

Monday, February 14, 2022
7:00 pm



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

Mayor Alan Fiers
Vice Mayor Scott McCranel

Commissioner Tracy Larcher
Commissioner Janet Kortenhaus
Commissioner Brian Tyler

Town Attorney Keith Davis
Town Administrator Wendy Wells
Town Clerk Jude M. Goudreau

PLEASE NOTE:

THIS MEETING MAY BE CONDUCTED USING COMMUNICATION MEDIA TECHNOLOGY

Meeting link:

<https://townofpalmbeachshores.my.webex.com/townofpalmbeachshores.my/j.php?MTID=m5bc2537f4d119be00c277e1fd77346c7>

Join by phone

Meeting number: 2633 405 4855
+1-408-418-9388 United States Toll

Password: 0214
Access code: 2633 405 4855

COMMISSION WORKSHOP AGENDA

1) CALL TO ORDER

- a) Pledge of Allegiance
- b) Roll Call

2) Discussion Items:

- Consider Purchase of a new fire truck
- Update on Inlet Park property encroachments
- Opportunities for memorials in Town
- Consideration of Code for docking of boats in Town
- FIND Grant Application, review Resolution to be approved at the February 28, 2022, Commission Meeting.
- Consider Joint Meeting with the P&Z Board and Town Commission to discuss District B redevelopment. Proposed meeting to be held at the Community Center to encourage and engage the residents to attend. Dates to consider: March 2, 2022, or March 9, 2022.

3) Public Comments:

4) 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.

Town of Palm Beach Shores

Financial considerations on purchase of new Fire Truck

Current Fleet:	Cost	Date Acquired	Description of purchase
2004 Pierce Contender Fire Truck	\$ 213,631	9/30/2004	lease, 5 years, 4%, \$43k/yr
2006 EVI 14ft Rescue Pumper	\$ 160,000	8/6/2014	cash purchase, used truck

Historical costs: Maintenance - vehicles:

FY2014	\$ 17,880		
FY2015	\$ 13,198		
FY2016	\$ 7,701		
FY2017	\$ 13,193 \		
FY2018	\$ 16,804 \		sum of 5 years
FY2019	\$ 23,072 >		\$ 115,679
FY2020	\$ 29,874 /		
FY2021	\$ 32,736 /		

Estimated Cost of new Fire Truck \$ 500,000

Current Savings for Fire Truck \$ 270,423

Estimate on sale of current fire truck \$ 30,000

Estimated balance to be financed \$ 200,000

Financing options:

	A	B	C
Amount to be financed	\$ 200,000	\$ 200,000	\$ 200,000
Term, in years	3	5	7
Interest Rate	4.00%	4.00%	4.00%
Annual debt service payments	\$ 72,070	\$ 44,925	\$ 33,322

	D	E	F
Amount to be financed	\$ 200,000	\$ 200,000	\$ 200,000
Term, in years	3	5	7
Interest Rate	3.50%	3.50%	3.50%
Annual debt service payments	\$ 71,387	\$ 44,296	\$ 32,709

Current Budget:

Current Fire Department Budget	\$ 686,932
Current EMS Department Budget	\$ 351,851
Total Budget Fire & EMS	\$ 1,038,783

Potential alternative for comparison purposes only:

Palm Beach Shores Tax Assessed Value	\$ 630,680,903
PBC Fire Rescue Millage Rate	3.4581
Equivalent taxes	\$ 2,180,958



Inlet Park Encroachments

Property encroachments exist on Inlet Park by the properties located at 340, 320, 318, 314, and 300 Inlet Way. Due to recent concern by a few residents, it is prudent to revisit the topic outlining the Town's position.

Although always Town property, Inlet Park as it exists today was created by a grant funded project. The park improvements were funded by Florida Inland Navigation District (FIND), Florida Recreation Development Assistance Program (FRDAP), Palm Beach County, and the Town. The grants with FIND and FRDAP require the land developed with the grant funds be dedicated in perpetuity for benefit of the public.

