

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 19, 2017

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

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

RE: Hurricane Irma – Collection of Disaster Debris within Town of Palm Beach and from Private Roads and/or Gated Communities
Resolution No. 188-2017

DATE: September 14, 2017

STAFF RECOMMENDATION

Town staff recommends that the Town Council approve Resolution 188-2017, to authorize the collection and disposal of disaster debris from the Town and also to include private roads and/or gated communities in that effort. Town staff recommends that the Town Council authorize the Mayor and the Town Manager to take any and all actions deemed necessary to implement the collection and disposal of disaster debris from within the Town limits including private roads and/or gated communities.

GENERAL INFORMATION

The collection and disposal of vegetative debris resulting from Hurricane Irma began after the storm passed. In order to be eligible for FEMA reimbursement for removal of debris from private property (i.e., roads or gated communities), it is necessary to provide written notice to FEMA in accordance with their guidelines. That notice typically includes documentation to satisfactorily demonstrate that the debris removal from private roads is in the public interest and meets proper legal authority. The FEMA guidelines are summarized in their Fact Sheet regarding “Public Assistance: Private Property Debris Removal”. Town staff also used examples from the Solid Waste Authority and other municipalities in preparing the written notice to the State and FEMA.

The following documentation is included in the written notice:

- Letter from the Town Manager to Public Works Director to collect disaster debris within the Town, including private roads and/or gated communities
- State of Emergency Declaration
- Letter from TOPB Police Department regarding public safety and debris collection
- Letter from TOPB Fire-Rescue Department regarding public safety and debris collection
- Letter from PBC Health Department regarding public health and welfare and debris collection
- The Town’s previous Resolution 64-05 regarding disaster debris removal & private roads

Upon Town Council approval of this recommended course of action, the Mayor and the Town Manager are authorized to take any and all actions deemed necessary to implement the collection and disposal of disaster debris from within the Town limits including private roads and/or gated communities.

FUNDING/FISCAL IMPACT

The collection and disposal of disaster debris is reimbursable to the extent allowed by Federal and State guidelines (FEMA reimbursement). The local cost share portion would be borne by the Town. The magnitude of that cost is not know at this time.

TOWN ATTORNEY REVIEW

The Town Attorney has reviewed the Resolution as to legal form and sufficiency, and confirmed that proper legal authority for these actions exists.

Attachments

cc. Jay Boodheshwar, Deputy Town Manager
Jane Struder, Finance Director
Eric Brown, P.E., Assistant Public Works Director
Dean Mealy, Purchasing Manager

RESOLUTION NO. 188-2017

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, FLORIDA, RELATING TO POST-HURRICANE IRMA DISASTER DEBRIS COLLECTION; PROVIDING FOR DECLARATION OF FINDINGS AND INTENT; PROVIDING FOR REMOVAL OF DISASTER DEBRIS.

* * * * *

WHEREAS, on September 10 and September 11, 2017, the Town of Palm Beach, together with communities throughout the State of Florida, were severely impacted by Hurricane Irma; and

WHEREAS, President Donald Trump has issued a Major Disaster Declaration for the entire State of Florida, including Palm Beach County; and

WHEREAS, Hurricane Irma has created widespread disaster debris throughout Palm Beach, which poses a significant and immediate threat to the health, safety and welfare of Palm Beach residents and the public at large; and

WHEREAS, pursuant to the authority granted by Florida Statute 166.041, Palm Beach is authorized to adopt this emergency Resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, FLORIDA, AS FOLLOWS:

SECTION 1: Confirmation of Recitals

The foregoing recitals are hereby ratified and confirmed

SECTION 2: Declaration of Finding and Intent

1. Palm Beach finds that Hurricane Irma has created an immediate public health and safety threat to its residents resulting from the generation of widespread debris throughout the community and such debris constitutes a hazardous environment for all modes of transportation of the residents as well as emergency aid and relief services, endangerment to properties in Palm Beach and creates an environment conducive to disease, vermin and increased risk of fire.

2. It is in the public interest to collect and remove disaster debris from all public properties within Palm Beach, whether public lands, public and private roads and gated communities to eliminate the threat to life, public health and safety and to reduce the threat of additional damage to improved property and to promote the economic recovery of Palm Beach and the community at large.

3. It is the intent of this Resolution to promote the health, welfare and safety of the Residents of Palm Beach by implementing an emergency plan providing for the collection and removal of disaster debris throughout Palm Beach, including on public and private roads, gated communities and public areas of the community to eliminate an immediate threat to life, public health and safety of the residents of Palm Beach.

SECTION 3. Town of Palm Beach is hereby directed to collect and remove disaster debris from public and private roads, gated communities and public areas throughout the Town of Palm Beach as necessary to eliminate the immediate threat to the life, public health and safety of residents of Palm Beach and to eliminate the further threat of damage to improved property and promote the economic recovery of Palm Beach and the community at large.

