Official in the name of the Town attorney as to what is minor. He wondered who profits by the short cut in procedure and did not think it was worth exposing the Town to a possible attack on the grounds that the prescribed procedure was not followed. He felt there was a risk and no reason for them to take such a risk.

Mr. Heeke asked Mr. Moore and Mr. Randolph to examine whether or not a Resolution would be necessary on the easement situation.

B. Dr. Sten Lilja addressed the Council on handicapped parking, however, due to the late hour, he would like Council's approval to be authorized to discuss it with the Council President and have it brought back to the next Council meeting. Mr. Heeke stated he will chat with him about it and pass it on to the staff.

Any Other Matters

XVI. ANY OTHER MATTERS.

A. Mr. Doney reported he is prepared to discuss the EMS billing system for transport to the various hospitals. Mr. Heeke requested this be put on the agenda for the March meeting.

B. Mr. Doney announced the recognition awards for the donors to the Casa Bendita gazebo will be distributed at the March meeting.

C. Mr. Doney advised Comcast Cable has requested time on the March agenda to make a presentation on the upgrade of their facilities in the Town. It was the consensus of the Council that Comcast should write a letter or send a video tape of what they are proposing and the Town Manager would report that to the Mayor and Council.

D. Mrs. Douthit noted there is a Seminar in Orlando on Growth Management and she had the information if anyone wanted to attend.

E. Mr. Heeke noted Mr. Ilyinsky had complimented him on the Invocation given at the January meeting and they have been using that invocation with regards to our service personnel in the Persian Gulf and he has sent a copy of this to the President and has received a reply which he read from William E. Carney, Special Assistant to the President for InterGovernmental Affairs.

Adjournment

XVIII. ADJOURNMENT. There being no further business, the meeting was adjourned at 6:22 PM.

Grace T. Peters
Town Clerk

TOWN COUNCIL MINUTES OF MEETING HELD AT 5:10PM
FEBRUARY 12, 1991

Roll Call

I. CALL TO ORDER AND ROLL CALL. President Heeke called the Special Meeting of the Town Council to order at 5:10 PM on February 12, 1991 in the Town Hall Council Chambers. On roll call, the following Elected Officials were found to be in attendance: Mayor Marix, President Heeke, President Pro Tem Weinberg, Councilwomen Douthit and Wiener, Councilman Ilyinsky.

Motion was made by Mr. Ilyinsky, seconded by Mr. Weinberg to approve the agenda of this meeting as published. On roll call, the motion carried unanimously.

Public Hearing - Comp Plan Amend.

II. PUBLIC HEARING REGARDING ADOPTION OF COMPREHENSIVE PLAN AMENDMENTS BY THE TOWN COUNCIL.

A. PROOF OF PUBLICATION; Mrs. Peters indicated proof of publication has been received for this meeting.

B. TOWN COUNCIL CONSIDERATION OF THE RECOMMENDATION OF THE LOCAL PLANNING AGENCY REGARDING OBJECTIONS, RECOMMENDATIONS AND COMMENTS ON THE PROPOSED AMENDMENTS FROM THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS.

C. COMMENTS AND QUESTIONS FROM THE PUBLIC: Mr. Heeke called for comments and there were none.

D. FIRST READINGOF ORDINANCE NO. 2-91 - ADOPTION OF AMENDMENTS TO THE TOWN'S COMPREHENSIVE PLAN. Mr. Randolph read the Ordinance by title:

Ord. 2-91

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, ADOPTING COMPREHENSIVE PLAN AMENDMENTS FORTHE TOWN OF PALM BEACH IN ACCORDANCE WITH THE LOCAL GOVERNMENT COMPREHENSIVE PLANNING AND LAND DEVELOPMENT REGULATIONS ACT AS AMENDED BEING SECTIONS 162.3161 ET SQ FLORIDA STATUTES, ATTACHING AS EXHIBIT A, A COPY OF THE COMPREHENSIVE PLAN AMENDMENTS; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

Motion was made to approve the adoption of Ordinance No. 2-91 amendments to the Town of Palm Beach Comprehensive Plan. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

III. SET DATE, TIME AND PLACE FOR PUBLIC HEARING AND SECOND READING OF ORDINANCE NO. 2-91 - ADOPTION OF AMENDMENTS TO THE TOWN'S COMPREHENSIVE PLAN. President Heeke announced there will be a 5:01 PM Meeting on March 12, 1991 in the Council Chambers at Town Hall for the second reading of the Ordinance No. 2-91.

IV. ADJOURN PUBLIC HEARING: Mr. Ilyinsky moved to adjourn the meeting at 5:17 PM. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Adjourn Public Hearing

Grace T. Peters
Town Clerk

TOWN COUNCIL MINUTES OF
MARCH 12, 1991

Roll Call

I. CALL TO ORDER AND ROLL CALL: A Meeting of the Town Council of the Town of Palm Beach was called to order by President Heeke on March 12, 1991 at 9:30 AM in the Town Hall Council Chambers. In attendance on roll call were: Mayor Marix, President Heeke, President Pro Tem Weinberg, Councilman Ilyinsky and Councilwomen Douthit and Wiener. Also attending for all or portions of the meeting were: Town Manager Doney, Town Attorney Randolph, Mrs. Peters, Mr. Bitzer, Chief Elmore, Assistant Chief Frazier, Mr. Elwell, Mr. Jakubiak, Chief Terlizzese, Mr. Bowser, Mr. Moore, Mr. Dusey, Mr. Zimmerman, Mr. Frank and Mr. McPhail.

Invocation

II. INVOCATION AND PLEDGE OF ALLEGIANCE: Mrs. Peters gave the invocation. Pledge of Allegiance was led by President Pro Tem Weinberg.

Appr. of Minutes

III. APPROVAL OF MINUTES OF JANUARY 3 and 8, 1991. After discussion, motion was made by Mr. Ilyinsky, seconded by Mr. Weinberg to defer the minutes of January 3, 1991. Seconded. Motion carried.

Motion was made by Mrs. Douthit, seconded by Mr. Ilyinsky, to approve the minutes of January 8, 1991, with corrections. On roll call, the motion carried unanimously.

Approval of Agenda

IV. APPROVAL OF AGENDA: After discussion, motion was made by Mr. Weinberg to approve the agenda with modifications:

Change XIII D 4 to XIII D 5 and add as No. 4 - Discussion by Town Attorney on Palm Beach County's Claim to Alleged Old State Road A-1-A RIght-of-Way.

VII. E. - Landmark designation of 301 Australian Ave - removed from the agenda.

Motion seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Presentations

V. PRESENTATIONS:

A. Recognition of Donald W. Curl - Landmarks Preservation Commission. Dr. Curl was presented with a plaque in recognition of his service from 1985 to 1991 by the Mayor.

B. Recognition of Daniel A. Hanley - Seaview Park Commission - Mr. Hanley was presented with a plaque in recognition of his service from 1986 to 1991.

C. Recognition of Donors for Casa Bendita Restoration Project. Mayor Marix reported the Casa Bendita Gazebo has been beautifully restored and plaques will be presented to those companies who have donated their services:

1. Miotto Terazzo & Tile, Inc. - donation of coquina stone and installing same. Mr. Miotta was presented with a plaque for his donation.

2. Smith Architectural Group, Inc. for its Donation of Architectural Services. Mr. Smith was presented with a plaque by Mayor Marix.

3. Davis General Contracting Corporation for its donation of demolishing and construction services. Mr. Davis was presented a plaque by the Mayor.

4. Carpenter's Roofing & Sheet Metal, Inc. for its donation of roofing installation services. Mr. Carpenter was presented a plaque by the Mayor.

5. David R. Carmo, P.E. for his Donation of Engineering services. Mr. Carmo was presented a plaque by the Mayor.

6. Robert Eigelberger for his donation of Clay Tile Roofing. Mr. Eigelberger was presented a plaque by the Mayor.

President Heeke reminded all that these donations have saved the taxpayers a good bit of money.

Comments of the Mayor

VI. COMMENTS OF THE MAYOR: Mayor Marix reminded all this is the first meeting of the Council since the hostilities in the Gulf have stopped and she thought it was important that there will be many people that won't be returning for a long time as there is much to be accomplished there and she requested support of all for those people who have to stay there and support the President of the United States for his accomplishments.

Attorney Randolph announced the second reading of Ord. 2-91 will be held at 5:01 PM.

Public Hearings

VII. PUBLIC HEARINGS:

Res. 9-91

A. Landmark Designation for 255 South County Road - Consideration of Resolution No. 9-91. Mrs. Peters indicated the proof of publication has been filed for the record. Mr. Ilyinsky announced he had a conflict of interest for this particular designation and he would not be participating in the discussion nor making a vote on this.

Mrs. Peters gave the oath to those people who will be giving comments on the designations and to the staff.

Mr. Frank indicated this property meets the Criteria A - exemplifies and reflects the broad cultural, political, economical or social history of the nation, state, county or Town; Criteria C - it embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmanship Criteria D is representative of the notable works of a master builder, designer or architect, whose individual ability has been recognized or who influenced his age. He noted biographies were attached for Maurice Fatio, Marion Sims Wyeth and John Volk.

Mr. James Sved explained the commercial block between Royal Palm Way and Seaview Avenue is a significant block of architecture in the Town. He exhibited slides which showed what was proposed for designation, which is the northeast corner from Seaview Avenue down to the last John Volk building with finials upon it. He indicated the only other building on the block is a one story wrap around section which has no style and which was done later by Mr. Volk. He stated the commercial block is unified but only by Unity of Title and its monochromatic lemon yellow paint. He indicated the original building was designed by Maurice Fatio in the late 1920's and is an Italian Renaissance designed building and is beautifully appointed with coquino rusticated main ground floor and has round headed windows accentuating the third floor with guoining on the corners of the building and the deep overhang which accentuates the top of the building and provides shade from the harsh light during parts of the day.

The second set of buildings were designed by Marion Sims Wyeth or at least the facades were and there is a Gothic detail to the windows and they also are done in cast coquina with the second floor having decorated round arched windows and a small inlaid crest.

He explained the John Volk design is Italian in the mannerist tradition and plays off the other buildings in the area with the pilasters and the Doric columns and entabluture, the finials on the roof and the edicular doorway the the beautiful cast stone balcony at the center with a setback porch. He noted the other building done by Mr. Folk is intended to be a bridge bridge between two structures. He exhibited a slide which showed how the building looked originally in 1928 when it was designed by Fatio and showed heavily rusticated quoins and heavily rusticated edicular center opening for the front door and the Bank is very proud of this builidng and they boast about their history and about how long they have been here, circulating an advertisement which showed the old location of the bank with the headlines: "We've been around a long time..."

He felt it was the finest mannerist styled building in Palm Beach in the commercial vein and is very worthy of landmarking.

He noted Marion Sims Wyeth had his first architectural office in this building and it is also an Italian

Mediterranean Revival design with a heavy overhang of the eave and the round headed windows of varying degrees on both the second adn third floors. He noted there is another building meant to match the John Volk building and is a more simplified Italian Mannerist design than the original design.

He noted these buildings were designedover a period of time and were all individual type buildings up until the last twenty years when they have been connected on the interior. He indicated each facade is represented in its own right by its own design and its own architecture and these buildings are each worthy in their own right. Res. 9-91

Motion was made by Mrs. Wiener to make a part of the record the Landmark Designation Report dated Nov. 16, 1990 together with the exhibit. Seconded by Mr. Weinberg. On roll call, the motion carried 4-0 with Mr. Ilyinsky abstaining.

Mr. Heeke called on the representative of 255 South County Road and Mr. Louis Mrachek addressed the Council who stated he represented the First National and with him were Tom Walker and Bob Callaway and requested he be allowed to reserve his comments to last, so that he can respond to any concerns that may be brought out.

Mr. Heeke called for the comments of those who were in favor of the landmarking. Dr. Donald Curl addressed the Council, indicating he was in favor of this from the point of view of the Landmarks Preservation Commission as at the time this was before the Commission, he was Acting Chairman, as Mrs. Volk had a conflict. He stated the Commission felt this block of buildings was one of the most historic, commercial buildings in any location in the Town; not only were the architects the finest but in a sense they designed an almost perfect streetscape that John Volk recognized it as a superb building and he himself did htings which made it more superb. Dr. Curl noted he has gone through the files of John Volk and the color was not left to chance, as it was something that was worked on for months as there are dozen of different colors which harmonize the building. He stated the buildings themselves are associated with historic personages of Palm Beach, as the original building was done for the Palm Beach Company, which was owned by the Phipps' family and they are the ones who did hte Plaza across the street and this was the Town's first Historic District and these buildings deserve landmarking because of this harmony.

Mr. Heeke indicated a letter was received from Mrs. Volk, Chairman of the Landmarks Preservation Commission, advising of her conflict of interest and she will not be making comments this morning.

Mr. Moore advised he has a letter from Mr. Wilmer Thomas, who is an alternate member of the Landmarks Preservation Commission and he read it into the record: "While the Landmarks Preservation Commission appreciates and recognizes Mr. Tom Walker's good faith statement of intent on behalf of the Bank, i.e. that it has no present plans to change the facade, we also recognize as an officer and employee of the Bank, he understandably has no personal control over the future of the structure because ownership and management of the Bank, and its policies, can change in the future. The structure itself, however, will endure and this is why our recommendation will promote cohesiveness, long term stability, continuity and permanence to this entire unified block that is so visually important to the Town of Palm Beach."

Mr. Heeke called for other comments from those who approve of this designation. Attorney Frank Chopin, representing the Preservation Foundation of the Town addressed the Council as a Trustee of the Foundation, which has an interest in this matter. He noted he would have preferred to hear from Mr. Mrachek first as they have been trying for a long time to find out what the Bank thinks about landmarking. He wished to lend his support ot the decision of the Landmarks Preservation Commission which on January 18, 1991 voted unanimously to designate the portion of the First National Bank Building, which is owned by Southeast Bank which runs from the corner of Seaview AVenue to the second John Volk building excluding the building on the corner, which was designed by John Volk but for some reason, even though there is testimony by staff that that portion of the builidng also meets the criteria for designation, however, it was not designated. He felt this was the kind of issue because of the early efforts made by Earl E. T. Smith who passed away quite recently, in bringing before the Town the importance of preserving its building, its lifestyle, its culture, its heritage, etc. He felt they all felt strongly about this issue. He supported the Landmarks Preservation Commission's recommendation and he doesn't know why they did not recommend the corner building as well as the rest of the building. He has read the transcripts of the 1979 Designation Hearings and the 1982 Historic District meetings and the activities before the Landmarks Preservation Commission and read about secret deals and compromises that Mr. Sullivan supposedly worked out with Mr. Walker and heard denials of those deals and believed that did influence the Landmarks Preservation Commission which worked very hard to try adn respect what might have been done by Mr. Sullivan and at the same time, recognized how important it was to get on with its own business.

Mr. Chopin felt the compromise really consisted in the initial stages of offering the old bank and that was shown on the picture exhibited and over a period of time, there were many discussions and it was suggested the designation go from the one building designedby John Volk to the other one designed by him. He believed it was important for the Council to focus on the fact the Bank offered to voluntarily designate that portion from the Volk building on the northern portion to the last Volk building designed by him and in effect, they accepted that voluntary designation, but in addition they designated the Maurice Fatio portion which is on the corner of Seaview Avenue, as well. He thought if tney looked at that and read the designation report, there was no doubt as to why they did it as they did it because they found that the First National Bank building is an important component in this commercial district designed by three of Palm Beaches most important architects.