On September 9, 2005, the Town sent a letter to residents adjacent to Inlet Park with an update on the planned improvements. The letter states that the proposed bike path on the original park plan would not be included due to funding constraints and "resolving issues related to the current individual use of portions of the Town owned land."

On May 3, 2010, Town Attorney provided a memorandum stating the Town's legal position on the Inlet Park encroachments.

On April 18, 2011, the Town sent a letter to all property owners adjacent to Inlet Park. The letter memorializes the Town's official position on the Inlet Park encroachments. The Anchorage responded with a letter to Mayor Workman on May 9, 2011, expressing their concerns.

The original 1951 blueprints for 340 Inlet Way (the Anchorage) include the driveway/turnaround which is partially located on Town property. Although no formal agreement exists, the original permitting of the building allowed for this encroachment. The Anchorage encroachments WILL NOT transfer upon sale of the property.

The Town has a lease agreement with The Romaine, 320 Inlet Way, for its encroachments on Inlet Park. The encroachments include a parking area and swimming pool. The lease is in effect until January 15, 2057.

Encroachments by 318 Inlet Way (Inlet View Apartments), 314 Inlet Way (Inlet Pointe Condominium), and 300 Inlet Way (Whispering Waters) consist of walkways and picnic areas which are available for public use.



Mayor
THOMAS R. MILLS

Vice-Mayor
THOMAS R. SULLIVAN

Commissioners
JOHN G. MITCHELL
LISA A. TROPEPE
JOHN M. WORKMAN

Town Clerk
CAROLYN J. GANGWER



247 Edwards Lane • Palm Beach Shores, Florida • 33404-5792

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E-mail: pbstwnhall@adelphia.net

Web Site: <http://townhall.ci.palm-beach-shores.fl.us>

September 9, 2005

Dear Palm Beach Shores Resident:

This letter is in follow-up to a special meeting held on Tuesday, September 7th regarding improvements to the Inlet Park. As a resident directly adjacent to the project site you are receiving this special mailing in follow-up to our previous letter dated August 31, 2005. The Project Plan was approved with minor changes and we anticipate construction to begin after October 1st.

Please note that the portion of the plan indicated to the west of the site as "proposed future bike path" (to the north of the existing path), will not be constructed during this phase of the project. These specific improvements require that additional funding be appropriated, as well as resolving issues related to current individual use of portions of this Town owned land.

As always, please do not hesitate to contact me with questions regarding this exciting project.

Sincerely,

Cindy Lindskoog
Town Administrator

Corbett and White, P.A.

ATTORNEYS AT LAW
1111 Hypoluxo Road, Suite 207

Lantana, Florida 33462

JOHN CORBETT
TRELA J. WHITE
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* Board Certified in City, County and Local Government Law
^ State Certified County and Circuit Court Mediator

MEMORANDUM

TO: Mayor John M. Workman,
Vice Mayor Alan D. Fiers,
Commissioners Dereuil, McCranels and Tropepe

CC: Town Manager Cindy Lindskoog

FROM: Keith W. Davis, Esq.

DATE: May 3, 2010

RE: Inlet Park Property Encroachments

As directed by the Town Commission at its April 19, 2010 meeting, I have prepared the following information regarding the existing Inlet Park property encroachments, and the legal issues that surround them.

1. It appears (based on a 2005 survey of the Inlet Park property and current GIS mapping photographs taken from the Palm Beach County Property Appraiser's website), that there are four minor sidewalk encroachments that connect private property sidewalks to the Inlet Park sidewalk on the easterly portion of the Inlet Park property (LOTS 590, 588, 585 and 582). West of the Town Parkway, there appears to be one additional sidewalk connection from private property to the Inlet Park sidewalk (LOT 575), and then several more significant encroachments; specifically, hedge material, several walkway/patio areas and most notably, a series of retaining walls, a swimming pool and pool house, parking lot areas which also include one small building, and a shuffleboard court at the western end of the Inlet Park property (LOTS 567 through 572).