SECTION 4: This Resolution shall become effective immediately upon adoption by the Palm Beach Town Council.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 19th day of September 2017.

Gail L. Coniglio, Mayor

Richard M. Kleid, Town Council President

Danielle H. Moore, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Bobbie Lindsay, Town Council Member

Gwendolynn Peirce, CMC, Acting Town Clerk

Margaret A. Zeidman, Town Council Member



TOWN OF PALM BEACH

Office of the Town Manager

September 19, 2017

Federal Emergency Management Agency (FEMA)
Federal Coordinating Officer (FCO)

Justo Hernandez
Federal Coordinating Officer (Acting)
Operations Division, Federal Emergency Management Agency
U.S. Department of Homeland Security
Federal Center Plaza, 500 C Street S.W.
Washington, DC 20472

Subject: Town of Palm Beach
Funding Approval for Curbside Debris Removal from Private Roads within Town
of Palm Beach Limits
Hurricane Irma FEMA Federal Declaration DR-4337

Dear Sir/Madam:

In accordance with Sections 403(a)(3)(A), 407 of the Stafford Act, 42 U.S.C. 5170b and 5173 respectively, the Town of Palm Beach requests immediate FEMA approval to fund curbside debris removal from private roads within Palm Beach, Florida. Town of Palm Beach is requesting unconditional authorization for removal of the debris and agrees to indemnify the Federal Government from any claim arising from this removal.

The Town is providing the enclosed letters from public officials outlining the determination of need for the removal of debris from these private roads as being in the best public interest of the communities to eliminate threats to life and public health and safety, and to ensure the economic recovery of the affected communities to the benefit of the communities at large (44 CFR 206.224).

Please find attached a copy of Palm Beach Resolution No. 64-05 and Resolution No. 188-2017 which expressly gives the Town of Palm Beach the legal authority (44 CFR 206.223(a)(3)) to implement provisions of the Emergency Plan when a state of emergency is declared to collect and remove disaster debris throughout the Town of Palm Beach and to enter into and upon public and private roads, gated communities, and public areas as necessary to eliminate any immediate threat to life and public health and safety of the residents of the Town, as well as to reduce the threat of additional damage to improved properties and to promote the economic recovery of the communities at large.

Post Office Box 2029 • 360 South County Road • Palm Beach, Florida 33480
Telephone (561) 838-5410 • Facsimile (561) 838-5411
E-mail: townmanager@townofpalmbeach.com • Website: www.townofpalmbeach.com

FEMA
September 19, 2017
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The Town of Palm Beach requests immediate approval for the funding of curbside debris removal from private roads within the Town of Beach limits. Please contact us (561) 838-5440 if you need additional information.

Sincerely,

Thomas G. Bradford
Town Manager
Town of Palm Beach

TGB/lm



TOWN OF PALM BEACH

Office of the Town Manager

September 19, 2017

Mr. H. Paul Brazil, P.E.
Public Works Director
Town of Palm Beach – Public Works
951 Okeechobee Road, Suite A
West Palm Beach, Florida 33401

Dear Paul:

Based on the amount of damage and debris generated by Hurricane Irma, the Town has determined that it is in the public's best interest to have the Public Works department enter into gated communities and private roads to collect disaster debris. This action will address the immediate threat to life, public health and safety. Collection of debris will also eliminate the immediate threat to improved property. The collection of debris within these areas will also ensure recovery of the affected communities to the benefit of the community at large.

Pursuant to the legal authority established by Resolution 64-05, and Resolution No. 188-2017, you are directed to provide collection of disaster debris within gated communities and private roads within the Town limits.

This activity should be limited to collection of debris placed for collection at the curb within these communities. This direction does not include any other authorization to enter onto private property for the collection of debris.

Sincerely,

Thomas G. Bradford
Town Manger
Town of Palm Beach



PUBLIC ASSISTANCE: PRIVATE PROPERTY DEBRIS REMOVAL

The Federal Emergency Management Agency (FEMA) Public Assistance (PA) Program provides supplemental assistance to States, Territories, Tribes and Local governments, as well as certain private nonprofit organizations, (herein referred to as Applicants). FEMA's Public Assistance Program and Policy Guide (<https://www.fema.gov/media-library/assets/documents/111781>) provides comprehensive information regarding FEMA assistance and the requirements that Applicants must meet in order to receive assistance. The purpose of this Fact Sheet is to provide key information to consider when planning for debris removal.