Mr. Chopin did not know why the Bank would be opposed to this landmarking. He read Mr. Mrachek's letter to the Mayor and Council and in deference to the bank but supporting the public's community spirit which the Bank has been supportive of, it is important to remember that in 1979 the question of designating the entire property came before the Town Council stating he felt the Bank's position was misunderstood in the community with regards to landmarking and he wished it to be known that the Bank and himself totally support the Landmarks Commission's philosophy and recognize that there may be structures which deserve designation because of their historical or important architectural association with the Town, however, he did feel the designation should be accompanied with a well reasoned researched point adn an explanation as to why it was accepted. Mr. Chopin thought Mr. Keresey was absolutely right to request that as far back in 1979, Landmarking was just getting started in the Town and there are procedures in place now which were not in place in 1979. He didn't believe they had the procedures in place to support the fact that the criteria in the ordinance had been satisfied. He recalled James Pressly was the attorney and he tried to question the Commissioners and he was not successful but the evidence on the criteria was not presented. He recalled the buildings were in fact designated by the Landmarks Preservation Commission and then it came before the Town Council.

He believed what happened when it came to the Council was that Mr. Mettler (who had an association with Gunster, Yoakley, which he thought added to the significance of the building in itself), stated he was not inclined to accept the Bank's offer. Mr. Chopin reminded the Council for eleven or twelve years, the Bank has always stated they did want to designate a part of their property as a landmark, but there always has been a conflict as to how much to designate. Mr. Chopin recalled Mr. Mettler did state he was not inclined to accept the Bank's offer and just the original structure be designated, but on the other hand he didn't feel strongly about the accpetance of the total facade of that building as a landmark and he moved the Bank's offer of the smaller parcel be declined and this matter be referred back to the Landmarks Commission, without prejudice, to designate what was offered but to study the other buildings by looking at it individually, collectively and the facade, etc. Mr. Chopin believed what happened in 1979 the then Town Council did, in his opinion, what they absolutely had to do as a case had not been made before the Landmarks Preservation Commission that the buildings met the criteria. He stated it was sent back to the Landmarks Commission to study it and look at it again and in 1982, a proposal was made not to landmark the buildings but to Res. 9-91 include some of them within a Historic District which is now a part of Phipp's Plaza and that came before the Council and there was an objection to it from several members of the Council and Mr. Wearn finally made a motion that the Landmark Preservation Commission's recommendation as it pertains to all property, except for the First National Bank Building, be ratified and the recommendation with regards to the Bank Building be declined in the establishment of the Historic District and this motion was passed. Mr. Chopin advised taht Mr. Wearn did suggest the Landmarks Preservation Commission go forward with their consideration of the First National Bank Building as a building or as a facade and this motion also carried. He felt to suggest that somehow either in 1979 or 1982, the Council considered the appropriateness of landmarking all or any portion of the First National Bank Building complex would be a mistake, since in both instances, they did not do so - first, because the Landmark Preservation Commission had not done their job and secondly, the Council sent it back to them and told them to do exactly that. He stated in 1989 or 1990, they took up the issue whether this building should be landmarked by the Landmarks Preservation Commission and it was concluded that it did meet the criteria. He had two incidents happen to him recently which caused him to reflect on the significance of having this bank building be made a landmark, one was that Mr. Walker invited him to have lunch with him and other bank officers, which had nothing to do with this matter at all, in the bank dining room which looks out on County Road and he was impressed with the fact that this bank was established in 1927 and is the oldest bank in this county that survived the Depression, so it is not just significant because of the architecture, but because of the history, and also significant because of the people that have been associated with this Bank, such as Mr. Reynolds, Mr. Bassett, all of those who have guided the Bank since 1927 and have influenced the economic development of this community. He felt it was also impossible not to think of all the people who have taken advantage to do their banking business, the rich, the nearly rich, the famous, and nearly famous who live in the Town and have used this bank.

Mr. Chopin felt another aspect is the fact that an extraordinary institution in this community and that is the law firm of Gunster, Yoakley and Stewart which had offices in those buildings and that adds to the history of this building. He related another incident as he was rushing to get here when someone asked where the Town Council was meeting and he used this bank as a landmark of where to turn adn we do that every day of our lives that we focus on so many things and that is the landmark which we give directions off of and maybe that is not a technical reason to landmark, but it is the best evidence they are likely to hear of the fact they are indeed dealing with a landmark, since they always think in terms of the yellow building as anyone who has been in this Town for any period of time, knows of the yellow building, which, of course, is this bank.

He introduced Dr. William N. Thurston, Historic Preservationist Supervisor of the Historic Sites Survey and Registration Section of the Bureau of Historic Preservation, Division of Historical Resources addressed the Council and his primary function is to evaluate historical sites, archeological as well as buildings and structures of historic interest for their historical significance and for formal recognition at the State level. He pointed out the National Register is a Federal program authorized by Congress and administered by the National Parks Service and is a national listing of properties which have been documented as having historical significance and are considered worthy of preservation at all levels. He noted the State of Florida uses the National Register as its means of providing State level landmarking of historical sites. He indicated some other states maintain separate state registers but they do not. He is here today to give them a perspective on these properties which the Town has under consideration.

He explained when they evaluate properties for historical significance, they go be criteria established for the National Register program and basically, this involves two considerations - historic significance and site integrity, which refers to the extent properties have been altered over the years and whether or not in their present appearance and condition reflect the significance they had during the historic period, which is basically fifty years or older.

He stated viewing this block of buildings from the perspective of National Register eligibility, the designation report in his terms does leave a lot of questions, particularly with regards to the buildings on the north end and since the central block obviously was the original bank, the other four buildings they would have questions on historic origins and uses, etc. and before they would make the determination as to the eligibility, and despite the questions that remain unanswered about this block of buildings, but everything else presented to them would be eligible for National Register listing. He felt this block of buildings did have historic ties with the origin of this community and presents intact a remarkable city block streetscape. He indicated it is unusual to find whole blocks of buildings where one or two have not been drastically altered or modernized which is not the case here with the exception of the building at the end of this block which was altered in the 1950's, but that was done with the specific architectural intent to balance the two ends of the building and it was done by the architect who was historically involved in the development of the bank facade.

Dr. Thurston felt the block was remarkably in tact, which is a rarity. He concluded that this block of buildings would be eligible for National Register recognition as in itself a one block historic district and he viewed this as a key element in a much larger historic district which could extend from this block of buildings and into the residential district.

Attorney Chopin felt the bank building should be designated adn if you read the transcripts, they state they want to cooperate and they have a lot of community spirit and that is why they voluntarily designated a part of this building, and he felt they should hold them to that. He indicated the attorney's letter raises the prospect of whether or not it meets the criteria or not and states the bank facade should not be landmarked, since it does not reach the requirements of the landmarking Ordinance, and he did't believe they would hear any evidence of testimony that it doesn't meet the criteria of the Ordinance. He pointed out they have been struggling with this since 1979 when they brought in Herschel Shepherd, an expert from Jacksonville and he came in to testify and he stated he sat in the audience and listened to Judge Knotts and he didn't think he presented anything to prove it was a landmark. He stated in the past meetings, the question of whether it met the criteria was not asked.

Mr. Chopin recalled in the past meetings they never stated why they opposed the landmarking. He stated their attorney states in his letter, the Town already has two bites of the apple but it doesn't state why they oppose the landmarking. He pointed out this is a private institute, publicly owned, but a private institution and they have the right to not state why they are opposed to landmarking. He stated they would like to be able to deal with it and Mr. Thomas of the Landmarks Commission asked Mr. Walker why he was opposing this and Mr. Walker stated it was because they had a compromise and that was all they could get out of him and they finally gave up.

He stated if the Bankis too powerful politically for them to deal with, he would respect that exhibited a poster where he wanted the Council to enumerate their reasons of why they would not landmark this property. He stated if it is because the Bank is in financial difficulty, he would like to know if that is the reason they would enumerate but he wanted to know what the reasons were so the people in the Town would clearly understand what motivated the Town Council's decision to override the carefully considered decision of the Landmarks Preservation Commission.

A short break was taken.

President Heeke called the meeting back to order.

Attorney Chopin reminded the Council in 1979 when these buildings came before the Landmark Preservation Commission for landmarking, Mr. John Volk was sitting on the Commission and he supported designation, along with the other members of the Commission, and in the record it states: "The reason for my opinion for it to be a landmark in the first place, it is in the center of Town and had the institution of the Bank, which is an important function of the community and the other buildings connected with and if any group of buildings should be considered as a landmark, this certainly should be." Res. 9-91

Jeffery Smith, Architect and Chairman of the Architectural Commission reminded the Mayor and Council the Architectural Commission does not have any way of stopping anyting from being demolished, although they review all demolitions but the only way a demolition can be stopped is for a building to be landmarked and he thought the Bank buildings were great buildings and should be designated.

Elise Macintosh, Landmark Commissioner, addressed the Council and encouraged them to landmark these buildings as this group of buildings is very much a part of the making of history in this Town.

Louis Mrachek, attorney for the First National Bank in Palm Beach, addressed the Mayor and Council stating that they have been in dialogue with the Town's Landmark Preservation Commission for almost a year now and this has been going on since 1979 about the landmarking of this bank building. He stated they have tried to work with the Commission to resolve this issue in a fair and reasonable manner for the best interests of the Town and the Bank. He believed the Town and the Bank have worked together for many years in doing what is best for the Town and has accomplished a lot of good for the Town. He had outlined the landmarking history of the Bank's property and the building from 1979 and sent that letter to the Town yesterday. He felt there may be nuances of that history but when you cut through it, in 1979 and 1982, the Council considered directly and consciously the landmarking of the Bank property and on both occasions, declined to follow the recommendations that had been made to them by the Landmarks Preservation Commission. He felt the effect of the Town Council's action in telling the Landmarks Commission in 1979 and 1982 that it was not going to follow its recommendation was and remains absolutely nothing. He stated the Bank has maintained the property in remarkably good condition. He commented that the effect of turning down the recommendation of the Landmarks Commission did not deter the Bank from continuing to maintain its building and landscaping and the facade. He stated the Bank is always going to do that and the reason they are, is many portions of that Bank building are non-conforming with part of the building being three stories high. He stated it is built from property line to property line from the sidewalk to the rear of the property and if it were altered, it would have to be conforming and it would have to have a less intensive use. He felt it made good economic sense for the Bank to maintain the building as is and where it is in good condition, which they have done over the years.

He felt it was in the Bank's best interest to do what it has been doing since 1927 and that is to maintain the property. He stated the Bank has gone through numerous changes, in management, in direction and in ownership but the building and the property has always been maintained and will continue to be maintained because of the profit motive.

Mr. Mrachek advised his reasons are twofold as to why they are not in favor of the Town Council following the recommendation made to it for the third time by the Landmarks Preservation Commission:

No. 1 - Why do we need landmarking?
No. 2 - It will adversely affect the value of the building.

He didn't believe they needed another layer of regulation, as they had the Architectural Commission, Zoning Codes, Building regulations and that is all that is needed. He believed that anytime an additional layer of regulation on an piece of property, as a given, will reduce the value of the property. He advised there was talk earlier about secret deals and he assured the Council there have been none. He advised the Chairman of the Commission did contact the Bank and propose they voluntarily designate the property as a form of compromise and the Bank went along with the compromise, but it was voted down. He stated another compromise was presented by Mrs. Volk and the Bank and that too was voted down. He didn't believe they could be called secret deals as they were taken to the Commission and voted on and they were all voted down.

Mr. Mrachek felt that over the years the Landmarks ordinance has suffered a number of degradations - in 1989, the precedent was created that buildings could be undesignated if economic hardship could be shown. He believed there were others who ignored the Landmark Designation and they were undesignated because of that. He stated the Bank does not want to get involved in anything of that type and what the Bank wants to do is to maintain, as it has done since 1927, and preserve it for now and for all times in the future. He stated they are talking about the Town of Palm Beach's charm, ambiance and the best way to protect just that and they are not talking of a system but accomplishing good. He agreed the system in the landmarking process does provide gainful employment for attorneys, economic gain for consultants, but what they are actually talking about is what can be accomplished for the good of the Town.

He felt the good of the Town has been served by the Bank's conduct in maintaining the building and they want to continue to do that in the future as it has done that in the past. He advised the Bank for the record and as a matter of fact, they object to the designation, although they still have a spirit to compromise and to talk about a voluntary designation. He pointed out the Resolution in front of the Council today is vastly different than the designation that is before them and from the notice they received. He believed the recommendation was only for the facade of the front of the building and not the wrap around and not 15' of the interior of the building.

Robert J. Callaway, Real Estate Appraiser, of 1639 Forum Place, West Palm Beach, FL. addressed the Council indicating he is here at the request of Mr. Mrachek and they have attempted to look at the question of value in the event of a landmark designation, particularly as it affects a commercial building. He has researched all of the commercial properties which have been landmarked by the Town and looked at those which had substantial alteration done to them after landmarking and attempted to see what happened in that instance. He felt there was only one real example of that, which is the Paramount Theatre renovation, which was not a successful venture, however, it doesn't prove a great deal but points out additional regulations add a certain amount of cost which is not normally recoverable in the process of economic operation of commercial real estate. Mr. Mrachek asked him if in his professional opinion, landmarking would increase or decrease the value of a commercial proeprty? Mr. Callaway responded in his opinion the effect of landmarking of the property proposed today would be to decrease the value, but does not know how to quantify to what extent that would beat this juncture.

Mr. Thomas B. Walker, President of First National Bank in Palm Beach addressed the Council, indicating he has been involved with the Landmarks Preservation Commission since March of 1990 and his involvement has been to be on the receiving end of official notices and requests to appear and has had a number of conversations with the former chairman of the Landmark Commission. Mr. Mrachek asked what has been the Bank's general attitude during this process to which Mr. Walker responded the initial notice was surprise and during the process, he has learned about the Landmarking process, as well as ARCOM and zoning regulations and has been interested in trying to be as good a corporate citizen as they possibly can be, but still reflecting the interest of this constituents and that which concerns the

Res. 9-91

economics operation. Mr. Mrachek asked if they had any discussion with the Commission regarding possible compromises in ways which the Commission and the Bank might go forward? Mr. Walker responded there was an overture towards him from the very beginning with regard to a compromise since the initial plan was for landmarking the entire property owned by the Bank, including the parking lots. Mr. Mrachek asked what the first compromise he had agreed upon with a part of the Commission to which Mr. Walker responded the first agreement was with the designation of the 1927 facade, which is a single building, and in discussions with the Chairman of the Commission, counsel suggested they go across the street to ensure they were talking about the same dimension and it turned out they were not, as he was talking about the 1927 building and they were talking about something broader so they have been in negotiations since that time. Mr. Mrachek asked if the Bank was still prepared to go forward with the compromise even though they object to the designation? Mr. Walker responded affirmatively, indicating they are objecting to the designation again in their business role and community role, realizing the value of that location to the bank, but wanting to be a good corporate citizen, the decision has been made to pursue a compromise. Mr. Mrachek asked if he saw any reason to designate anything more than the 1927 building? Mr. Walker responded he did not understand what additional protection the Town would get through the designation given the nature of the property, the extend and involvement the Bank has in the business community and the definition of activities of property owners through the existing zoning regulations and other rules and regulations. Mr. Mrachek indicated he had heard this morning, perhaps with tongue in cheek, that the Bank had political power to cause this designation to be rejected by the Town Council and asked Mr. Walker if that was true? Mr. Walker responded negatively.

Mr. Mrachek agreed indicating the Bank doesn't have this political power and only looks to the Council to do what is right and proper and asked what is the need for the designation when it will substantially or perhaps substantially reduce the value of the building, and the building has been well maintained in the past and will continue to do so in the future.

Mr. Adrian Winterfield, 445 Brazilian Avenue was given the oath and then addressed the Council, indicating the remarks he will make are not directly against designation. He believed Criteria A refers to history and this concerns him, as once a residence associated with a President of the United States was denied designation, and he wondered if any building could logically be designated on the basis of its historical importance. He did not believe there was any decision as to whether it was social, political or economic and if the criterian is to be invoked, he felt there should be specificity at the level of the Landmarks Preservation Commission, not at the level of arguments made before the Town Council. He understood that the first commercial premises of the Bank were not located in this particular location on County Road, and he believed they were not talking about the value of the buildings themselves. He noted Criteria B was omitted, however, in the argumentation submitted today, they referred to the famous and near famous and he found that amusing as does that mean any commercial establishment patronized by a famous person would automatically be elegible for designation?