2. On September 21, 1964, the Town entered into a Lease Agreement with Romaine, Inc., to allow Romaine, Inc. (LOTS 570 and 571) to use certain land in the Town's Inlet Park (approximately 103 feet deep adjacent to Lots 570 and 571) for a parking area, garden, and site for a swimming pool. This Lease Agreement runs through January 15, 2057. The only consideration mentioned in the Lease Agreement is the sum of \$10.00; however, copies of correspondence dating back to 1964 indicate that the lease was given to the Town and approved by the Town Commission in exchange for a quit claim deed to certain jetty property from C. Robert Burns o/b/o the Edwards Estate. Although the Lease Agreement does not mention any provision for the construction of a pool house building, I note that the pool house is wholly contained within the leased area and

is adjacent to the actual swimming pool. I also note that over the years, the Town has approved and issued multiple building permits to allow work in and about the pool and the pool house. I do not have information on the actual construction of any of the improvements located within the leased area. The Lease Agreement itself acknowledges that the leased area "is presently the subject of various nonconforming uses" and that it is entered into subject to Section 8 of Ordinance 64. Ordinance 64 was an early Town zoning code. Section 8 provided for the continuation of non-conforming buildings and land uses, which would lead one to believe that the swimming pool, the pool house, or both, were in existence prior to the execution of the Lease Agreement.

3. There is no other legal documentation that addresses or authorizes any other Inlet Park property encroachments. The largest non-documented encroachments appear to exist adjacent to LOTS 567 through 569, at the most western end of the Inlet Park property. These encroachments include a retaining wall, a shuffleboard court, a parking area (which connects to the permitted parking area used by Romaine, Inc.), and a small CBS building.

4. On private property, encroachments such as those in question here can obtain prescriptive rights to remain. Prescriptive rights can come into existence when all of the following conditions occur: a continuous and uninterrupted use (encroachment) for a minimum of 20 years, during which time, said use was with the knowledge of the property owner, or was so open and notorious that knowledge can be imputed to the property owner, the nature of the use (encroachment) is that of a limited, defined area, and the use was without the permission of the property owner. Although the non-documented encroachments (those other than the encroachments of Romaine, Inc.) in question here cannot technically acquire "prescriptive rights" since the law generally prohibits such against property owned by the government, it is possible that general principles of equity and fair play could mitigate in favor of their being allowed to remain in their current form, were the Town to try to force their removal after so many years. It is my opinion, however, that any desired re-development of such encroachments could be denied by the Town.

5. Going forward, it is recommended that the Town seek to formally document these encroachments by way of written easements, leases or memorandums of understanding. Such documentation should include insurance and indemnification requirements.

6. In the event that the Town desires to explore the directed removal of any of the non-documented encroachments, several legal issues must be addressed. The Town should verify what, if any, permits have ever been issued relative to these encroachments. The Town should also be comfortable that it can overcome equitable defenses of estoppel and laches. Both of these defenses are, fundamentally, defenses that look at the fairness of requiring removal of the encroachments at this time.

7. There are three elements necessary to establish equitable estoppel: (1) a property owner's good faith reliance, (2) upon some act or omission of the Town, (3) resulting in a substantial change in position or the incurrence of such extensive obligations and expenses that it would be highly inequitable and unjust to destroy the right the property owner acquired. The doctrine of equitable estoppel may be applied against a governmental entity only under exceptional circumstances; that is, a property owner is not entitled to rely on the Town's failure to enforce its regulations absent a successful showing that the above elements have been met.