Private property debris removal (PPDR) is generally not eligible for reimbursement under the PA Program. However, when debris on private property is so widespread that it threatens public health and safety or economic recovery of a community, FEMA may provide PA funding for debris removal from private property. The debris removal must be in the public interest, not merely benefiting an individual or limited group of individuals within the community, and be within the legal authority of the Applicant to perform. In such cases, FEMA works with the State, Territorial, Tribal, or Local government to designate specific areas where debris removal from private property, including private waterways, is eligible.

Approval for PPDR

Due to the magnitude of recent disaster events, FEMA is simplifying the process for PPDR approval. Applicants must provide a written notice through the Recipient (State, Tribal, or Territorial government) to FEMA identifying areas where PPDR activities will occur (including identification of gated or ungated communities, orphaned roads, or commercial properties). Once the notice is submitted, the Applicant does not need to wait for FEMA approval to start work. However, the Applicant must submit its written request for FEMA approval so that it may receive reimbursement for PPDR work. FEMA may only approve reimbursement based on the Applicant's satisfactory demonstration (including relevant documentation) that the:

- PPDR was in the public interest,
- Applicant has legal authority to perform debris removal activities on private property,
- Applicant agrees to indemnify the Federal Government (including FEMA),
- Applicant obtained and complied with applicable permits or approvals for the locations of temporary debris staging and reduction sites and final debris disposal sites, and
- Applicant has satisfied all legal processes and obtained permission from the property owners (rights-of-entry or other unconditional authorization) and agreements to indemnify and hold harmless the Federal government.

Debris Removal from Commercial Property

Removal of debris from commercial properties, such as industrial parks, golf courses, cemeteries, apartments, condominiums, and trailer parks, is generally ineligible because commercial enterprises are expected to retain insurance that covers debris removal. In very limited, extraordinary circumstances, FEMA may provide an exception.

"FEMA's mission is to support our citizens and first responders to ensure that as a nation we work together to build, sustain, and improve our capability to prepare for, protect against, respond to, recover from, and mitigate all hazards."

September 12, 2017

Duplication of Benefits

The Applicant should work with private property owners to pursue and recover insurance proceeds and credit FEMA the Federal share of any insurance proceeds received. In some circumstances, FEMA may provide assistance to individuals through the Individual Assistance (IA) Program for debris removal. In these cases, FEMA PA will coordinate closely with IA to ensure FEMA does not fund the same work under both programs.

Environmental Considerations for Debris Removal

FEMA must ensure that the Applicant's debris removal operations avoid impacts to floodplains, wetlands, federally listed threatened and endangered species and their critical habitats, and historic properties (including maritime or underwater archaeological resources if waterways are impacted). The Applicant must stage debris at a safe distance from property boundaries, surface water, wetlands, structures, wells, and septic tanks with leach fields. For more information on EHP compliance associated with debris removal please refer to the *Environmental and Historic Preservation (EHP) Fact Sheet: Debris Removal Activities* as well as the Public Assistance Program and Policy Guide dated April 2017.

PPDR WRITTEN REQUEST: ELEMENTS

Public Interest Determination

- Provide the basis for its determination that removing the debris from the private property requested is in the public interest. The determination must be made by the State, Territorial, Tribal, county, or municipal government's public health authority or other public entity that has legal authority to make a determination that disaster-generated debris on private property in the designated area constitutes an immediate threat to life, public health, or safety, or to the economic recovery of the community at-large. FEMA will evaluate the applicant's submission to determine if it concurs that PPDR is in the public interest.
- Submit the established, specific legal requirements for declaring the existence of a threat to public health and safety.

Legal Authority and Responsibility: Provide documentation to confirm the Applicant's legal authority and responsibility to enter private property and remove disaster-related debris. This includes:

- Citation of the law, ordinance, code, contractual arrangement, or emergency powers under which it is exercising its legal authority to remove debris from private property. The authority cited must be applicable to the condition representing the immediate threat and not merely the Applicant's uniform level of services. Typically, solid waste disposal ordinances are part of the Applicant's uniform level of services and not a justification for entering private property to remove disaster-related debris.
- Confirmation that a legally authorized official of the Applicant has ordered the exercise of public emergency powers or other appropriate authority to enter onto private property in the designated area to remove debris to address immediate threats to life, public health, and safety.

Indemnification: The Applicant must indemnify the Federal Government and its employees, agents, and contractors from any claims arising from the removal of debris from private property.

STATE OF EMERGENCY DECLARATION

A State of Emergency is hereby declared in the Town of Palm Beach effective immediately on September 9, 2017.

This State of Emergency has been declared as a result of the potential impact of Hurricane Irma.

This situation threatens the public safety.

As the Director of Public Safety for the Town of Palm Beach, I, exercise the authority given me under section 58-41 of the Town of Palm Beach Code of Ordinances and under Florida State Statutes 252.32 and 870.042, to preserve the public safety and hereby render all required and available assistance vital to the security, well-being, and health of the citizens of this Town.