Mr. Heeke called for further comments from those who were opposed to landmarking and there were none and he made the statement that would conclude the presentation stage.

Mrs. Polly Earl addressed the Council indicating Attorney Chopin has been called away from this meeting and she had some facts she wished to present. Mr. Heeke noted she did not speak previously and he did not believe new statements should be introduced into the record at this point.

Dr. Donald Curl recalled the Landmark Commission was given information on the Anthony house which was eventually torn down, but they were given information from Edward Maxwell, a real estate appraiser, which stated the public record....Mr. Mrachek interrupted noting this was not for the record of this hearing. Dr. Curl asked when they heard from that appraiser that this was an additional layer being imposed upon the Bank by landmarking, he wondered where he got that information since the Town has two commissions, the Architectural Commission adn the Landmark Commission and Mr. Heeke asked Mr. Callaway to respond to that. Mr. Callaway stated that is widely perceived by the market. Mr. Heeke asked if he was saying there was concurrent control or a different commission that would have control because of the landmarking? Mr. Callaway perceived it to be additional controls particularly in the inability to demolish which has a potential effect on value.

Mrs. Douthit wondered how many buildings have been recommended for landmarking over the last five years and could he name any building where he could prove landmarking has lessened their values. Mr. Callaway responded he has no proof that landmarking does lower the value, however, he has thoroughly investigated it and pursued the appraisal literature on the question of landmarking and the majority of it does speak to historic districts and the type of landmarking contemplated by the Department of Interior, which deals with the designations for the Registry of Historic Places, which in fact does confer some value advantages with additional depreciation allowed to those who use the property. He didn't elaborate on what they didn't do, because of the time constraints, although he didn't look at residential properties as they operate under a different variety of constraints. He noted they have appraised over the years a number of properties which have been landmarked over the years and they are subject to the Landmark issue and quite a number of those properties were major residential properties in the Town and in every instance, it was not viewed as a detriment to value. He stated one case he is familiar with in the Town and was the only case that went to the issue they were specifically looking at and that was the Paramount Theatre as he did initial consultation work with a previous owner. He thought if they gathered from his testimony there was a great value detriment associated with this, he misled them as that is not the case.

Mayor Marix recalled she was a tenant in one section of this building in 1954 and in 1956, she lived in another section of it and then later, she moved from one part of the building to another end of the building, and during that time she saw many things happen and wanted to correct one statement that it is known as the yellow building, as that yellow was relatively new. She recalled there were several apartments in the building and she saw that change from apartments to law offices and then to real estate offices and it seemed there was no problem or difficulties in changing the various uses and she wondered why they felt there would be constraints in altering its use. Mr. Mrachek responded he did not mean to state that the proposed landmarking would have any effect on the Bank's ability to use the interior of the property.

Mr. Heeke requested everyone to not discuss this matter with the Mayor and Town Council over the lunch break and the meeting was adjourned for lunch at noon. President Heeke called the meeting back to order after the lunch break.

Mr. Weinberg asked Mr. Walker what specifically was included in the compromise they had discussed with the Landmarks Preservation Commission? Mr. Walker indicated it was the original bank building with the two awnings. Mayor Marix heard them talking about the historical aspect of the Bank, and she felt the northern portion of the building also was worthy of landmarking? Mr. Walker responded he doesn't have the aesthetic capabilities as he is a banker.

Mr. Mrachek advised there is a Unity of Title Agreement so this builidng could not be split up and used on a piece meal basis. He stated any potential buyer would have to purchase the entire proceeding. He felt the question about the northern building as addressed in some sense by the Landmark Commission itself as there were two members of the Commission who were in favor of partial designation and it excluded the northern building as it was felt that that building standing alone and by itself was worthy of landmarking. Mr. Mrachek stated Mrs. Volk did not vote on that question as she had a conflict but she was the proponent of that compromise, but at least three members felt it would not do violence to the Town's landmarking effort for that building to be excluded form the landmarking effort for that building to be excluded form the landmarking. He felt the real point was this matter has been going on since 1979 and there has been nothing detrimental that has happened to the building during that time and in fact, it has gotten better. He offered the Bank's annual report which showed the financial condition of the Bank and is proof that Mr. Walker and the Bank Directors need to do everything they can to protect the value of the Bank's assets for its shareholders. Res. 9-91

Mr. Heeke asked if landmarking did not include the building at the corner of Seaview and County, could it be demolished? Mr. Mrachek responded stating legally there may be a possibility that that could happen, if it were not landmarked but practically, he didn't believe so, given the protections of ARCOM, the Building Code and the Zoning Commission, but the real reason is it is a three story building and it would not make a great deal of sense to demolish a three story building; and secondly, it will make no economic or aesthetic sense. Mr. Heeke recalled Mr. Callaway indicating if a building were demolished, it would have more economic value as it could go further to the east if it were one story and there would be more gross leasable space, hence have a greater economic value to another owner. Mr. Mrachek stated Mr. Callaway is a very well respected, honest appraiser and he thought the testimony was he knows the value of the building would be reduced but he didn't know how much and part of the component in that reduction in value will be caused by the theoretical certainty that with landmarking, demolition would be prohibited without the approval of the Landmarks Commission. He believed what Mr. Calloway was saying there will be a reduction in value, not necessarily because they would never demolish a building because that is not likely to happen, but because someone will pay less for the building since it cannot be demolished.

Mr. Heeke believed if the facade were landmarked, this would not prevent the owner of the property from further expanding to the rear of the property. Mr. Mrachek guessed they could expand however, he has never looked at given the Zoning and Building Code that this would be possible and there is physical room to do this. Mr. Moore advised that given the Scenario just given, the expanding to the east, depending on how the parking is addressed, it would require a variance for the expansion of a non-conforming building. Mayor Marix felt since they didn't know to what extent, if any, landmarking could affect the value of the building, she wondered how they would change their financial report if they didn't know at this time it would hurt or not hurt the value. She was also troubled as to why they were opposed to landmarking, if they have a Unity of Title and they wouldn't be tearing it down? Mr. Mrachek responded because if it does become landmarked, they would have to find out what this figure would be as to the value as that is a very important asset to the Bank. He hasn't talked with anyone who comes up with a plus but they felt there was no reason to do this prior to this meeting and they don't know the answer to it and they haven't put that in their annual report and hope they don't have to as they felt they were offering compromises which will not affect the value of the building as much as a total designation would.

Mr. Heeke asked the Town Attorney about the unity of title which is for all of the buildings, so there probably could never be two separate ownerships. Mr. Randolph agreed, depending upon the wording of that document. Mr. Mrachek offered a copy of the Unity of Title agreement indicating it does cover all of the buildings. Mayor Marix noted this would mean if they wanted to sell, they would have to sell the entire building. Mr. Heeke asked if there would be a subsequent owner and if part of the facade would be landmarked, he believed the subsequent owner would still have the option of going to Landmarks on the landmarked part and to Architectural Commission on the portion which was not landmarked, for modifications and/or demolition? Mr. Randolph agreed assuming the ownership was not going to change and the current owner of all the property could come in for a demoliton permit for a portion of the property, and if that portion of the property were not landmarked, it would go to ARCOM and the jurisdiction would be with ARCOM for the rebuilding and they would have the authority to make a determination as to what is being constructed would be in harmony with the remainder of the structure. Mr. Heeke recalled Jeff Smith earlier commented that there is no way ARCOM could prevent the request for demolition. Mr. Moore advised the authority of the ARCOM would be to review the time, when it would occur, and principally what will be put in its place before they could authorize demolition and he didn't believe the authority to outright prohibit it. Mr. Heeke asked if the Landmarks Commission would have authority, if the building were not landmarked but the present owner agreed to have Landmarks Commission have authority over modifications and renovations. Mr. Randolph responded that is something that was discussed with the applicant as an alternative to landmarking and if they were to work something like that, they would have to enter into an agreement to clarify that the sole purpose of the jurisdiction of the Landmarks Commission would be to make a determination as to changes in the property, but not to give it jurisdiction so as to preclude demolition as without such an agreement if the jurisdiction were to remain with the Landmarks Commission, they could preclude demolition.

Mr. Winterfield addressed the Council stating it sounded like if they were establishing a Landmark District, but not calling it that, and he was confused as to whether or not they were establishing a Landmark District, but not calling it that, and he was confused as to whether or not they could contractually give a Commission the jurisdiction which it doesn't otherwise have. He felt if the building was part of a District, whether or not it is considered to have landmark qualities itself, then in that case, the Landmarks Preservation Commission would automatically have jurisdiction.

Mayor Marix asked if the building north of the Plaza Building was landmarked? Mr. Moore stated they would check.

Mr. Gubelmann referred to the Commission's negotiations with the Bank, they offered to landmark the Bank Building from finial to finial, the Volk building to the Volk building, if the Bank would excuse the buildings they didn't landmark, so these buildings could be brought back again and then the Commission was willing to compromise on the middle part, and asked the Bank if they were willing to consider that at this time? Mr. Mrachek stated the Bank is willing to compromise and will go finial to finial or Volk to Volk but the idea that for all time, they would leave themselves subject to revisiting this issue year after year is something they don't find attractive and they are not prepared to agree to that.

Mr. Heeke believed one of their major concerns with the northern building is that is might have to be reflected in various reports which they are required to file and asked if that was a concern to which Mr. Mrachek responded affirmatively.

Mr. Moore responded to the Mayor's question earlier stating the building at 230 South County is landmarked.

Mr. Heeke stated the issue is whether the facades of the buidlings on County Road are subject to landmarking under the Ordinance, and he didn't think there should be more debate on re-enacting the Landmarks Ordinance as we already have that, but it is question of evidence or information which has been presented by the owner and their concern of financial repercussions, if the entire facade were landmarked. He believed it gets to another question that if that were a finding of financial concern, and were it to be landmarked, would we not in the future be revisiting this for an undesignation for that reason and if so, should that be addressed as a factor for these deliberations.

Mr. Heeke asked Mr. Randolph if the resolution was in order for adoption recalling there were some small defects pointed out by Mr. Mrachek? Mr. Randolph stated they would have to look at the legal description and make the appropriate amendments and if they were not in agreement, the corrected resolution could be adopted at a subsequent meeting. He wasn't sure when this recommendation came before Landmarks, but he believed there was sufficient time, to which Mr. Frank agreed.

Mr. Heeke called for a motion. Mrs. Douthit moved that 255 South County Road, Resolution No. 9-91 be landmarked from the southerly Volk building to the corner of Seaview Avenue and County; and this would be the facade only.
Res. 9-91 Mr. Heeke passed the gavel to Mr. Weinberg to chair the meeting and seconded the motion.

Mr. Moore asked for a clarification wanting to know if this was along Seaview Avenue as well or just the County Road portion? Mrs. Douthit stated she was leaving Seaview Avenue out of the designation. Mr. Heeke confirmed it was only the facade facing on County Road. Mrs. Wiener clarified they are talking about the entire facade on County Road? Mr. Heeke responded it is from the Volk building. Mrs. Wiener asked Mr. Walker what he felt about this designation for the facade only from the Volk building to the corner of Seaview Avenue. Mr. Walker responded he believed that was the recommendation forwarded by the Landmark Preservation Commission. Mr. Heeke did not agree noting they were going up Seaview Avenue also and they did not want that. Mr. Moore agreed this is a different recommendation as the minutes of the Landmarks Commission reflect it was going up Seaview Avenue also, so it would be less than what Landmarks had proposed.

Mr. Heeke believed the motion does need to be clarified and that is to identify the criteria also that are met. Mayor Marix asked what will happen at the corner of that building if only County Road is included in the designation? Mr. Moore responded the Seaview Avenue side would belong to the Architectural Commission, less the fifteen feet.

On roll call, the motion carried with an abstention from Mr. Ilyinsky and Mr. Weinberg and Mrs. Wiener voting against the motion and the Mayor breaking the tie and voting for the designation. (3-2)

Mrs. Wiener explained her reason for voting no as she felt the Bank has been a good neighbor and she thought this needed more time as the Bank has indicated its willingness to continue with the maintaining of this building. Mr. Weinberg explained his reason also was they needed more thime to work on this in accordance with suggestion made by Mr. Randolph.

Mayor Marix wondered if this should be deferred. Mr. Heeke indicated there was no discussion on defferal, but the Chair will hold this open, after the vote, for further discussion. Mayor Marix felt there was no drawback for this to be landmarked and that is the reason she voted for the motion.

Mr. Heeke stated at this point, because the question has been raised as to the issue of deferral, he would entertain discussion on the issue of deferral. Mr. Randolph advised a motion to consider deferral would be out of order and what they needed was a motion to reconsider from someone on the prevailing side. Mr. Heeke called for a motion to reconsider and there was none forthcoming.

Mr. Randolph advised there will have to be amendments made to the legal description of the Resolution and suggested they adopt the resolution and the changes will be made and he read it by title:

RESOLUTION NO. 9-91. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY HEREINAFTER DESCRIBED MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16 OF ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH AND DOES HEREBY DESIGNATE THE SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Mr. Randolph advised the property description will be the legal description as it refers to the property described in the motion which will run from the south Volk building facade on South County Road all the way to Seaview Avenue, but not including anything east of the facade on Seaview Avenue. Motion was made by Mrs. Douthit to approve teh amended Resolution No. 9-91 with the particular boundaries more accurately described by the Town Attorney. Mr. Heeke passed the gavel to President Pro Tem Weinberg and seconded the motion. On roll call, the motion carried with Mr. Ilyinsky abstaining, negative votes from Mrs. Wiener and Mr. Weinberg and the Mayor Breaking the tie by voting for the motion. (3-2).

B. Landmark Designation for 452 Worth Avenue - Consideration of Resolution No. 10-91. Mr. Frank
Res. 10-91 advised this property meets the Criteria A, B, C and D. He stated this is a fee simple component of a larger parcel which was the former Warburton Estate. Mr. Sved advised the entire estate was a residence for Mayor Barclay Warburton designed in 1922 by Addison Mizner. He stated it is bordered on the east side by Casa Leone and on the western side are the Town docks. He recalled at the last meeting the tow center portions of this building were ratified, one owned by the Whitmores and one owned by Mrs. McFarland and this is the eastern portion of the same structure. He stated this is a very worthy building offered for landmarking as were the other two portions of it which were considered at the hearing last month. He advised this property was subdivided in 1957 by the Whitmores into four separate parcels.

Mr. Heeke called for comments from the public and threr were none forthcoming. Mr. Weinberg moved for acceptance of the Designation Report dated December 21, 1991 for 452 Worth Avenue into the record. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Mr. Weinberg moved acceptance of Resolution No. 10-91 for the designation of property at 452 Worth Avenue on the grounds it meets Criteria A, B, C, and D. Seconded by Mr. Ilyinsky.

Mr. Randolph read the Resolution by title:

RESOLUTION NO. 10-91. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH, COUNTY, FLORIDA RATIFYING ADN CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY HEREINAFTER DESCRIBED MEETS THE CRITERIA SET FORTH IN ORDINANCE 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, AND DOES HEREBY DESIGNATE SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH

On roll call, the motion carried unanimously.

C. Landmark Designation for 12 Golf Road - Consideration of Resolution No. 11-91. Mr. Frank informed
Res. 11-91 the Council this property at 12 Golf Road meets Criteria A, C, and D. Mr. Sved advised this building was designed in 1922 by Marion Sims Wyeth and is a Mediterranean Revival Style and this building and the next designation, 15 Golf Road were originally one house and still share a wall which has been bricked up. He stated this is a significant

piece of Revival architecture in Palm Beach inasmuch as the staircase on the outside contains beautiful mosaic tile which is quite striking. He noted the style also reflects the overhang pitches of the roof and the round headed doors and windows and balconies and is worthy of landmark designation.

Mr. Winterfield felt this may be an example of a particular style of architecture and the work of a master builder, but nothing is shown to indicate whether it is State, Local or National history or how this particular building has historic significance. Mr. Frank advised the designation report contains an explanation of why the staff believes this meets the criterian A as this house was built during a period of economic affluence in Palm Beach and the size and ornamentation of the structure indicates the economic strength of H. R. Carlysle, the original owner and was designed by Marion Sims Wyeth and the Golf View properties were the most desirable on the Island due to their proximity to the Everglades Club and Worth Avenue. He stated the style of the buildings is controlled by Wyeth who intended to create one of the most beautiful and prestigious neighborhoods in Palm Beach and this building is one of the original emodiments of Wyeth's ideals and has not been altered greatly and is important to the history of this development. Motion was made to receive the Designation Report dated Jan. 18, 1991 by Mr. Ilyinsky. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously. Res. 11-91

Mr. Randolph read Resolution No. 11-91 - 12 Golf Road.

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION ON THE PROPERTY HEREINAFTER DESCRIBED AND MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84 , ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH AND DOES HEREBY DESIGNATE SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK PURSUANT TO ORDINANCE 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Motion was made by Mrs. Wiener to adopt. Res. No. 11-91 designating 12 Golf Road as a landmark, as it meets Criteria A, C. and D. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

D. Landmark Designation for 15 Golf Road - Consideration of Resolution No. 12-91. Mr. Frank explained there is a little glitch in this one as there are two proposed resolutions, one excludes the north facade. He noted this property meets Criteria A, C and D. Mr. Sved stated this building is the other half of the building designated at 12 Golf Road and this building does have the ornamental decorative cast stone entrance and this has the original loggia. He stated this building was designed in 1922 and divided in 1949, however, unlike the previous building, Mr. Smith has done some architectural work in the last few years. Res. 12-91

Mr. Jeffery Smith, architect addressed the Council, indicating he is the architect for Mr. & Mrs. Henry Breyer and they were going to voluntarily designate the property except for the north facade. He noted this facade faces the Worth Avenue alley and in 1987, extensive renovations were done on that facade and they want to have this facade excluded since it has no architectural significance.

Motion was made by Mrs. Douthit to receive the Designation Report on 15 Golf Road into the record. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Mrs. Douthit moved for acceptance of Resolution No. 12-91 to designate 15 Golf Road excluding the north facade, as it meets Criteria A, C and D. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Mr. Randolph read the ordinance by title: Res. 12-91

RESOLUTION NO. 12-91. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION FOR THE PROPERTY HEREINAFTER DESCRIBED, MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH AND DOES HEREBY DESIGNATE SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK, PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, WITH CONDITIONS AS SPECIFIED.

Motion carried unanimously by voice vote.

E. Landmark Designation for 301 Australian Ave. - Consideration of Resolution No. 13-91. (Removed from agenda earlier).

VIII. LICENSES AND PERMITS: Licenses & Permits

A. Charitable Solicitations:

1. Big Brothers/Big Sisters of Palm Beach County, Inc.; No. 142-91.

2. Parent Child Center of the Palm Beaches, Inc., No. 198-91.

3. Defenders of Wildlife, No. 321-91.

4. Boys' Clubs of Broward Co., Inc., No. 322-91.

Mrs. Peters explained recommended for approval are numbers 1, 2, and 4. Mr. Moore explained it is recommendation of Item 3 that a condition be put onto the granting of the permit that the Certificate of Occupancy on the interior work at 1420 North Ocean Blvd. Motion was made by Mrs. Douthit to approve items 1, 2, and No. 3 be approved subject to the condition that the Certificate of Occupancy be granted prior to the event for the interior work at 1420 North Ocean Blvd. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

B. Beverage Licenses:

1. Application for a new 2 COP Alcoholic Beverage License for Lawrence Stanley Gorfine / Tete A Tete, Inc., 101 North County Road. Mr. Doney explained this license has been reviewed and found to be in order. Motion was made by Mr. Ilyinsky to approve the application. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

IX. COMMITTEE REPORTS: Committee Reports

A. Ordinance, Rules & Standards Committee - March 6, 1991.

ORS Comm. Report

REPORT OF THE ORDINANCE, RULES & STANDARDS COMMITTEE MEETING
HELD ON MARCH 6, 1991

Roll Call

I. CALL TO ORDER: A meeting of the Ordinance, Rules & STandards Committee was called to order by the Chairwoman Nancy Douthit at 9:00 AM on March 6, 1991 in the Town Hall Council Chambers. In attendance were Chairwoman Douthit and Committee member Wiener. Also attending were Town Manager Doney, Town Attorney Randolph, Town Clerk Peters, Building Official Moore, Chief Terlizzese, Administrative Assistant to the Town Manager Jakubiak, Councilman Ilyinsky, Dr. Sten Lilja and Mrs. Susan Polan and A. Engler Anderson, a reporter.

Approval of Agenda

II. APPROVAL OF AGENDA: approved as written.

Proposed Amendments to Noise Ordinance

III. CONSIDERATION OF PROPOSED AMENDMENTS TO NOISE ORDINANCE: The Committee heard the comments from the Town Attorney and Staff, Dr. Sten Lilja and Mrs. Susan Polan, and after due consideration RECOMMENDS to the Town Council the Town Attorney be authorized:

A. to prepare appropriate proposed amendments to the Town of Palm Beach Noise Ordinance based upon the various modifications identified by the Town Attorney at this meeting;

B. to provide an additional proposed amendment to this Ordinance to prohibit gasoline combustion engine leaf blowers as of January 1, 1992;

C. to prepare an appropriate proposed amendment to the appropriate Town Ordinance to implement fines for the enforcement of the prohibition of gasoline combustion engine leaf blowers;

Proposed Amend. to Char.Sol.Ord.

IV. CONSIDERATION OF PROPOSED AMENDMENTS TO CHARITABLE SOLICITATION ORDINANCE: After discussion with the Town Attorney and Staff members, it is the COMMITTEE'S RECOMMENDATION, that due to the varied problems we have had with the administration and enforcement of this Ordinance, including the pressure that builds as a result of those problems and some events being held without obtaining the proper permit in advance, which is an indication of other problems with the present Charitable Solicitation Ordinance, the Charitable Solicitation Ordinance be rescinded for a twelve month period with evaluation done at that time and in the meantime, Mrs. Peters and Attorney Randolph should plan and implement a modified system whereby charitable organizations would simply register in the Town Clerk's Office.

Any Other Matters

V. ANY OTHER MATTERS.

A. Heard the comments of Dr. Sten Lilja with regards to plantings, such as the Spanish bayonet plant, and the potential hazard they create for pedistrians and cyclists, when the plantings encroach on the pavement surface of the roadways in the Town. Dr. Lilja was referred to the Public Safety Committee.

B. Heard the comments of Dr. Sten Lilja with regards to those individuals who use handicapped parking spaces and the Committee suggests Dr. Lilja discuss this matter further with the Police Department.

Adjournment

VI. ADJOURNMENT: There being no further business, the meeting was adjourned at 11.04 AM. signed: Nancy S. Douthit, Chairperson and Hermine L. Wiener, Committee member.

Mrs. Douthit moved the Ordinance, Rules & Standards Committee minutes of March 6, 1991 be accepted with the exception of Item IV, Charitable Solicitation amendments, as that item should be revisited. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Mr. Robert M. Grace addressed the Council asking to address the Council on the Charitable Solicitation amendments. Mr. Heeke indicated he would rather he submit his comments on this when this matter is discussed at a later date. Mr. Grace submitted portions of the Ordinance, indicating he felt there were ways to handle this without scrapping the entire ordinance and he was of the opinion that telephone solicitation is something that nobody wanted to which the Council agreed.

Noise Ordinance

NOISE ORDINANCE: Mr. Randolph believed the recommendation in regard to the Noise Ordinance is to follow the general outline as previously proposed to the Council and will include other items relating to radios in cars and radios and phonographs which can be heard a certain distance from property lines. He understood the recommendation which needs to be ratified by Council is to authorize him to prepare the amendments to the Noise Ordinance with those amendments. He suggested the leaf blower issue be a separate issue.

Mrs. Douthit agreed taht the first part of this is merely housekeeping items and to give more teeth to enforcement and she recommended that the Council request Mr. Randolph to put it together in proper order in a draft form for consideration by the Town Council and she so moved. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Leaf Blowers

LEAF BLOWERS: Mrs. Douthit indicated countless hours of discussion has been spent on this item and it is an ongoing issue and countless letters have been received as well as phone calls complaining bitterly on the subject of leaf blowers. She stated the recommendation is to ban the gasoline combustion powered leaf blowers and allow the electric leaf blowers after January of 1992.

Michael Zimmerman, owner of Zommierman Tree Service addressed the Council indicating they are talking about blowers, not just "leaf"blowers. He reported it is used by parking lots, by roofers, by paving operations and in the chemical application business, it is called a "mist blower" as the same piece of machinery can be used to blow insecticides or herbicides, fertilizers, etc., so it has many uses and comes in many different sizes. He wondered if there were any studies from a Town perspective as he talked to Mr. Ugi who stated if they are banned, they would have to hire extra people. He knows in his operation it will increase the time spent in their operation and will impact his customers financially. He did not think the blowers should be banned completely as there are many other machines which make a lot more noise. He did not think the electric blowers were as efficient and urged and Council to reconsider.

Mrs. Wiener agreed there were machines a lot noisier but they are visited with these on a weekly basis and sometimes twice a week as most of them have gardeners and she would like to find something that can do the job quietly, other than brooms, which obviously will cost a great deal more money. Mayor Marix indicated she is terribly bothered by all kinds of noises, but perhaps they need to instruct their gardeners to not use leaf blowers and we must not forget the practicality of cooperative effort in this matter. She thought if there was an Ordinance to limit the noise to a certain extent and we find someone being uncooperative, we could take advantage of having someone speak to that person and behind it we would have the teeth in the Ordinance to handle it.

Mr. Robin Pendergrast of Echo, Inc. addressed the Council indicating he too noticed the Town emploee using the power blower in front of the Police Department and he was using it at full throttle, and that doesn't have to be done and perhaps the employees need to have instructions on how to use this equipment properly. He indicated he has helped write ordinances for municipalities to help resolve the issue, and have candidly addressed the inappropriate use of the equipment. He reported power blowers are used to clean the decks of aircraft carriers in the Persian Gulf, football stadiums and yards and there is a reason why there is a high throttle setting and a reason for a low one and the high throttle does not need to be used to clean sand and saw dust. He indicated his job through his dealers in Illinois, California and in Florida is to get the word out and makes folks understand, particularly commercial users. He indicated they do have programs to help resolve this issue and he would more than happy to cooperate in any way that he can. Mrs. Wiener knew of several municipalities in California which have banned the hand held gasoline combustion leaf blower and asked if he had been in touch with them? Mr. Pendergrast advised there are six municipalities in California which have the ban on leaf blowers with five of them banning all leaf blowers and two are in the process of rescinding the bans, primarily because of the water shortage and partially because it is unenforceable and found in San Diego, Irvine and Santa Barbara there is an intense educational process which has been positioned for commercial and for municipal workers. He stated they still use blowers in Beverly Hills, but there has been an educational program and for the most part, it has been worked out.

Leaf Blowers

Mrs. Wiener asked how he proposed to have this educational program as there are many landscape people working in the Town. Mr. Pendergrast responded he has a distributor in Orlando and they have in position approximately 12 dealers in Florida who are in a position to be resourced and provide this education. Mr. Heeke asked how the word would be distributed to those people who buy this type of equipment at Builders' Supply or Home Depot? Mr. Pendergrast responded Echo is one manufacturer and they dominate the market. He does have the capacity to pin point these folks to make the educational materials available to them.

Mr. Heeke asked if there were governors which could be applied to this equipment? Mr. Pendergrast responded there are but the Town has a DBA level in their Ordinance, which is appropriate for most of the equipment, however, this doesn't get rid of the problem of people using the equipment at the wrong time or blowing it in the wrong direction. He stated the idea behind the product is to blow the debris into an arena where it will be collected or shredded or whatever. Mr. Weinberg stated that is a good theory but it just doesn't work.

Mr. Pendergrast indicated his company has a video on the proper operation. He stated another issue is that there are a lot of broken pieces of equipment out there and he would like to get it off the street and bring it in for repairs. Mayor Marix asked if the next time we get a complaint, someone is sent out to show them what to do correctly? Mr. Doney indicated he will ask Mr. Dusey if this is proper operation of this equipment.

Mr. Heeke did not know whether they wantedto hold seminars on something like this, and they might have the resources, but asked if there was any way there would be muffling equipment available. Mr. Pendergrast advised during the past four or five minutes there has to be dramatic improvement in DBA levels on all power equipment and this will continue.

Mr. Weinberg asked if a governor could be installed on older equipment to which Mr. Pendergrast responded affirmatively, noting it is a throttle lock type mechanism but questioned how long it would stay there if it is throttle locked at the factory.

Mr. Warren Woodward addressed the Council stating his disappointment that this matter was not publicized that this would be discussed today and also that the meeting of the Ordinance, Rules & Standards was also not publicized and he suggested this has been hastily prepared without public input, scrutiny or proper discussion. He did not know how they could outlaw leaf blowers and not other gas powered equipment. He felt if they are sincerely interested in stopping loud noises, they would have to ban all gas powered equipment. He believed it would cost the Town highly not only money but in prestige to lose another law suit on another preposterous ordinance. He recalled only 12 complaints have been received by the Town's Police Department during the last six months and seven of those complaints were from the same people.

Mrs. Wiener reported the Committee meetings are posted in the lobby and the Ordinance, Rules & Standards Committee met but they have no power as it has to come back to the Town Council and they decide whether or not an Ordinance should be adopted and then the Ordinance would receive two readings, if it is approved. She stated there is nothing hasty about this and this is the first time it has been discussed at a Council meeting.

Mr. Robert M. Grace addressed the Council urging them to listen to the residents of the Town of Palm Beach as it is predictable the outcry that would be received from manufacturers and from commercial landscape companies and what hasn't been addressed is Palm Beach did exist a long time before the advent of the blower.

Mr. Arthur Burck addressed the Council indicating he does not permit his gardeners to use leaf blowers and he urged the Council to ban them.

Scott Lewis, in the lawn maintenance business, addressed the Council noting he has a lot of customers who have huge properties and it would be difficult to take care of these properties without leaf blowers and it will be more costly as it will take more time to keep the areas clean and tidy. He suggested they ban them certain hours and days, such as Sundays but not totally ban their use.

Keith DeSchelder of Florida Outdoor Equipment addressed the Council indicating they wish to work with the Town and implement an educational awareness program and supply a program which they can all live with as they would loke to work this out peaceably.

Mr. Ilyinsky noted his gardener was sitting in the audience and all of his customers on Algoma Rd. asked him to not use blowers, unless there is a particular job which is very very special. He hoped the industry could work to make them quieter.

Ann Russell, owner of Worry Bird Garden Service addressed the Council urging them not to ban these blowers as they are human energy saving devices and cost effective.

Mr. Heeke indicated he would like to give this matter further thought and called for a motion to defer further discussion on this to the April meeting. Seconded by Mr. Weinberg. Motion carried 4-1 with Mr. Ilyinsky voting against the motion as he thought there should be some action taken on this today. Mayor Marix asked If Mr. Dusey and Mr. Doney could discuss having some kind of educational program so our own people know how to use the equipment. Mr. Heeke suggested to Mr. Dusey that he also consider the additional cost of personnel.