8. To establish the affirmative defense of laches, the property owner seeking to maintain the encroachment must prove: (1) conduct on their part giving rise to the situation; (2) failure of the Town, having knowledge or notice of such conduct, to assert its rights by suit; (3) a lack of knowledge on the part of the encroaching property owner that the Town will now assert its rights; and (4) injury or prejudice to the encroaching property owner in the event relief is accorded to the Town.

9. Whether it is advisable, desirable, or legally defensible to require the directed removal of any of the non-documented Inlet Park property encroachments at this point in time will be dependent on additional facts, which as noted herein, will require further research into Town records. However, I am happy to discuss this matter with you further, at your convenience.



Mayor
John M. Workman
Vice Mayor
Alan D. Fiers

Commissioner
Lisa A. Tropepe
Commissioner
Roby J. DeReuil
Commissioner
Scott A. McCranels

Town Manager
Cindy L. Lindskoog
Town Clerk
Carolyn J. Gangwer

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April 18, 2011

Property Owners
Properties Adjacent to Town of Palm Beach Shores Inlet Park
Palm Beach Shores, Florida 33404

Re: Encroachment of privately erected structures
and impervious areas on Town property

Dear Property Owner:

Please accept this correspondence from the Town of Palm Beach Shores as memorializing the Town's official position regarding the above referenced matter. As you may be aware, over the years, a number of structures and other impervious areas have been built on the Town's publicly owned Inlet Park property by adjacent private property owners. These encroachments include small sidewalks that connect to the Town's sidewalk, patio/seating areas, a shuffleboard court, a retaining wall/fence, parking lots, a swimming pool and pool house and a utility building/shed. Some of the larger encroachments (the swimming pool and pool house and one of the parking lots) were erected pursuant to a long term lease agreement between the Town and the private property owner. That lease agreement remains in full force and effect to this day. The remaining encroachments; however, have never been authorized or documented in any manner whatsoever.

The encroachments are identified as follows: small sidewalks connected to the Town's Inlet Park sidewalk adjacent to Lots 590, 588, 585, 582 and 575; a patio/seating area adjacent to Lot 572; a swimming pool, pool house and parking lot adjacent to Lots 570 and 571; and a parking lot, utility building/shed, shuffleboard court and retaining wall/fence adjacent to Lots 567, 568 and 569. As noted above, the encroachments adjacent to Lots 570 and 571 exist with the Town's permission pursuant to a long term lease agreement between the Town and the adjacent property owner. None of the other encroachments have ever been authorized.

By way of research and open dialogue with some adjacent property owners, the Town has learned that most, if not all of the encroachments have in fact existed at their current locations for many (in excess of 20 or more) years. As such, and despite the fact that the Town has never officially authorized these encroachments onto the public property where they exist (except for the encroachments that exist pursuant to the lease agreement), the Town believes that it would be unfair and inequitable to require removal of any of the unauthorized encroachments simply for the sake of their removal. Although the land that these encroachments were built on is, and always will be, land held by the Town for the general use of the public, the Town is agreeing, in accordance with the conditions set forth below in this letter, to allow all currently existing privately built, unauthorized encroachments to remain.

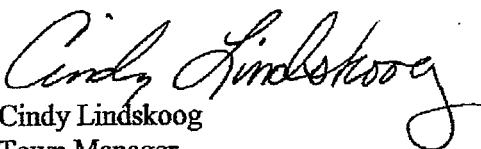
All unauthorized encroachments identified in this letter shall be allowed to remain in their current configuration. The current state of these encroachments has been documented in writing and photographically by the Town. However, none of those encroachments may be enlarged or improved in any manner whatsoever. Should any of the improvements be destroyed, or become damaged in excess of 50% of their value, they must be removed completely and may not be replaced without the express written approval of the Town. All "No Trespassing" or similar signs must be removed. Again, despite the fact that the unauthorized encroachments have been erected by adjacent private property owners, the encroachments are located on property that belongs, essentially, to the public at large. Although walls and fences may remain in their current configuration, any existing gates must be left unlocked. These conditions only apply to the unauthorized encroachments that currently exist on the Town's Inlet Park property. The encroachments that are the subject of the lease agreement for the land adjacent to Lots 570 and 571 may continue to exist and operate pursuant to the terms of the lease agreement.

In consideration of the issue of unauthorized individuals using private property to access the Inlet Park, the Town would agree, at its own cost, to install signs located adjacent to Inlet Way that state "Private Property - No Inlet Park Access" and enforce violations of same that may thereafter occur on private property. In addition, it is understood that some adjacent private property owners are assuming the responsibility for maintenance of certain areas of the Inlet Park adjacent to their property. The Town is, naturally, willing to assume this responsibility and will be happy to discuss this matter with individual adjacent property owners. However, in the event that the Town should assume such maintenance responsibilities, then any existing encroachments on that portion of the Inlet Park property would have to be removed.

Finally, it must be understood that there may come a day when the Town determines that it is in the best interest of the public to undertake its own improvements of the Inlet Park property where current unauthorized encroachments exist. If and when that day comes, and the Town determines that the removal of such unauthorized encroachments is necessary, the Town will certainly allow for full public discussion and will provide all affected parties with ample notice.

Should you have any questions regarding this matter, please feel free to contact me.

Sincerely,


Cindy Lindskoog
Town Manager

cc: Keith W. Davis, Esq., Town Attorney
John M. Workman, Mayor

May 9, 2011

Mr. John M. Workman,
Mayor Palm Beach Shores
240 Edwards Lane
Palm Beach shores, Fl 33404

RECEIVED
MAY 10 2011
TOWN OF PALM BEACH SHORES

RE Letter Dated April 18, 2011 Addressed to Adjacent Property Owners
Town of Palm Beach Shores Inlet Park

Dear Mr. Mayor,

Unfortunately, the town manager's letter was sent after the owners had left for the season, and in my case had to be rerouted back down here since we have an on going project requiring my presence.

Our concern is for the safety of our owner taxpayers and for the integrity of our property. We pay in the area of \$30,000 per year in property taxes alone.

When this property was designed with 17 units, 16 privately owned, the safety of the driveway was not an issue. Today we park 17 units' spaces plus at the south end guest spaces and a turn around area. If the city would terminate our use of the easement as currently configured we would not have adequate parking and egress would be a safety challenge if 17 vehicles had to back out on Inlet Way twice a day. What a city created safety hazard that would be.

We have maintained the areas in question at no cost to the city for over Fifty years. Cut the grass, maintained the hedge and wall and provided sprinkler system for the grass. We have in the past maintained a septic system in the area and a putting green. We have and continue to maintain a utility shed and a driveway and turn around area. We have maintained the wall built to protect the area from the wash from storm surges up the inlet, our property being substantially lower than the corp of engineer's inlet cut.

We have in the past, and it continues to the present, been plagued with visitors jumping the barriers and entering our premises to make use of our pool, our dock, our living units and for purposes of exiting on the Inlet Way and Lake since there is no exit at the west end of the "park". Since there is no convent place to park we have had vehicles park in our drive and jump the fence to get to the "park". We of course challenge these people, but for the most part we are ignored or worse cursed at with such comments, as, we have a right to come through here!

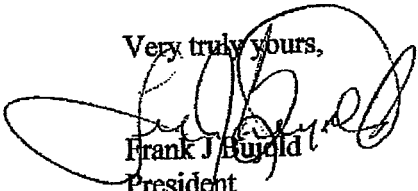
We think the city should not encourage this type of conduct by encouraging open gates in an obvious land locked area, someone is going to get hurt. The police do their best but it is a no win situation. By the time a call is made and a response is made the party is over the people have trespassed and are long gone.

We will continue to maintain the outbuilding, driveway, hedge, laws and shrubbery in the easement as we have been doing all along.

If the city finds the existence and use of the shuffleboard is a perceived problem, we will remove it. We do not want this to become an attractive nuisance or a real or perceived issue with the city. No one from the City has discussed any of these issues with us.

We would like to explore a lease coextensive with the Romaine lease. We think this is a sensible solution for the short term. When the leases are up, a permanent solution may be clear to all.

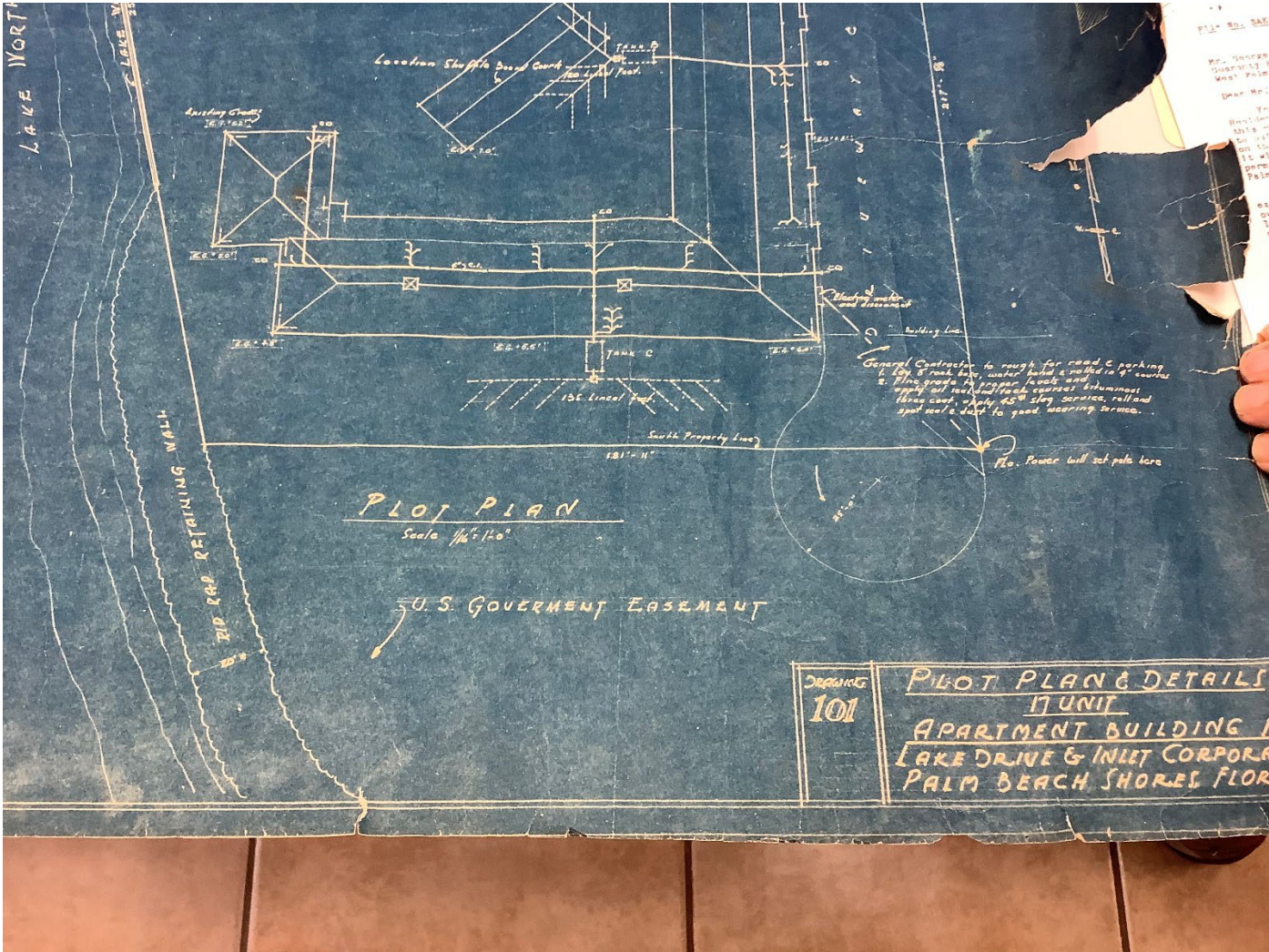
Very truly yours,

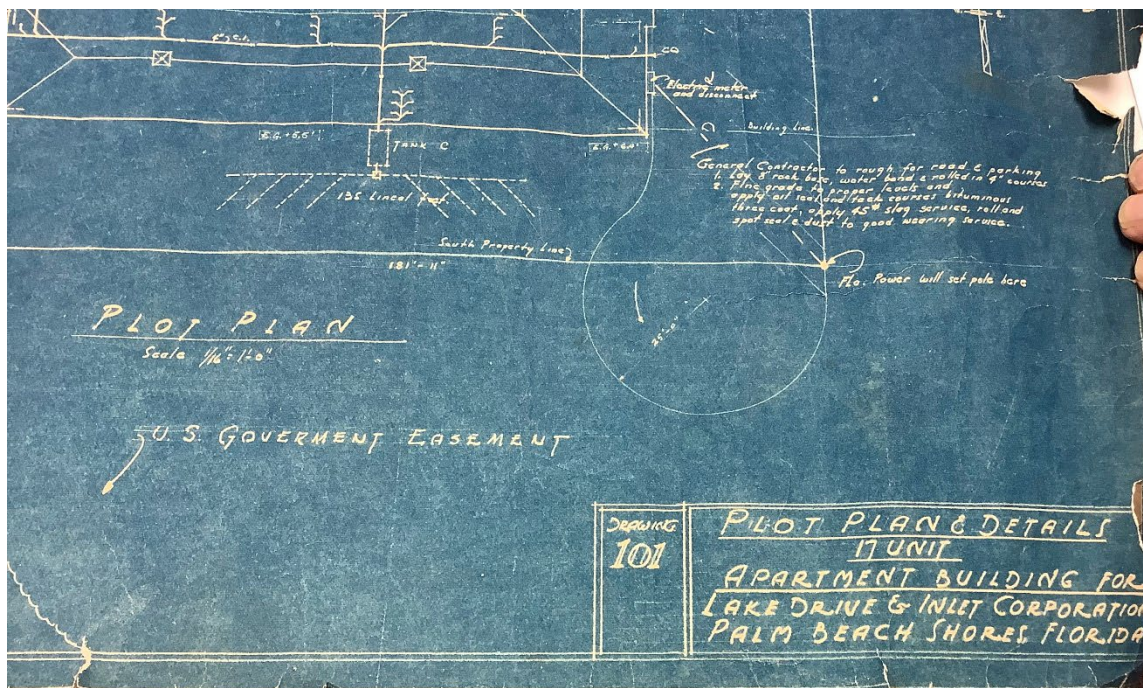


Frank J. Buold
President

Lake Park & Inlet Way Corp
340 Inlet Way
Palm Beach Shores
Florida, 33404

Cc All owners





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Town of Palm Beach Shores
Commission Workshop
February 14, 2022

Memorials

The Town continues to get requests for ways to memorialize loved ones here in Town. The Town has offered plaques on benches in the past. This practice has been on hold due to the availability of benches. Town Hall continues to get requests for the memorial donations.

Staff recommends we continue with the bench memorials. Going forward, the memorial donation will cover the cost of the bench and the plaque. When the bench reaches the point of no repair, the person who memorialized the bench will be contacted to see if they would like to purchase the new bench. If they choose not to do that, then the bench will be available for someone else.

The demand for memorials seems to outweigh the available supply. There is an opportunity to create a new option, but we need ideas.

- One suggestion that is often brought up is for pavers. A suitable location would need to be determined. We run into high maintenance costs on pavers in certain locations, such as the Town Hall parking lot.
- Another idea is to plant a memorial tree in the parkway with a plaque. The trees for this would be selected by the Public Works Director, perhaps a few options.
- Please bring forward more ideas for staff to pursue.



Docking Boats

The Town Code is currently silent docking boats.

Below is an example of code regulating the docking of boats within the Town's jurisdiction. This example comes from the Town of Manalapan's code.

Docking boats.

- (1) No boat, ship or water vessel exceeding in length fifty (50) percent of the bulkhead length of any lot shall be docked at any dock on or projecting from such lot.
- (2) No portion of any docked boat, ship or water vessel shall project closer than twenty (20) feet to the closest portions of the side lot line of any lot or lot of record to which such dock is accessory or the waterward projection or extension of such side lot lines or closer than twenty (20) feet to any lot or lot of record to which such dock is not accessory.
- (3) The total of the length of any and all boats, ships or water vessels docked at any dock at any given time shall not exceed in length fifty (50) percent of the bulkhead length of the lot to which such dock is accessory and in no event shall any more than three (3) boats, ships or water vessels be docked at, tied to or rafted to any dock at any one time.
- (4) No boat, ship or water vessel keel or hull may be supported, elevated, suspended or otherwise placed or maintained more than twelve (12) inches above the surface of and out of the water at high tide.
- (5) No boat, ship or water vessel or any part thereof shall be placed, stored, or maintained upon the surface of any dock.
- (6) Houseboats are strictly prohibited.

ATTACHMENT E-7

RESOLUTION FOR ASSISTANCE 2022

UNDER THE FLORIDA INLAND NAVIGATION DISTRICT
WATERWAYS ASSISTANCE PROGRAM

WHEREAS, THE Town of Palm Beach Shores is interested in carrying out the
(Name of Agency)
following described project for the enjoyment of the citizenry of _____
and the State of Florida:

Project Title _____

Total Estimated Cost \$ 0.00

Brief Description of Project:

AND, Florida Inland Navigation District financial assistance is required for the program mentioned above,

NOW THEREFORE, be it resolved by the Town of Palm Beach Shores
(Name of Agency)
that the project described above be authorized,

AND, be it further resolved that said Town of Palm Beach Shores
(Name of Agency)
make application to the Florida Inland Navigation District in the amount of 75 % of the
actual cost of the project in behalf of said Town of Palm Beach Shores
(Name of Agency)

AND, be it further resolved by the Town of Palm Beach Shores
(Name of Agency)
that it certifies to the following:

1. That it will accept the terms and conditions set forth in FIND Rule 66B-2 F.A.C. and which will be a part of the Project Agreement for any assistance awarded under the attached proposal.
2. That it is in complete accord with the attached proposal and that it will carry out the Program in the manner described in the proposal and any plans and specifications attached thereto unless prior approval for any change has been received from the District.

3. That it has the ability and intention to finance its share of the cost of the project and that the project will be operated and maintained at the expense of said _____
Town of Palm Beach Shores for public use.
(Name of Agency)

4. That it will not discriminate against any person on the basis of race, color or national origin in the use of any property or facility acquired or developed pursuant to this proposal, and shall comply with the terms and intent of the Title VI of the Civil Rights Act of 1964, P. L. 88-352 (1964) and design and construct all facilities to comply fully with statutes relating to accessibility by persons with disabilities as well as other federal, state and local laws, rules and requirements.

5. That it will maintain adequate financial records on the proposed project to substantiate claims for reimbursement.

6. That it will make available to FIND if requested, a post-audit of expenses incurred on the project prior to, or in conjunction with, request for the final 10% of the funding agreed to by FIND.

This is to certify that the foregoing is a true and correct copy of a resolution duly and legally adopted by the Town Commission at a legal meeting
(agency governing board)
held on this _____ day of _____ 20____.

Attest

Signature

Title

Title