Therefore, it is determined and found necessary to impose a curfew in order to protect the health, safety, and welfare of citizens during this State of Local Emergency. Effective 3:00 p.m. on Saturday, September 9, 2017, a curfew restricting movement and travel is hereby established in the Town of Palm Beach, Florida.

The curfew applies to all persons within the Town of Palm Beach, excluding travel by law enforcement personnel, public safety personnel, travel for medical care, work or school, travel authorized by law enforcement personnel based on consideration of the above-cited purposes of the curfew, and persons facilitating the transport and distribution of essentials in emergencies pursuant to Florida State Statute 252.359.

This State of Emergency and curfew will remain in effect until modified or rescinded by a subsequent order.

SIGNED: 
Kirk W. Blouin, Director of Public Safety



TOWN OF PALM BEACH POLICE DEPARTMENT

DEDICATED TO EXCELLENCE



September 11, 2017

RE: Post Storm Removal of Debris on Private Roads

The Palm Beach Police Department deems that it is in the public's best interest to have the Town of Palm Beach enter into private roads to collect disaster debris where, if not removed, the debris will slow our response time to emergency calls, impact citizen safety, and limit lines of sight.

If you have any questions, feel free to contact me at 561-227-6352.

Sincerely,

Jeffrey A. Trylch
Deputy Police Chief
Palm Beach Police Department

September 15, 2017

RE: Post Storm Removal of Debris on Private Roads

To Whom It May Concern:

Palm Beach Fire Rescue deems that it is in the public's best interest and safety to have the Town of Palm Beach enter into private roads to collect disaster debris. If this debris is not removed immediately, it will result in slower Fire Rescue response times to emergency calls and negatively impact the safety of our citizens and visitors. Moreover, this debris will limit the lines of sight on these private roads, making them more dangerous to traverse for Fire Rescue crews.

If you have any questions, feel free to contact me at 561-227-6492.

Respectfully,

A handwritten signature in black ink, appearing to read "Darrel Donatto", with a long horizontal stroke extending to the right.

Darrel Donatto, Deputy Fire Rescue Chief
Palm Beach Fire Rescue

cc: Kirk Blouin, Director of Public Safety
Paul Brazil, Director of Public Works

September 11, 2017



**Letter Regarding Dangerous debris in communities.
Florida Department of Health Palm Beach County
Robert Parkes, MD, Medical Director**

Dear Executive Policy Group:

Based on the amount of debris generated and the disease potential associated with this debris by Hurricane Irma, Florida Department of Health in Palm Beach County has determined that in the best interest of the public health to have the Solid Waste Authority of Palm Beach County enter into Gated Communities and Private Roads to collect disaster debris.

Specifically, The Department of Health is concerned that if this debris is not picked up in a timely manner within gated communities, it could provide harborage for disease carrying vermin and mosquitoes.

Sincerely,

A handwritten signature in blue ink that reads "R Parkes".

Robert Parkes, MD
Medical Director
Florida Department of Health Palm Beach County

TOWN OF PALM BEACH

Information for Town Council Meeting on: August 9, 2005

To: Mayor and Town Council
Via: Peter B. Elwell, Town Manager
From: H. Paul Brazil, Director of Public Works
Re: **CONSENT AGENDA**
Authorization to Clear Debris From Private Roads
Resolution No. 64-05
Date: July 28, 2005

STAFF RECOMMENDATION

Town staff recommends that the Town Council formally authorize the clearing and removal of debris from private roads by adopting Resolution No. 64-05.

GENERAL INFORMATION

Many lessons were learned from hurricane/storm recovery efforts resulting from Hurricanes Frances and Jeanne in 2004. One of the recommendations made by the Town's consultant (Post, Buckley, Schuh and Jernigan) during follow-up training, was to formally authorize road clearing and debris removal from private roads.

When seeking reimbursement from FEMA or the State, the authorization by the local jurisdiction to allow debris removal and roadway clearing on designated private roads ensures that responsibility is established and assigned to do this work. This prevents confusion and promotes the proper reimbursement to the Town to accomplish these storm recovery duties.

FUNDING/FISCAL IMPACT

No additional cost is anticipated. The actual cost is determined by the severity of the storm damage. Review of future reimbursement requests should be expedited since the designated private roads should not be questioned by FEMA or state officials.

TOWN ATTORNEY REVIEW

The proposed resolution has been reviewed and approved by the Town Attorney for legal form and sufficiency.

ATTACHMENTS

- Resolution No. 64-05

EBB:ms

cc: Jane Struder, Director of Finance
Eric B. Brown, Assistant Director of Public Works
James M. Bowser, Town Engineer
Lloyd W. McCoy, Services Division Manager