B. Public Safety Committee Report - March 6, 1991.

Public Safety Committee Report

REPORT OF THE PUBLIC SAFETY COMMITTEE MEETING HELD ON MARCH 6, 1991

I. CALL TO ORDER AND ROLL CALL: Meeting called to order by Chairman Ilyinsky at 3:35 PM on March 6, 1991 in the Town Hall Council Chambers. In attendance were: Chairman Paul Ilyinsky and Committee member Bernard A. Heeke. Also attending were Town Manager Doney, Town Clerk Peters, Director of Public Works Dusey, Town Engineer Bowser, Chief Elmore and Assistant Chief Frazier. Comments were received from Dr. Sten Lilja and Mrs. Jean Habicht of the Palm Beach Civic Association's Public Safety Committee.

II. APPROVAL OF AGENDA: approved as written.

III. CONSIDERATION OF CENTRAL FIRE-RESCUE STATION INTERIOR RENOVATIONS PROJECT AND SOUTH FIRE-RESCUE STATION STUDY.

Public Safety Comm. Report

Fire Station Renovations

A. CENTRAL FIRE-RESCUE STATION INTERIOR RENOVATIONS PROJECT: After discussion, it is the COMMITTEE'S RECOMMENDATION that one piece of fire-rescue equipment and a used mobile home be authorized to be located at Lakeside Park (between Brazilian Avenue and Royal Palm Way), with extensive site screening, a canopy, a curb cut and sanitary sewer and water connections to temporarily house the staff normally housed at the Central Fire-Rescue Station for the duration of the renovation project at the Central Fire-Rescue Station, which is estimated to be under construction for a six or seven month period and estimated to be completed in March or April, 1992.

B. SOUTH FIRE-RESCUE STATION STUDY: Mr. Doney advised the feasibility study of new versus rehabilitated station was authorized by the Town Council at its February 12, 1991 Meeting, and when this study is completed, it will be provided for review by the Committee for comments and recommendations to the Mayor and Town Council.

IV. ANY OTHER MATTERS:

Spanish Bayonet plants

A. After hearing the comments of, and viewing photographs provided by Dr. Sten Lilja whose concern was the potential liability to pedestrians and cyclists of the spiked leaves of Spanish Bayonet plants which encroach on the pavement along North Ocean Boulevard north of the Kennedy Estate, at the curve at the Kennedy Estate, another area along North Ocean Boulevard and on South Ocean Boulevard near Barton Avenue, the COMMITTEE RECOMMENDS that Town Staff field review these matters and those Spanish bayonet plants that ovdrhang or encroach on the pavement of the street should be either trimmed, relocated or removed and that the abutting private property owners be notified to trim, relocate or remove same or the Town follow-up if same is on Town property.

Signs for Bike Routes

B. Temporary Signs for Bike Routes: Mr. Heeke requested the sign ordinances be enforced, temporary signs be removed, and consideration should be given that these groups be furnished a lay-out of the Town so no signs would be required.

Hurricane Preparedness

C. Hurricane Preparedness: Ms. Jeanne P. Habicht addressed the Council indicating she was the Chair-person of the Palm Beach Civic Association's Public Safety Committee and wished to have information on the Town's hurricane preparedness plan which Mr. Doney indicated he would furnish to her. Mr. Heeke explained to Mrs. Habicht the Town had conducted a seminar on Hurricane Preparedness last summer, which was well attended. Mrs. Habicht responded she was sorry she did not attend, however was not aware a seminar was being held. Mr. Heeke suggested that perhaps the civic organizations in the Town could conduct similar educational seminars on an annual and rotating basis, to ensure that all segments of the population are reached.

Adjournment

V. ADJOURNMENT: There being no further business, the meeting was adjourned at 4:02 PM.

signed: Paul R. Ilyinsky, Chairman and Bernard A. Heeke, Committee member.

Mr. Heeke reported on the Hurricane Preparedness subject. He made the suggestion to the Palm Beach Civic Association that perhaps several organizations could conduct this type of seminar as an educational forum and it shouls not be just the Town, as that way we could have all segments of the population exposed to this type of information.

Motion was made to accept the Public Safety Committee Report of their meeting held on March 6, 1991 by Mr. Weinberg, seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Motion was made to approve therelocation in Lakeside Park for the facilities and the acquisition of a mobile trailer for temporary live-in accommodations by Mrs. Douthit. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Discussion was had on the recommendation of the Committee that the Town Staff review the Spanish Bayonet Plants which oeverhang or encroach of the pavement of the street and should either be trimmed, relocated or removed and that the abutting private owners be notified to trim, relocate or remove same.

Mrs. Wiener stated she was troubled by this recommendation which was brought to the Committee by one person as this hasn't been a problem prior to this time. Mr. Heeke did not agree noting this has been called to Staff's attention for over a year and it has not come to the Council and he felt there was a question as to whether or not the Town had any potential for liability because it is the right-of-way. Mrs. Wiener did not understand as she specifically asked if complaints had been made and was told there were none. Mayor Marix felt it wasn't a matter of complaints but a matter of the liability it could cause. Mr. Heeke stated they now have actual notice. Mrs. Wiener stated it is something like the Town having beaches which are not staffed by lifeguards and can we possibly protect ourselves from everything?

Mr. Heeke suggested Mr. Randolph look into the potential for the Town's liability before they go further on this to which the Council agreed. Mr. Randolph indicated he would have to know of the locations of these and the abundance of them. Mr. Heeke recalled the violations were brought out at the Public Safety Meeting and photographs were submitted.

1. Ordinance No. 3-91 - Amendments to Subdivision Ordinance Regarding Filing of Plats and Replats.

Ord. 3-91

Attorney Randolph read the Ordinance by title:

AN ORDINANCE OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 20 OF THE TOWN CODE OF ORDINANCES RELATING TO SUBDIVISIONS AT SECTION 20-1 RELATING TO FILING OF PLAT AND REPLAT, SO AS TO PROVIDE AN AMENDMENT PROVIDING THAT IN ORDER TO ASSURE CONCURRENCY THAT PROPERTY OWENRS HAVE NO ASSURANCE THAT, WHEN LANDS ARE THE SUBJECT OF A LOT SPLIT, OR ARE BEING SUBDIVIDED BY PLATTING OR REPLATTING, THAT SUCH ACTIONS CAN BE UNDERTAKEN TO THE MAXIMUM EXTENT THAT MAY BE ALLOWABLE UNDER THE PROVISIONS OF THE TOWN'S ZONING ORDINANCE; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING AN EFFECTIVE DATE.

On motion of Mr. Ilyinsky, Ordinance 3-91 was approved on Second Reading. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

B. Appointments:

Appointments

Zoning Comm.

1. Zoning Commission - Three Terms to Expire February 1994 - Deferred from February meeting. Mr. Heeke explained Mr. Flower and Mr. Titcomb are eligible for reappointment and Mr. Summers is not eligible as he has completed two terms. Mrs. Douthit moved that E. Rodman Titcomb be reappointed to the Zoning Commission for another

three years. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Mr. Weinberg proposed the name of Charles Levin, then suggested it be held up for another thirty days and he be interviewed to discuss his background and interest in the job by the Personnel Committee. Mr. Heeke noted there were other recommendations also, Mr. Goldsmith and Mr. Klein. Mr. Randolph pointed out this would be a new function for the Administrative and Personnel Committee. Mr. Weinberg withdrew his suggestion about the Committee and suggested it be held up for thirty days. Mayor Marix wondered if it could be possible for these people to be interviewed and one of the questions should be as to whether or not they have attended any meetings of the particular commission in which they are interested.

Mr. Ilyinsky proposed Mr. C. Gerald Goldsmith to serve as a Zoning Commissioner. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Mr. Ilyinsky believed the suggestion of the Mayor should be followed through and perhaps it could even include those who wish to run for Council. Mr. Heeke believed that would take a charter change. Mayor Marix thought it was important to know of their background.

Motion was made by Mr. Weinberg that the third position for the Zoning Commission be deferred until the April Town Council meeting. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Mr. Heeke advised Mr. Flower has indicated to him his willingness to serve again.

XI. NEW BUSINESS:

New Business

A. Appointments

Appointments

1. Arhcitectural Commission - Three Terms to Expire March, 1994. Mr. Heeke noted John Schuler and Jorge Sanchez are completing their first terms and are eligible for reappointment. Mr. Heeke noted Jane R. Grace has completed her second term and has been reappointed to the Landmarks Commission. He noted the alternate, Leighton Rosenthal could become a full member. Motion was made by Mrs. Douthit that John Schuler and Jorge Sanchez be re-appointed to the ARchitectural Commission; Mr. Leighton Rosenthal become a full member moving up from the alternate position to fill Mrs. Grace's seat and recommended the name of James C. Paine, Jr., architect of 170 Seagate Road be appointed as an Alternate Member. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Arch.Comm.

B. Other:

Other

1. Consideration of Proposal by Mr. Rossbach, Jr., Mrs. Ross, Mrs. Olsen and Mr. McClatchy to construct two (2) croquet courts on the East Side of State Road A-1-A and make it greener by converting it into croquet courts. He reported croquet isthe fastest growing sport in this country and this is the croquet center of the world and unless you belong to a private club or the Breakers', you cannot play. He stated there is a court at the Palm Beach Polo or PGA, which are private, but there is no place here for a citizen to play croquet. He felt with the big base of players they have, and there could be hundreds of people who would like to play, it would be a lucrative proposal. He stated the Palm Beach Par 3 has grass cutting equipment and an office and is a central place where croquet equipment could be rented. He suggested that if the Town would consider building these courts, there are presently 300 people who would be anxious to play and the Town could charge them $60 for residents or $80 for non-residents annually and that would be an income of approximately $30,000, whereas it would cost only $12,000 annually to maintain the courts. He suggested they start with two courts and then five years from now, add two other courts as those who are interested would come forth. He felt it was a game that belongs in Palm Beach anc urged the Council to consider this request to install the two courts.

Croquet Courts

Mr. Jack Osborne, the founder of the U. S. Croquet Association addressed the Council, indicating he will be willing to answer any questions the Council has about this sport.

Mr. Weinberg asked what would happen to those individuals who now use the green space they are contemplating making into croquet courts? Mr. Rossbach responded there is plenty of space there for all kinds of activities. He has visited this site many times and he finds that this green space is rarely used. Mr. Weinberg indicated he lives in this area and knows there are people who play soccer, volley ball, football, baseball and children playing in that area most every weekend as it is a public recreational facility. Mr. Rossbach believed there was a lot of space there and it is a big space, so they could install two fields. Mr. Weinberg did not know whether they were aware of the fact that the South Fire Station may be demolished and relocated. Mr. Rossbach stated he was aware but was told it may be that it will be renovated at its present location. Mr. Rossbach stated the two fields could be moved around quite easily in this area and it could be at one side or closer to the beach, and there are several trees in the center which could be moved. He stated they were originally talking about going to the other side of the road where there is green space. He felt the park location would not be in the way and would not bother drivers going by and could be used by a lot of people for a long time. He stated there is space further to the right adn there is plenty of parking. He felt that croquet was a sport that was adaptable to the age group of the people who make up Palm Beach. He believed the activity that as talked about earlier are being played by people who do not live in the Town. Mr. Weinberg pointed out this is a public beach.

Mr. Osborne advised many Towns around the country have built croquet courts and dedicated them to the public as it is a sport that will be for a long time and in this Town are close to 300 croquet players who are using the private courts. He felt confident if it were thrown open to the public, they can find many people more than that to utilize the courts. Mr. Weinberg noted in one of the articles he received from Mr. Osborne, there was a listing of the membership of the Croquet Club and looked to him that there were 158 members. Mr. Osborne indicated they are perfectly willing to prove their desire to have these fields for the public and they are willing to pay $3000 for the use of these fields as they feel for the Town of Palm Beach, this is the way to go. He indicated they do have places to play but they feel there should be courts in the Town of Palm Beach and suggested this is the most ideal spot.

Mr. Osborne felt it could be across the street on the west side of A-1-A. Mr. Weinberg did not agree as there would be utility poles which would interfere with the layout of the court. He asked how they presumed to protect this area once it was built? Mr. Osborne felt they would have to have a fence around it, as they do in Central Park in New York.

Mr. Heeke noted Phipps Park is a very public park and there is adequate park and lifeguard coverage and he would hate to diminish this vital service provided to the citizens, particularly when they are trying to secure funding for beach nourishment. Mr. Osborne responded they don't need much area. Mr. Heeke stated he was very concerned about giving any of it as this park does service West Palm Beach down to Lantana and is used widely. Mrs. Wiener asked if this would be allowed in the Comprehensive Plan? Mr. Frank responded there would be no conflict with the

Comprehensive Plan as long as the area was not exclusive to certain memberships, and if it was available to everyone it would not be in conflict, and a small fee could be charged.

Mrs. Wiener was concerned about the water usage as we are under water restrictions. Mr. Moore was not sure the volume of water that would be necessary to keep up the two courts, but we are committed to reduce by fifteen per cent the first year the water usage and now we are on target and he didn't believe the watering of these two courts would either make or break this regulation.

Croquet Courts

Mayor Marix asked how large would be the courts? Mr. Osborne responded they would be 105 x 84'. Mayor Marix wondered if there would be a possibility of putting these courts into a space where the golf course is now located as that area is already watered? Mr. Osborne did not believe that could be done. He stated at the tennis courts, between teh hours of 12 and 12:45 PM, they are watered and that would be much more time than they need to water their croquet fields. Mrs. Douthit felt there would be more maintenance as she recalled they have to be very smooth and suppose the frisbee players are romping around and they go all over it? Mr. Osborne indicated they would have tofind some way of keeping people who are not playing croquet off the fields. Mrs. Douthit felt a fence would be no more than a challenge. Mr. Osborne stated in the City of New York in 12 years time, they never had a problem of these courts being torn up. Mr. Weinberg stated there is more miles of park in New York and here we have a very small area. He recalled it may be that we have to put a reservoir in that area as well. Mr. Osborne felt there should be a commitment which the Council has to make the amenities to provide the citizens in this Town with recreation and rather than see frisbee or volley ball played on these lawns, he suggested a sport like lawn bowling which can be shared with the croquet sport. Mr. Heeke felt the point that Mr. Weinberg was trying to make is this facility is heavily used by families and it is already a public service for public use and what they would be doing is cutting back on the general use of that area and limit it to specified activity and this troubles him at this location.

Mr. Ilyinsky noted these courts are springing up all over the place and Towns are doing their best to accommodate them, but he has to look at this with regards to the budget constraints. He stated they are living in a period of time where we are being literally taxed to death and there seems to be a feeling or irresponsibility of a Town which is tryiing to hold down the tax rate to a reasonable level would embark on another activity which will cost taxpayers who are not interested in croquet, more money. He would be in favor if the Town could have these courts at no expense, but thatis not possible as there is the maintenance, but to encumber the taxpayer with another responsibility, regardless of how levely it is, would not be very appropriate. Mr. Rossbach asked if he would feel that way if the project made money? Mr. Ilyinsky stated he could not take that chance right now, however, if things should change, he would be willing to go further. He felt the security of the courts would also be a problem as this would have to be protected from the people who throw frisbees and have dogs.

Mr. Rossbach offered to meet the Town half way with the financial part of it and as far as the maintenance is concerned, they suggested it be done by the people at the golf course.

He had spoken to the people at the Golf Course and told them what would be involved if the Council approved this, and they already have quite a work load and their staff is very short and it would be difficult for them to add this maintenance to what they already have to do, however, he didn't believe anything would make any sense unless it was handled through the Golf Course. He didn't want to build another building or an office but they didn't want people to have to come down town to get their permits, as it would be easier if they could get them at the Par 3 golf house. He pointed out they would need a place to sell and rent the croquet mallets and make reservations for the court and if the Golf Course were not involved in it, they didn't believe it could be done, as they probably would have to hire a part time person, but that would be much less than building a building and starting from scratch. Mr. Heeke stated he would be against increasing any personnel in the next fiscal year as the fiscal constraints will not permit any increases in personnel.

Mr. Ilyinsky asked if this could be postponed rather than deny it. Mr. Heeke agreed suggesting they look for other locations.

Briggs Kilbourne addressed the Council pointing out they anticipate the croquet lawns would generate a net operating income of $25,000 the first year and he viewed that as a substantial return on a $50,000 investment and if this initial investment is a problem for the Town, perhaps it could be done privately if the Town was willing to sacrifice the profits which would be generated from such a venture. Mr. Weinberg felt what was more important was the space at this time. space at this time.

Mayor Marix commented the Golf Course always has made money and the Recreation Center loses it and suggested that perhaps a tennis court might be converted into a croquet court. Mr. Heeke felt this was dangerous ground. Mr. Rossbach stated this techique has been employed in many places throughout the coutry as in some places tennis has been overbuilt and perhaps this could be investigated. Mr. Kilbourne believed that people would enjoy watching croquet tournaments.

Mrs. Rose Harwitz addressed the Council indicating she was appalled by the Town Council considering this proposal as it isn't really a matter of money that the Town would make, or they are committed to recreation, but they should be considering the welfare of all the people in the Town, not the croquet membership. She pointed out this park where they propose to put the courts is a public grant for public use and what is proposed is not a public use.

Mr. Randolph did not get the impression it was to be used solely by membership. Mr. Heeke stated the current plan was the same thing as the family membership at seaview Park and any member of hte public could join. Mrs. Harwitz did not believe there would be people in the south end who would be playing croquet, perhaps shuffleboard but not croquet. She felt for a public place to be utilized for a limited group was not a comprehensive public use, as they have to address safety and traffic.

Mr. Ilyinsky suggested that consideration of this matter be deferred to the next budget year, to examine the allocation of the funding and another issue which needs to be discussed would be the personnel required, as well as the maintenance.

Mrs. Douthit believed it may be putting a restrictive use on public land. Mr. Rossbach stated they would want everone in Palm Beach to be able to play. Mayor Marix asked if anyone could let her know how many people per hour play croquet and how many people per hour play tennis, as it would be interesting to see who makes the most use of the land. Mr. Rossbach responded they would have a maximum of four people on a court.

Mr. Heeke adjourned the meeting to hold a public hearing at 5:00 PM for the proposed amendments to the Town's Comprehensive Plan. Meeting called back to order by President Heeke at 5:05PM.

Appeal of Public Work's Director Decision re: Bustani lights

2. Appeal of Public Works Director's Decision to Town Council by Mr. Robert Bustani Requesting Permission to Leave Lights in Parkway on North Side of the Safari Club. Dean Chapman representing the Bustani family addressed the Council, stating the Bustanis have expended considerable monies in renovating their building at 350 South County Road. He read a letter into the record from Mr. Bob Bustani dated 2-5-91: "Please consider our request to keep our already installed surface lighting as used on Worth Avenue. Surface lighting was chosen so that we could

focus the beam of light from the base of the tree to the top of the palm branches, creating a beautiful effect in the evening. The "well" lights have been found to be impractical for palm trees because of their restrictive focusing ability. They are used primarily on trees with low, wide ranging branches and foliage.

"We are enclosing a document form our insurance company insuring the premises for One Million ($1,000,000) Dollars and we will sign a document indemnifying the Town from possible lawsuits by people tripping on these fixtures." If permission is granted, we will also decorate around the tree and fixtures as has been done on Worth Avenue.

"The above mentioned lighting fixtures are on the grass strip along the 200 block of Australian on the north side of the Bustani Building.

We also request permission to use low voltage lighting to light our hedges against the north side of the Bustani Building on Australian Ave.

Wayne Steward, Electrical Contractor, Dean Chapman and Joe Bustani or myself will be representing us.

Thank you all for your kind consideration.

signed Bob Bustani"

Mr. Chapman commented the "well lighting" was recommended by the Department of Public Works. He stated a letter has been received from Peninsular Electric Distributors, Inc. who did not recommend the use of well lights which are designed more for use in low level lighting. He stated a letter also has been received from Beach Electric Corp. which states the ground lighting was installed according to the National Electrical Codes and the Town of Palm Beach codes as well and were inspected by Electrical Inspector Tim Wright and are in full compliance.

Mr. Chapman indicated the reason the Bustanis wish to retain the lighting they have installed is because the focus and the ability of the surface lights as the well lights are diffused and shoots up only a few feet. He indicated they would also like to have the hedges lighted on the north side of the building.

Director of Public Works Dusey addressed the Council advising the primary problem with the installation was it was done without permission and they did request it be removed and after talking with Mr. Bustani, he decided to appeal that decision to the Town Council and this has been going on since September. HIs recommendations would be the lights be moved to the opposite side of the tree if they are permitted to remain; and secondly, the Town be insured and indemnified against any liability that may occur because of the installation. He advised it was installed on the Town's right-of-way.

Mr. Ilyinsky stated his concern about them going ahead and doing this without asking anyone. Mr. Moore pointed out when the building was renovated, the lights did show up on the plan, and unfortunately it was not determined at that time it was Town property. Mrs. Wiener believed what Mr. Moore was saying is that he looked at it and assumed it was Mr. Bustani's property and it was later found it was really the Town property. Mayor Marix asked why they were approved then by the inspector? Mr. Moore responded the electrical inspector made the determination that the lighting installation met the Code. Mrs. Wiener did not like the fact that these were installed in the Town's rights-of-way. Mr. Heeke stated he was reluctant to give up this for any lighting. Mr. Ilyinsky moved that Mr. Bustani be allowed to keep the lights there if he moved them to the other side of the tree as suggested by Mr. Dusey and that we have absolute proof positive that the insurance certificate submitted does indemnify the Town; and they return to Mr. Moore's office or wherever he has to go and get the proper permit. Mrs. Wiener asked if when it was moved would it still be in the right-of-way to which Mr. Moore responded affirmatively. There was no second to this motion.

Mrs. Wiener moved the Council uphold the Public Works Department and require the removal of the lights from the right-of-way. Mrs. Douthit stated she has a problem with the fact that it was on the plan and it was not noticed that we owned the land where the lights were being installed. Mr. Weinberg seconded the motion. On roll call, the motion carried 4-1 with Mr. Ilyinsky voting against the motion.

Mr. Dusey indicated there was another part on this and that is to allow the lighting along the north wall of the building along the hedging. Mr. Moore advised this type of lighting has been authorized on Worth Avenue. Mrs. Douthit moved the hedge lighting along the building be allowed. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Billing & Collection Program for Advance Life Support EMS Transports

3. Consideration of Potential for Cost Recovery Through Billing and Collection Program for Advance Life Support EMS Trnasports by the Fire-Rescue Department. Mr. Heeke advised that many people have health insurance which takes care in part of EMS transportation and services and some municipalities have looked at this as a way of recovering some of their costs and that is the reason for this to be on the agenda. Mayor Marix added this matter has been pending for a long time as even Medicare plays fully for transport and this matter originally came up because people are paying premiums for private insurance or through Medicare and they didn't waht to pay as well through taxes, which would mean they are paying twice. Mr. Heeke noted there are a number of matters on the agenda which need attention and he believed this one could be put over. Motion was made by Mrs. Douthit that this matter be deferred to the next Town Council meeting. Mr. Weinberg seconded the motion suggesting that perhaps this needed to be discussed fully at a workshop meeting. Mr. Heeke felt it should be discussed at a regular Town Council meeting as it has a lot of far reaching consequences. Motion was seconded by Mrs. Wiener to defer to the next Council meeting. Motion carried unanimously on roll call.

Mid-Town Beach Nourishment

4. Consideration of Modifications to Permit Application for Proposed Mid-Town Beach Nourishment Project. Mr. Dusey advised this is a status report on the Mid-Town project and they are at a point where they need some decisions from the Town Council. He advised the DER permit is all but in hand and the major permit is locked up, it is believed. He advised on the Army Corps of Engineers, the general detailed Design Memorandum is in very good condition but they are at the point where they need to talk about the cost as the CORPS has examined the access, the storm protection and all the other things they consider in determining what their share will be and on the 2.5 mile project from Wells to Banyan Roads, there is a Federal share of about four million dollars and Town share of approximately six and one half million dollars.

Mr. Dusey stated if they were to provide another access at Sunrise Avenue where there presently is no access, plus provide public parking for a minimum of four hours, seven days a week on Sunrise Avenue and Park Avenue, they would increase their share substantially to 5.9 million dollars and the Town's share would be 4.7 million dollars. He noted the first figure of 6.5 million is way beyond the Town's current budget and our available funds are 4.1 million dollars. He reported he asked the consultant to look at ways to reduce the cost and his suggestion is to reduce the project from 2.5 miles to 1.5 miles which would then run from Barton Avenue to 550' south of Banyan Road. - He has discussed the shortening of the project with the Corps of Engineers, DER and DNR and they have no objections with respect to the permitting, however, the General Details Design Memorandum would have to be revised to reflect the smaller project and they would have to do modeling to ensure the smaller project would not erode too quickly. He stated the Town's share of the shorter project would be 2.3 million dollars, which is well within our budgeting.

Mid-Town Beach Nourishment

Mayor Marix recalled hearing Lonnie Ryder stating this had to be longer or the sand would wash away much sooner and it seems now we are going back to the original project, and she has misgivings about this as she believed they told us we couldn't do it. Mr. Heeke asked with the shortening, the project would not include the pier area of the Breakers? Mr. Dusey responded affirmatively stating one of the major permit requirements would be mitigation of the pier debris and physically removing it and adding some sand to it, which is a fairly costly item, and the shortening of the project would eliminate the need to do that. Mr. Heeke asked if the shortening of this project in Mr. Campbell's estimation would not effect the staying ability or permanency of the sane? Mr. Dusey felt with modeling and additional fill up front this would be taken care of. Mr. Thomas Campbell of Coastal Engineering would be taken care of. Mr. Thomas Campbell of Coastal Engineering addressed the Council on the longevity of the project, stating it is true when a project is shortened, its'life span is generally reduced somewhat. H stated the modeling they have done shows they have a type of coastal condition where the Breakers represents a high point on the shore, so even thought shortening will increase the erosion rate, it will not be as much as if the shore were relatively flat. He stated they have accounted for the higher erosion rate in the numbers they have provided by putting more fill in a shorter area since they expect it will erode at about 15% higher in that specific area, but it still appears to be a viable project, if that was the Council's decision to go forward with that.

Mr. Campbell reported he did discuss the environmental issues as to the shorter project and whether it would require mitigation as it could have an impact with DER and they too stated they would not have those concerns if the fill is removed away from that area. He recalled their previous concern was the direct burial and that will not happen under the shortened project.

Mr. Heeke asked if he had any idea of what the difference would be in longevity or useful life between the long and shortened projects? Mr. Campbell responded the preliminary estimates are that the advanced fill quantities would provide a five year life, with not all of the sand eroding away but about 30% of the sand eroding away. He did, in the redesign, add more fill to account for the higher level of erosion of a shorter project so the numbers you see is the basic design of about 45' and an advanced amount of fill, so there would still be a beach at the end of the time period. He noted the advnaced fill in that quantity includes the amount they would expect would erode, even considering the acceleration of erosion as a result of shortening the project. He believed the sand that would erode would move to adjacent areas to a certain extent. He felt this would show some relief in the north and south direction depending on where the fill was placed, so it would not be a matter of sand moving off shore and being lost from the system, but the sand moving quicker laterally and that is why shorter projects erode faster. Mayor Marix wondered where were the figures which did indicate if they had a shorter distance with a reef as well, it would require less and, she felt there were some suggested courses from that.

Mr. Doney stated they had information from Coastal Engineering where they have indicated what they believe is a potential reef to compliment the beach nourishment project. He stated this issue will need to be considered during the next item on the agenda and recalled the course the Staff was directed to pursue and that is to pursue two independent permit applications for two separate projects and at this time it was suggested to Mr. Rauch, that he submit certified engineering documents as to their calculations to arrive at the merger of the two, but at this time, the staff has not been directed to look at that alternative. Mr. Heeke agreed the Council hadn't asked them to do that and they will initiate the next action. Mayor Marix asked if they would get the figures on this. Mr. Doney stated they are in the packet, but again they are estimates whick are not based upon the Coastal Engineering review through plans and specification. Mr. Heeke summarized that he understood the recommendation is to affect some costs, eliminate the environmental concerns of the pier debris as to shortening the reef. He stated their proposal is to add addition fill to offset the quicker erosion caused by the shortening of the project and this action will not adversely affect the present permitting application. Mr. Dusey stated that was correct.

Mrs. Wiener asked about the expenditures against what we will receive. She wondered if any consideration had been given to doing it at two miles as she has a real problem with one and a half miles. She recalled Lonnie Ryder saying certain things and she didn't understand why he stated those things to start with. She didn't want to get caught in a trap where we keep talking about the same stuff over and over. Mr. Heeke explained this is a deviation from the GDM and the permit application as he sees it. Mr. Heeke agreed stating the GDM would have to be in final form and would have to be modified to reflect the shortened project and that is part of the authorization he is asking for and recommended to them so if they approve the 1.5 mile project, it also would include modifying the permits and the GDM for the CORPS, which is the last step.

Mrs.Wiener wanted to know if Lonnie Ryder has assured us that this will be alright or are we going through another step. Mr. Dusey indicated he has had conversations with Mr. Ryder. Mrs. Wiener was sure he had but she didn't want to be told to go back to round one and now there'll be no money paid and all of the money they have paid to date gives her a real concern. Mr. Heeke wanted to know what this will do also to the approval they have already received from Tallahassee.

Mr. Campbell advised they haven't received any final answers from the Corps and the answer from the Corps has something to do with the fact that we had to do some environmental mitigation and scaled the project in the north end. He felt how they specifically look at parking and access and other things will affect how they would share currently with the program. He felt knowing that and the Town's budget was 4.1 million, they recognized right away the Corps dollar numbers were not matching what the project required, so they considered the options and possibly by adding access and parking to two spots and bringing it up very close to the other project and possibly shortening this project was evaluated since that would meet the budget constraints. He checked with the agencies, did a coastal evaluation, discussed it with Lonnie Ryder and the CORPS and it is their feeling that they would not have a problem with this and would not put them back to Square One and it would be a matter of permitting modifications rather than repermitting. He will finalize the GDM and send it back to the CORPS for their evaluation and the information they have received from the CORPS is that they don't see a major problem with it.

Mrs. Wiener asked if there as any way they could get something in writing that our position will not be jeopardized as she doesn't want to see all the efforts put forth or the monies spent go down the drain.

Mr. Campbell responded he didn't think there was a problem getting something in writing from the State agencies, but they have received positive indications from the CORPS and until they have the GDM revised, they may not be able to get a positive answer from them. He believed he could get written confirmation relatively quickly from two out of three.

Mayor Marix believed they have changed their minds already by stating they want more parking and more access and she believed they have spent a lot of money on working on something that isn't okay.

Mr. Campbell didn't think that it was not okay, but thought it would be worthwhile to just briefly go over what the decisions were by the CORPS. Mayor Marix believed they were talking about extra parking and extra access. Mr. Heeke felt it would be a condemnation and that's not inexpensive and it is a lengthy procedure. Mr. Campbell agreed.

Mrs. Wiener recalled they had a concern about the size of the grans of sand, and then it was something else and everytime something changes, and she felt there was a mojor problem here. She felt they were talking about a year or two and we all know the financial situation of the State of Florida now and any change is going to cost us.

Mr. Campbell stated the difference between the changes which they have seen in the past and where they are right now is substantial. He stated they have not gotten to the point where we had the CORPS decide finally what they would accept and what they wouldn't accept. He knows exactly how they look at the parking at the north end and to calculate based on their interpretations what the answers are, he didn't believe there would be any surprises in the future. He felt that up until this time, the CORPS had not done a final review of the GDM which they have indeed done now and they are telling us now it is not as favorable as they had hoped it would be, but there are some options that can be pursued. He stated the two options are keeping the same basic project and modifying the parking and the access in some way; or reducing the project. Mrs. Wiener felt they were following a will of the wisp. Mr. Campbell felt they had gone to the point where they know the answers. Mrs. Wiener asked him if when he started this project he thought he would be at the point where they are now? Mr. Campbell responded there have been some delays in the project some of them to do with the sand source switch.

Mrs. Wiener stated she thought the only thing they could do at this point is to move towards the shortened project of 1.5 miles. Mr. Heeke suggested they proceed that way contingent upon getting written confiramtion from DER and DNR. Mrs. Wiener made a motion that they move in the direction of the shortened project of 1.5 miles, contingent upon receiving in writing the approval of the DER and DNR that the funding is going to remain in place at the State level and the permits will be issued.

Mayor Marix commented that they are looking at all these things and the estimated costs, but they are really looking at something that doesn't necessarily exist. Mrs. Wiener agreed. Mr. Heeke explained they are not committed to go ahead with this project. Mr. Doney agreed stating that was explained on the permitting. Mayor Marix stated she was very concerned about doing this and what was it going to cost to modify the plan. Mr. Campbell stated the total cost is around $50,000, with the State picking up 75% of that cost. Mrs. Douthit had no idea that would be the cost. Mr. Campbell explained all the permits have to be modified with the same authorization. Mr. Weinberg didn't believe they had any alternative. Mrs. Wiener believed they were talking about $18,500 expense. Mr. Campbell felt it would be more like $12,500. Mrs. Wiener modified her motion to include a cap of $12,500. Seconded by Mrs. Douthit. On roll call, the miotion carried unanimously.

5. Consideration of Application to Department of Natural Resources for State Funding for an Artificial Reef System. Mr. Dusey explained annually they are approached by DNR for applications for beach erosion projects when he checked to see if they had applied for the Mid-Town project, and they assured him it was not necessary however, he believed they were on a parallel basis pursing the PEP Reef project and he thought perhaps Council may want to consider applying for State funding for that project. Mr. Heeke asked if this would be modifying their request for two separate permits? Mr. Dusey indicated it would not be. Mrs. Douthit moved that providing this will not be crossing anything else, they move forward in an attempt to get State funding for this project. Seconded by Mr. Ilyinsky.

Artificial Reef System

Mr. Doney explained they need to discuss where this would lead to and what further considerations would have to be given to the matter by the Mayor and Town Council with regards to request for proposal or sealed bids. Mr. Randolph stated he has nothing to add to the letter of Mr. Doney, as it indicates there are still remaining questions to be answered and if they do decide to go with this funding, they should be advised that if any of these questions are answered and ultimately at the end of the project, it may require them to return for a different type of permit than what they are proceeding under. He pointed out the PEP reef is what is presently being pursued for permitting and the application for funds would be for that since that is the only thing that is pending. He noted that if at the time they have to make a decision and they find that they have to go to bid for the PEP reef or any reef and they were to choose another reef, there is the possibility they may have to start all over with a permit application or it would have to be modified. Mr. Heeke noted this would only be on the artificial reef aspect. Mr. Randolph agreed explaining that he wanted them to understand they are authorizing them to go ahead with an application and that is all it is doing as they may not get it if they decide to travel another route.

Mayor Marix recalled discussion on reefs versus sand very often and many times it has been said there may be other reefs, but no-one has come up with any kind of reef which has been successful in Florida and has been permitted here. Mr. Randolph didn't know if they wished to discuss that tonight or not. Mayor Marix stated they keep bringing up the fact that they might have to go to bid and she would like to have these other companies come forward so it can be analyzed. Mr. Randolph felt it was a good idea at a time when this Council considers appropriate and they ought to ive consideration to others. Mayor Marix did not believe there were any others. Mr. Randolph indicated he has received communications from others. Mr. Weinberg knew of one on the west coast of Florida and in Lake Michigan. Mayor Marix did not believe that was the reefs to which they were referring and as far as she can determine, they have not been approached by anyone that has a submerged reef.

Mr. Heeke asked Mr. Dusey what would happen if they did not make application for funding at this time? Mr. Dusey responded they would miss the funding cycle for the upcoming year and it would not preclude future applications.

Mayor Marix noted they were in receipt of a letter today from Coastal Engineering. Mr. Doney stated he read it but there are questions about the PEP reef pending permit application, but Mr. Lang who delivered the letter at the request of Mr. Rauch wanted the Mayor and Council to be aware of Item 5 in the letter from Mr. Paden E. Woodruff which stated that in the event this proposed project is constructed in lieu of the nourishment project, the Department is willigg to assist in the fundingof construction and monitoring work involved but the monitory and any analysis sould have to be done by an independent third party acceptable to them.

Mr. Heeke indicated either they make the qpplication for funding which they do or do not have to accept if they get it; or they can skip the funding cycle. Mrs. Douthit felt they needed to get it in and when they find the end result, as they are not sure they will give the funding. Mrs. Wiwner agreed. Mrs. Douthit moved they proceed with the request for funding. Mr. Dusey stated they would have to have American Coastal do that for the Town on our behalf. Mr. Doney stated until the Town Council decides which direction it was going to go, they would ask for a cost proposal from American Coastal Engineering to come back at the April 9th meeting, so they can be considered and if that is authorized, the application could be filed.

Mr. Doney reported another item on this is clarification is needed on the intent of the Council on the execution of the agreement for transfer of appropriated State funding assistance on the Mid-Town Beach Nourishment Project as they could be reimbursed approximately $604,000 by executing the agreement and both of these permit applications continue on their separate paths, without one interfering with the other.

Mrs. Wiener moved this item be deferred until April with the understanding that we are missing out on the funding cycle and at the April meeting a cost proposal be received from American Coastal Engineering. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Motion was made by Mrs. Douthit to authorize the Mayor to execute the Agreement for transfer of approprated State funding assistance on the Mid Town Beach Nourishment Project to receive the amount of $604,489 from the State of Florida. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Proposed Budget Calendar for '92

6. Consideration of Proposed Budget Calendar for Fiscal Year 1992. Motion as made by Mrs. Wiener to approve the proposed budget calendar for the upcoming meetings of the Finance & Taxation Committee and the Town Council on the budget.

Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Mayor Marix recalled last year she was misquoted and she would like to say amoung other things in the proposed budget matters, she wants to see from each Department Head what is the least disruptive items that could be left out of the budget and what would the result be in the operation of their departments. She recalled last year some didn't understand what she meant and she would like to see the least detrimental items that could be eliminated. She was sure there will be some important items, some less important and some almost by choice and she wants to be quite sure what she means so this can be addressed.

Mr. Doney indicated he understood what the Mayor is saying but it is difficult to please the Mayor and the Town Council and getting collective direction on how this budget will be prepared. He indicated will do whatever is requested. Mayor Marix felt while the budget preparations are under way, one should be able to see what savings could be made and in order to do that, this is what would have to be done. She felt otherwise, she and the Council would not be aware of what could be eliminated and the Department Heads might feel it would be the least detrimental thing to eliminate.

Mr. Heeke felt corollary to that was if an item was considered to be removed from the budget, but then the Departmtn Head kept it in, that might be mentioned at the meetings that thought had been given to eliminating such and such, however, it was not eliminated for a particular reason. He felt it was a question of showing the exercise the Department Head has gone through in preparing the budget.

Mr. Doney asked if they wanted to do that when the Finance & Taxation meetings are held? Mr. Heeke felt that was an excellent time to do it. Mayor Marix recalled the chemicals to be stored at Palmo Way, noting that wasn't discussed when it came up to Council as it was an item on the previous budget so if there are items like that, they should be brought back up to the Council. Mr. Doney felt the answer to that was to go through every Capital Improvement Project in whatever level of detail the Mayor and Council wishes to go through them. He indicated it was not intentional at all that this happened. Mayor Marix believed it was not intentional but she wants to be very specific because last year it appeared that the Council authorized this and the Department Heads did what Mr. Heeke asked and that was to keep it at four per cent, but they didn't do what she asked and that was to keep it at the same level it was the year before. She just wanted to be sure that everyone understood what she wanted them to do as she believed it would be quite helpful, even if the items are left in the budget.

Mrs. Wiener felt there was a very large area that is never discussed and it includes huge sums of money and if they add them all together, it is unbelievable and one of those areas is outside suppliers. She stated this could be Adley Associates, the Town Attorney, or whomever does our normal work in the Public Works that we ourselves do not do whoever the sub contractors there are on a regular basis. She believed this encompassed a huge amount of money tand she believed there could be other regular suppliers that need to be looked at. She commented on another matter and that is the matter of expenditures for various studies, which is something that has increased over the past few years and if these two figures are put together, it will be found that it is quite a bit of money. She doesn't mean to point a finger at anyone but just looking to see if in that area, the possibility of saving money may exist.

Mr. Heeke believed those items are reflected in the line items. Mrs. Wiener stated they may be, but they are not controlled by the Department Head. Mr. Heeke felt this could be called to the Mayor and Council's attention during the Finance & Taxation meetings. Mr. Doney agreed stateing through each Deaprtment Head's presentation, if there are any studies that need to be done for the FY92 Budget, they can be identified with the cost.

Mr. Doney pointed out there is a meeting of the Finance & Taxation Committee scheduled for next week, and if they wished to talk about the budget then, they can. Mr. Heeke felt it was more appropriate with the Council sitting as a whole as instructions can be given more easily. Mr. Doney asked if it was the sense of the Council then that they are to come back with the proposed budgets showing how they would get back to zero? Mr. Ilyinsky believed they were complicating this to a point where it is ridiculous and they were making mountains out of molehills. Mr. Doney advised he reviews every department's budget in advance and he wants to be sure it is in the proper format with the line item details so it is available for the Mayor and Council's review.

Mayor Marix believed it was just a matter of prioritizing as some things they have to have, some things they should have and some things they might like to have and what she is saying, it is a matter of prioritizing. She recalled last year the only way one of the Departments could save a little was to not purchase chairs. Mr. Doney indicated he had problems last year with the Department Heads and he wants to ensure he has a clear picture of what is wanted. Mr. Heeke felt they have gone far afield from the subject matter which is the budget calendar and he ruled this matter be discussed later in the meeting under "Any Other Matters."

Public Utility Easement at 1420 No. Ocean Blvd. for construction of a driveway

7. Consideration of Request by Gustave T. Broberg, Jr., Attorney, on Behalf of Mr. John Raimondi, to Use Public Utility Easement at 1420 North Ocean Boulevard for Construction of a Driveway. Attorney Gus Broberg addressed the Council for Mr. Raimondi recalling he had been here last month and at that time he was requesting the abandonment of an easement on his property to another location on his property, notwithstanding the fact the Town did issue permits to the Florida Power & Light Co. and other public utility companies to remove the posts, poles and pipes, and notwithstanding the fact the Town has never used the easement and had no plans in the future to do so, Council unanimously voted to not abandon the easement.

He stated he didn't wish to reargue the proprieties of whether or not the easement should have been abandoned however, his client had two reasons for requesting the abandonment, one was to permit him to extend his patio four feet over the easement and secondly, to permit him to make his driveway over the easement the Town has indicated they will never use. He advised Mr. Raimondi has given up the idea of extending the patio but he wishes permission to extend his driveway on a curve over the easement which is five feet in width and enter into an agreement with the Town that he will remove the driveway over the easement if, as and when the Town ever wishes to use it in the future. He believed the Town had the right to use the new easement as well as the existing one. He did not believe this was an unusual request as many property owners have requested permits to construct over easements, rights-of-way with the letter agreement that they would, if, as and when, the Town ever wanted to get at the easement, the property owner will remove the obstruction.

Mrs. Wiener stated she has no problem with this request but does have a problem with the poles which are six feet away from the neighbor's house. Mr. G. Broberg agreed that was a problem but this was not something his client did as the Town permitted the poles to be put in those positions.

Mr. Ilyinsky pointed out Mr. Raimondi has decided not to extend his patio and now is requesting the driveway go over the easement and he felt Mr. Raimondi has done what we have asked him to do. Mrs. Douthit indicated this doesn't address the problem of the poles. Mr. Heeke wondered if this would not be tantamount to having the Council reverse its vote? Mr. G. Broberg responded with one exception as his client has complied by not extending his patio.

Attorney Alan Heeke addressed the Council indicating he represents the neighbor to the north, Mr. Ralston, and distributed the permit which has a statement on it: "No work to be done in any easement" and now Mr. Raimondi is coming here asking for abandonment of the easement. He stated the easement created by Mr. Raimondi on another part of the property is a private easement granted to FP&L and it doesn't mention the Town nor the Cable Company, Gas Company and they have not found the granted easement which he states he has granted to the utility companies. He stated another point is the land he has the easement on, looks like it is still encumbered by mortgage to a Bank and if that is the case, and there is a foreclosure, the easement will be wiped out and this Town will be stuck with an abandoned easement under the driveway next to a patio and they may have to dig up the varied cables. He also asked what would happen in the future if something should happen to the utility poles which are there as they may have to use the old easement.

Attorney Alan Heeke stated he believed the Town's attorney would have to advise on the mortgage question. Mr. Randolph explained what is being indicated is the mortgagee may not have joined in the agreement to move the easement and he supposed that it could be contemplated in the future that as long as the mortgagee did not agree to the relocation of the easement, that it was no necessarily abandoned.

Attorney Alan Heeke believed Mr. Raimondi could get the bank to sign off on that easement but that has not been done at this point. President Heeke asked if the easement has been accepted by the Town. Mr. Doney stated that came up during the request for abandonment. Mrs. Wiener stated there is a side yard setback and now on this property there are poles there in the area where there should be a setback and that is where she has the problem.

President Heeke handed the gavel forthe chairing of the meeting to President Pro Tem Weinberg stating he has conferred briefly with the Town Attorney and will not be participating in further discussions since Attorney Heeke is his son.

Mrs. Wiener asked Attorney Gus Broberg what was his reason for coming back this month? Attorney G. Broberg indicated he was not here to rehash the abandonment of the easement but to request permission to go build over the easement fifteen feet by five feet ith an agreement that he will remove the driveway, in, as, and when the Town wishes to use the easement. Mr. Weinberg asked if there was anything that could be done about the poles? Attorney G. Brogerg responded that that is not Mr. Raimondi's problem as the Town of Palm Beach permitted the poles to be put there. Mrs. Douthit noted they were permitted. Mr. Dusey advised the Council they did not go to Mr. Raimondi's home and tell him they were removing the poles. He recalled Mr. Raimondi applied to the Building and Zoning Department to relocate the poles on 12-4-90 and that request was denied since he was concerned about the impact the relocated poles would have on the neighbor. He stated Mr. Raimondi pursued the relocation of the poles with him and he continued to deny it time after time, but finally stated if the property owner to the rear does not object to the poles being there, he would issue a permit to have the poles moved to a private easement. Mr. Dusey said Mr. Raimondi unbeknownst to him and his architect represented to the Public Works inspector that the property owner to the rear did not object to that relocation and when his inspector told him that, Mr. Dusey issued the permit on that basis. Mrs. Douthit asked if they made any contact with the neighbor to which Mr. Dusey responded negatively, indicating there was a mistake made in his Department and he takes full responsibility. Mr. Ilyinsky noted there was a representation by the neighbors, however, that the neighbor did not object to the poles. Attorney G. Broberg stated all he can tell the Council is what Mr. Raimondi told him as he was not involved in the outset of this problem. He stated Mr. Raimondi had talked to the neighbor's contractor who stated the family had no problem with the poles.

Mr. Ilyinsky moved that the request be granted for the driveway to go over the easement and in the event the Town ever wants to use the easement, the driveway will be removed at the property owner's expense. Attorney G. Broberg commented this can't be at the whim of the Council but if it is going to be used for public utility purposes, they will remove the driveway.

Mayor Marix was concerned and wondered how they would really know if the poles were a genuine danger to the neighbor. There was no second to the motion made by Mr. Ilyinsky and President Pro Tem Weinberg called for another motion. Mrs. Wiener moved that the Council deny the request of Mr. Raimondi concerning the public utility easement. Mrs. Douthit seconded the motion with the amendment that this be denied until the problems of the poles is resolved. Mrs. Wiener agreed to the amendment. On roll call, the motion carried 3-1 with Mr. Ilyinsky voting against the motion and Mr. Heeke abstaining on the motion.

XII. APPROVAL OF THE WARRANT LIST AND FUND EXPENDITURES FOR FEBRUARY, 1991. On motion of Mrs. Wiener, seconded by Mr. Ilyinsky, the Warrant List and Fund Expenditures Report for February, 1991 was approved. On roll call, the motion carried unanimously.

Approval of Warrant List

XIII. DEVELOPMENT REVIEWS:

Development Reviews

A. Old Business

Old Business

1. Consideration of Updated Status Report on Details for Memorial Foundation Restoration. Mr. Sved addressed the Council recalling conceptual approval was given to the entire project except for the colors and he exhibited a dark blue tile with an accompanying decorative patterned tile. Mr. Weinberg believed this would make it a reflecting pool. Mrs. Wiener believed the sun on the water would reflect it quite well. Mr. Ilyinsky moved for approval of the tiles exhibited today. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Mem. Fountain

B. Major Matters Previously Considered by the Architectural Commission at their Meeting of February 27, 1991. Motion was made by Mrs. Wiener, seconded by Mrs. Douthit that the major matters considered by the Architectural Commission on Feb. 27, 1991 be approved. Motion carried unanimously on roll call.

Major Matters

The major matters were:

B28-90A Revisions to residence of the Wells Road Lane Co., 133 Wells Road. Deferred.

B77-90 - New Residence for Mr. & Mrs. Stephen Levin, 446 N. Lake Way. Approve conditionally.

B112-90 - Boat House Renovation for Mr. & Mrs. Stephen Levin, 446 North Lake Way. Deferred.

B3-91 - Facade Renovation for 259 Worth Avenue - Deferred the Tiffany's part of the project. Approve facade plan with conditions.

B4-91 - Gates for residence of Francis Conroy at 437 Primavera Way. Approved conditionally.

B53-89 - Landscape Plan for J. Mashek, 1290 S. Ocean Blvd. Approved.

B30-90 - Landscape Plan for Dilow Estates (Lowry Bell) at 240 Banyan Road. Approved conditionally.

B47-90 - Landscape Plan for Dr. & Mrs. Marvin Rosenberg, 210 Tangier Ave. - Approved.

B80-90 - Revision for Mr. & Mrs. Gordon Davidson, 243 Tangier Ave. - Approved.

B5-90 - Renovation to residence of Augusta Stephensen/Jackson, 210 Ocean Terrace - Approved Conditionally.

B6-91 - New residence for Palm Beach Tamarin, Inc., 165 Atlantic - Approved conditionally.

B7-91 - Garage Addition to residence of Ms. Pearlena Wallace, 225 Jamaica Lane - Approved conditionally.

B8-91 - Renovations to residence of Mr. & Mrs. Gerard Haryman, 230 S. Ocean Blvd. Approved conditionally.

B9-91 - Cabana and pool for Mr. & Mrs. William E. Flaherty, 315 CHapel Hill Road - Approved.

B10-91 - Garage Addition for Charles Morgan, 1421 North Lake Way. Approved.

C. Variances, Special Exceptions and Site Plan Reviews:

NEW BUSINESS:

New Business

Var.14-91

1. Variance No. 14-91 - David Bernard, 234 Park Ave.; to allow installation of an awning providing a rear yard setback of 8' in lieu of 15' required. R-C District. Mr. Moore explained this application was seen about six months ago from the neighbor, where the lot deficiency is the depth of the property as it backs up to the Palm Beach Hotel's parking lot and staff has no objection since the hardship is the deficient lot and depth. Mrs. Douthit moved for approval of Variance 14-91 at 234 Park Avenue. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Var. 15-91

2. Variance No. 15-91 - James & Joyce Conn, 115 Gulfstream Road - to allow construction of an addition to an existing nonconforming structure having an east side yard setback of 10' in lieu of the required 15'. R-B District. Attorney Frank Lynch addressed the Council on behalf of Mr. & Mrs. Conn. He presented a sketch of what they propose to do. He recalled last year he was here requesting the same variance and the hardship is there is an existing setback of 11' on that side of the property and the house is one and one half stories in the area of the garage which is the southwest corner. He stated they prefer to make the renovations at one time and if they set back the proposed addition four feet, they would have a problem with a change in the roof line. Mr. Moore stated this was denied last year and he doesn't believe there has been a change in teh application and the staff does object since there is no hardship other than it is on a 75' lot. Mr. Heeke did not see any change in the facts to demonstrate the hardship.

Mr. Ilyinsky moved that Variance 15-91 be approved. Seconded by Mr. Weinberg. Motion failed to carry (3-2) and did not pass with Mr. Heeke, Mrs. Douthit and Mrs. Wiener voting against the motion.

Motion was then made by Mrs. Douthit to deny the variance N. 15-91 as there has been no demonstration of the hardship. On roll call, the motion carried 4-1 with Mr. Weinberg voting against the motion.

Var. 16-91

3. Variance No. 16-91 - St. Edward's Church, 220 Park Avenue; to allow construction of a single family dwelling on a 6,160 square feet lot that is 70' deep, in lieu of the required 10,000 sq ft., 100' deep lot. R-C District. Mr. Moore gave the staff comments noting the application for the new home conforms with all aspects of the Zoning Ordinance, except for the size and depth of the lot. He stated the house shows a circular driveway which calls for two curb cuts and both Mr. Dusey and Mr. Bowser will object if an off-street parking space were to be lost by the installation of the two curb cuts as Park Avenue is highly congested to which he concurred. Attorney Ralph Moe addressed the Council indicating the owner is fully agreeable to eliminate the west curb cut and have only one drive onto the property. Mrs. Wiener moved that Variance No. 16-91 be approved with the condition that there will be only one curb cut. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Var. 17-91

4. Variance No. 17-91 - Lim Cuisine of Palm Beach, 227 Royal Poinciana Way; to allow conversion of a take-out food business to an 18 seat restaurant without providing the required three parking spaces as per Section 6.21 (c) (1) (c) of the Town Zoning Ordinance. C-TS District. Mr. Moore explained this shop is about 1600 square feet and they are asking for 18 seats. He stated they need a variance for 3 parking spaces and he requested the applicant to reduce that request to 12 seats, which means they would only require two parking spaces. Mr. Heeke asked if the variance would be for this space only. Mr. Moore indicated the Council could grant the request with that condition. Motion was made by Mr. Weinberg that the Variance No. 17-91 be approved with the conditions that the variance be for 12 seats and two parking spaces and the variance would be for this particular owner only. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Other

D. Other

Design Guidelines Study for Town Hall H[redacted]oric District

1. Consideration of Proposed Agreement for Design Guidelines Study for Town Hall Square Historic District by Adley, Brisson and Engman, Inc. Mr. Frank indicated the proposal would allow Adley, Brisson and Engman to study the Town Hall Square Historic District, much in the manner similar to the Worth Avenue Study and the terms of the agreement with the fee paid by the Preservation Foundation and not to exceed $7500. Motion was made by Mrs. Douthit this Study be authorized with the Preservation Foundation picking up the bill in an amount not to exceed $7500. Mrs. Wiener asked taht it be understood up front that in the event this amount is not sufficient, the Town Council does not wish to be approached for further monies. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Mr. Winterfield addressed the Council wondered why this had to be approved if the Preservation Foundation was paying for it. Mr. Heeke indicated this is a report being rendered for the Council by Adley and Associates and the Town will be the owners of the report. Mr. Winterfield asked how much was paid for the Worth Avenue study and who took care of it? Mr. Moore stated the Town paid for it and he believed it was in the neighborhood of ten to twelve thousand.

Palm Beach Countywide Planning Council

2. Palm Beach Countywide Planning Council - Proposed Countywide Future Land use Element and "Interjurisdictional Incompatability" Regarding Land West of State Road A1A (Steinhardt Property) in the City of Lake Worth. Mr. Doney indicated that based upon past considerations by the Palm Beach Countywide Planning Council and their position that they have authority to implement a Land Use Plan contained multiple elements, the Town's past position is they have exceeded their authority. He stated staff's recommendation is that the Town questions the underlying authority of the Countywide Planning Council to independently compile its own list of policy statements and require a local government to commit extensive time and financial resources to respond to same. The Charter provision authorizing the formation of the Planning Council mandates a compilation of land use elements as promulgated by each local government within Palm Beach County. Mr. Heeke asked if anyone saw any reason to make any change and that we continue to be consistent with what we have done in the past? Motion was made by Mr. Weinberg to have the Town continue with its past policy on this matter. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Mr. Doney stated the second part of this is the Interjurisdictional Incompatability and the recommended staff response is the Town Council approve a motion that the Town recognizes the C1 designation is an improvement over the MU designation, but believes the C1 designation is incompatible with the adjacent residential area of the Town. Mr. Heeke asked if they had to go as far as recognizing it is an improvement? Mr. Doney responded it is of lesser intensity. Mrs. Douthit suggested it could state it is less harmful but we still object. Mayor Marix suggested they just state they object. Mr. Weinberg agreed. Mr. Peter Elwell addressed the Council stating the only reason for saying that is to indicate the Town's awareness that the Countywide Planning Council is only able to go so far and that they are required by law to identify a meeting point between the Town's position and the City of Lake Worth's position and identify that as their position. Mr. Weinberg thought perhaps they should indicate the Town is not happy with either designation. Motion was made by Mrs. Douthit that the Council authorize the Mayor to transmit a letter to the Palm Beach Countywide Plannigg Council stating the Town's objections. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

3. Proposed Development of "Steinhardt Property" South of the Lake Worth Bridge (West of SR A1A) withing the Lake Worth Bridge (West of SR A1A) within the Corporate Limits of the City of Lake Worth - Application by Gulfstream Plaza, Inc., for an Army Corps of Engineers Permit. Mr. Doney stated they have received a report called the Lake Worth Lagoon Natural Resources Inventory and Resource Enhancement Study dated 12-15-90 by Palm Beach County Department of Environmental Resources Management and this report identifies seagrass in the proposed project area which would be a further reason why the Town would object and preface its objections on teh environmental damages and secondly, mangroves along the shore line in that area, which also is identified in the study.

Development of Steinhardt Property

Mr. Heeke asked if Judy Schrafft's organization was also sending a response similar to this? Mr. Doney indicated they have provided a copy of the application to her but have received no response. He indicated the Chairman of the Audubon Society of the Evergaldes, Mr. Charles W. Potter, was here earlier today and has requested their letter be entered into the record and that is made a part of the back-up material and it contains the statement: "we know that this underwater acreage is still a functioning bentheic community with marine life, sea grasses, lower food chain organisms, visiting seabirds and wading birds feeding."

Mr. Doney stated if the Corps is considering issuing a permit for the fill, it will be requested an Environment Impact Statement be conducted and the hearings be held in the West Palm Beach area so those who would be impacted would have the opportunity to give their comments and raise their objections.

Mr. Irving Wolf, Co-Chairman of the Citizens' Association South of Sloan's Curve addressed the Council reading into the record the comments prepared by Max Schorr, Secretary of the organization, who had to leave the meeting: "Our association represents 3300 families living in forty buildings in that area of the Town which would be most adversely affected by this project. The Citizens; Association South of Sloan's Curve joins with the Town Council and other groups in vigorously opposing this project. We expect to have upwards of a thousand names on petitions in our position. First, I wish to emphasize the impact on traffic. Even now, during the winter seasons, we are suffering from an overwhelming number of motor vehicles traversing our two-land road. Cars attempted to exit from condominium buildings often wait several minutes for an opportunity to gain access to the road. This problem has been aggravated since the opening of the Ocean Grand Hotel. It is descouraging to anticipate how much worse it will be when the new Ritz Carlton Hotel opens. We have suffered many auto accidents, some fatal, caused by road congestion. We cannot afford to worsen this condition. The traffic going to and from the Lake Worth beach is practically unmanageable now. With a "Steinhardt" project, our end of Town would become paralyzed.

The adverse impact on the environment is well stated in the letter of March 6, 1991 of the Audubon Society, which has been furnished to you. The area is a fragile wetland, critical in its function as a shallow water habitat providing to the essential food chain. It is one of the significant areas of the intracoastal where seagrass grows. Drainage of sewage and fuel from boats using the proposed marina will have a severe, deleterious effect on that portion of the lake. To date, the area has escaped ecological damage and serves to maintain the natural balance, inclusive of service to the endangered Manatee population.

Were this project approved residents who now enjoy the comparative quietude and serenity of the area would find themselves in a "large City" atmosphere with high rise buildings, substantially increased water and auto traffic and polluted atmosphere. Also consider probable interest of nearby property owners to develop their properties in a similar fashion and the compounded disastrous effect of such likely additional developments. All of these impacts seriously threaten the attractiveness of the Palm Beach we all love and enjoy. We join in the Council's efforts to have the Corps of Engineers reject the Steinhardt application, and to make known to other interested governmental bodies the Town's and our areas' strong opposition to the application."

He indicated he will be providing the petitions to the Corps of Engineers and will keep the Town posted about any developments.

Mr. Heeke thought a picture should be taken of thesign on the bridge which states their is flooding on the west end during storms and is not an evacuation route as that would tie in very closely with the traffic problem and a public safety problem. He also liked the point about the refuse that will be dumped there as that is an area of minimal tidal wash and that is important. Mr. Wolfe recalled there are to be 400 parking spaces in that area. Mr. Weinberg asked if the petitions would also be sent to the Department of Transportation? Mr. Wolfe responded they would be sending them to every agency that is connected with this project, and they were also thinking about Senator Weinstock.

Mrs. Wiener felt the Town should also be provided with copies of the petitions and they can be sent out from here also. Mayor Marix wanted to stress the danger when there is a hurricane. Mr. Heeke felt it could be a problem with tropical storms or heavy rainstorms.

Mary Ratliffe of the Palm Beach Civic Assocaition addressed the Council reading into the record her comments: "The Association represents more than one thousand families and they have great concern regarding this development. Disturbance of the pristine beauty of the shoreline is troubling to say the least, but add to this its potential impact on the environment and we believe the Steinhardt project would be an ecological and aesthetic disaster. The proposed twelve story buildings and other commercial structures would seriously imperil the eco-system of Lake Worth and would do great violence to the appearance and safety of the area. Members of our Executive Committee and other active committees, including the Shore Protection, Public Safety and Security Committee, Town Beautification, and the Lake and Port Committees, have expressed concern regarding the development of this project over the many years. With increased traffic both on A1A and the Waterway our concern is now greater than ever. We appreciate the strenuous efforts that the Town Council and Town officials are making to oppose this project and we would wish to ally the Civic Association with this effort. We are mindful of the opposition of the Audubon Society and other conservation groups and the Citizens' Association South of Sloan's Curve and we offer our services and support in any way possible to persuade the U. S. Army Corps of Engineers to deny permission to build this project. We would be glad to prepare a letter and officially send it to DOT voicing our opposition and to cooperate in any way we can to have a public hearing in this area on this project."

Mr. Heeke suggested they send letters and request a public hearing independent of the Council. Mr. Weinberg suggested they also write to the DER.

Mr. Doney pointed out the DER and DNR do not have jurisdiction due the litigation that has been instituted. Mr. Heeke agreed the only shot we have is presently pending with the Corps. