. ch. 556, entitled "The Underground Facility Damage Prevention and Safety Act" ("Chapter 556"), as amended. No town permit will be required from operators of underground facilities in order to identify underground facilities. In other instances, permits required by this section shall be required. F.S. ch. 556 is deemed as being incorporated by reference herein as though set forth in full. Excavators and member operators shall comply with low-impact marking practices, including, without limitation, a subsequent notice, as required by F.S. § 556.114, as amended. Markings required by F.S. ch. 556 shall be made with flags or stakes, or temporary, non-permanent paint or other industry-accepted low-impact marking practices.

(d) *Bonded improvements; issuance of permit; time for completion.*

(1) Whenever any individual, company, or agency applies for a permit for work requiring disturbing, cutting into, digging up, drilling, boring under, or excavating of a street, as required by subsection (b) of this section, the individual, company, or agency shall deliver to the town building department a bond or surety in the amount of one and one-half of the cost of the restoration as calculated by the town. The bond or surety shall be of one of the following types:

a. A site restoration bond written by an approved domestic surety. Except for bonds for a wireless service provider as defined in F.S. § 337.401(7)(b)(13), as amended, all bonds shall carry the name and address of a local representative, be for an initial period of one year, and shall be automatically extended in increments of one year until the permittee and the surety company are notified in writing of the acceptance of the street restoration and closure of the permit.

b. Irrevocable letter of credit drawn on a local bank, valid for an initial period of one year, with automatic renewal in increments of one year until the permittee and the issuing bank are notified in writing of the acceptance of the street restoration and the closure of the permit.

(2) Upon receipt of the above-referenced surety, payment of the applicable permit fees, and completion of the appropriate application, the town shall issue a permit for the work, and the director of the public works department shall determine when the work is to be completed, including restoration of the street, right-of-way or easement in accordance with the standards and specifications as set forth in subsection (e) below. The individual, company, or agency shall thereafter, and not before, be authorized to proceed with the work and shall complete the same within the time prescribed by the permit and applicable permit conditions.

(e) Paving and repaving specifications. All street paving, including whole roadways, sections or repairs, within the town shall fully comply with the specifications below:

BACKFILL AND COMPACTION

PART 1 GENERAL

1.01 SECTION INCLUDES

A. Backfill and compaction for underground pipes and structures.

REFERENCES

A. ASTM D1557-02 – Laboratory Compaction Characteristics of Soil Using Modified Effort.

B. ASTM D2487-00 – Classification of Soils for Engineering Purposes.

C. ASTM D2922-05 – Test Methods for Density of Soil and Soil-Aggregate in Place by Nuclear Methods.

PART 2 PRODUCTS

2.01 SOIL MATERIALS

A. General: Provide borrow soil materials when sufficient satisfactory soil materials are not available from excavations.

B. Satisfactory Soils: ASTM D2487 soil classification groups GW, GP, GM, SW, SP, and SM, or a combination of these groups, free of rock or gravel

larger than 3 inches in any dimension, debris, waste, vegetation, and other deleterious matter.

C. Unsatisfactory Soils: ASTM D2487 soil classification groups GC, SC, ML, MH, CL, CH, OL, OH and PT, or a combination of these groups.

1. Unsatisfactory soils also include satisfactory soils not maintained within 2 percent of optimum moisture content at time of compaction.

D. Backfill and Fill: Satisfactory soil materials.

PART 3 EXECUTION

3.01 PLACEMENT

A. Material placed under and around structures shall be deposited within the lines and to the grades shown on the Drawings, making due allowance for settlement of the material. Material shall be placed on properly prepared surfaces which have been reviewed by the Engineer. If sufficient common fill material is not available from excavation on site, the Contractor shall provide borrow as may be required.

B. If the compacted surface of any layer of material is determined to be too smooth to bond properly with the succeeding layer, it shall be loosened by harrowing or by another approved method before the succeeding layer is placed.

C. All backfill materials shall be placed and compacted "in-the-dry". Contractor shall dewater excavated areas as required to perform the Work.

3.02 COMPACTION

A. Backfill shall be placed in layers not to exceed twelve inches in depth as measured before compaction. Each layer shall be compacted to at least the minimum percentage of a modified proctor (ASTM D1557 / AASHTO T-180) specified in the Compaction Scheduled in paragraph 3.03.

B. Areas adjacent to structures and other confined areas inaccessible to a vibratory roller shall be compacted with a manually operated vibratory compactor.

C. It is the intention that the fill materials with respect to moisture be used in

the condition they are excavated insofar as this is practicable. Material which is too wet shall be spread on the fill area and permitted to dry, assisted by harrowing if necessary, until the moisture content is reduced to allowable limits.

D. If added moisture is required, water shall be applied by sprinkler tanks or other sprinkler systems which will ensure uniform distribution of the water over the area to be treated and give complete and accurate control of the amount of water to be used. If too much water is added the area shall be permitted to dry before compaction is continued.

E. Supply all hose, piping, valves, sprinklers, pumps, sprinkler tanks, hauling equipment, and all other materials and equipment necessary to place the water on the fill.

3.03 COMPACTION SCHEDULE

<u>Location</u>	<u>Minimum Compaction</u>
<u>Under paved areas</u>	<u>98%</u>
<u>Structures</u>	<u>98%</u>
<u>Under landscaped areas</u>	<u>95%</u>

3.04 DISPOSAL OF UNSUITABLE AND SURPLUS MATERIAL

A. Unsuitable and surplus excavated materials become the property of the Contractor and are to be removed and disposed of off site.

B. Suitable excavated material may be used for fill or backfill if it meets these specifications.

3.05 TESTING

A. Allow testing laboratory to inspect and test subgrades and each fill or backfill layer. Proceed with subsequent earthwork only after test results from previously completed Work complies with requirements.

B. Testing agency will test compaction of soils in place according to ASTM D2922.

C. When testing agency reports that subgrades, fills or backfills have not achieved degree of compaction specified, scarify and moisten or aerate, or remove and replace soil to depth required; recompact and retest until

specified compaction is obtained.

3.06 PROTECTION

A. Protect newly graded areas from traffic and erosion. Keep free of trash and debris.

B. Repair and re-establish grades to specified tolerances where completed or partially completed surfaces become eroded, rutted, settled, or where they lose compaction due to subsequent construction operations or weather conditions.

(f) Indemnity, hold harmless, and insurance. It shall be a condition precedent to the issuance of any such permit that the applicant agree to indemnify, defend, and hold harmless the town, its officials, employees, agents, and, if applicable, its instrumentalities and each of them from and against all loss, cost, penalties, fines damages, claims of any nature, including expenses and attorneys' fees, and any and all liabilities by reason of injury to or death of any person, damage to, destruction, or loss to any property including the town, its instrumentalities, officials, employees, and agents arising out of or in connection with the performance or non-performance of the services contemplated by the permit which is directly or indirectly caused, in whole or in part, by any act, omission, default, liability, or negligence, whether active or passive, of the applicant, its employees, agents, servants, or contractors, unless such act or omission is solely caused by the town, its instrumentalities, officials, employees, and agents. The applicant further agrees to indemnify, defend, and hold harmless the town, its instrumentalities, officials, employees, and agents against all liabilities which may be asserted by an employee or former employee of the applicant, or any of its contractors as provided above, for which the applicant's liability to such employee or former employee would otherwise be limited to payments under workers' compensation or similar laws. In addition, the applicant understands and agrees that except where caused by the negligence or misconduct of the town, its instrumentalities, officials, employees, or agents, the town shall not be liable for any loss, injury, or damage to any personal property or equipment of the applicant, its employees, agents, contractors,

business licensees, or invitees placed on town property, and its instrumentalities, and shall be at the risk of the applicant thereof. The applicant shall be solely responsible for all activities and the installation and maintenance of traffic-control devices. The applicant shall ensure that adequate safety precautions are in effect at all times during the term of the permit. It shall be a further condition precedent to the issuance of any such permit for work to be performed in the public right-of-way that the permit holder(s) is/are jointly and severally responsible, at each permit holder's sole expense, for any damages regarding restoring the public right-of-way to its original condition before installation of facilities. The indemnification shall survive termination of the permit.

(g) Supervision by the director of the public works department. All disturbances, digging up or excavation of streets in the town shall be made under the supervision and direction of the director of the public works department, or designee.

(h) Enforcement. Failure to comply with these provisions or the provisions detailed in F.S. ch. 556 shall subject all persons including the persons on whose behalf such work in the public right-of-way is being performed or conducted to the procedures, violations, penalties prescribed in F.S. ch. 556, or code enforcement proceedings pursuant to chapter 2, article III, division 2 of this Code, or both.

Section 2: Each and every other Section of Chapter 62 – Streets, Sidewalks and Other Public Places. shall remain in full force and effect as previously adopted.

Section 3: All ordinances or parts of ordinances in conflict be and the same are hereby repealed.

Section 4: Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

Section 5: Specific authority is hereby granted to codify this Ordinance.

Section 6: This Ordinance shall take effect immediately upon passage.

FIRST READING this ____ day of _____, 2023.

SECOND AND FINAL READING this ____ day of _____, 2023.

TOWN OF PALM BEACH SHORES

Alan Fiers, Mayor

ATTEST:

Jude Goudreau, Town Clerk

(Seal)

Approved as to form and legal sufficiency.

Keith Davis, Town Attorney

Palm Beach Shores Dune Management

Environmental Committee Recommendations, November 2023

*Continue to work in partnership with the town landscape company.

The sentinel plants in the dune are sabal palm, seagrapes, coin vine and sea oats.

Maintain the seagrapes at 6'-8'; this should require only an annual trim.

Maintain coin vine at 4'-6', it is a shrubby plant that tends to stay low and grow horizontally, an annual trim should be sufficient.

Remove large limb debris after trimming.

Established sea oats and sabal palms within the dune do not require any further maintenance.

*Create "Islands of Shade" adjacent to the boardwalk to provide relief from the sun and heat.

Select several sea grapes on each side of the boardwalk and allow them to mature in size to provide a shade canopy. Sabal palms, the Florida state tree, may also be added for shade and visual interest.

*Develop a comprehensive long-range plan for dune restoration.

Remove invasive vegetation, at least 7 types have been identified, such as Brazilian Pepper.

Replace with native maritime plants to ensure dune resiliency and enhance biodiversity.

Restore manageable size sections at a time.

Dune restoration can be a joint effort of the Department of Public Works the POA Environmental Committee.

Donna Ward, Environmental Committee Chair, POA

Dave Stevens, POA President

From: [Mark Ward](#)
To: [Jude Goudreau](#)
Subject: Bullet Points Town Beach Dunes and Inlet Park
Date: Wednesday, November 8, 2023 5:05:45 PM
Attachments: [Outlook-j43413cv.png](#)

[Report This Email](#)

I understand there is only \$3000 dollars unallocated for the 2024 Park Budget. That is not much money to undertake any projects of sizable scope.

1. My suggestion for the Town Beach Dunes is to let the Sea Grapes go natural for now. If the decision is to clear cut again in the future, it needs to include carrying out the debris.
2. I like the EC Chair's suggestion of Sea Grapes at hedge height and some being allowed to grow to their natural height.
3. With only \$3000 remaining, it would be best to start with removing invasive plants and replanting with Natives even if only a small section at a time is affordable.
4. My main concern is with the town's vulnerability along the inlet. I see a more affordable solution building a 4 foot dune between the rocks and the walkway. It would need to be planted at the same time with Natives that can withstand the punishing wind, tides, and waves. Again, breaking it up into segments starting with the greatest exposure area first would be a good place to begin. I realize this is probably not a popular solution and may require storm surge flooding the first floors to get resident buy in along the inlet.
5. Doing nothing is not an option.

Regards,

Mark Ward
Commissioner
247 Edwards Lane
Palm Beach Shores, Florida 33404

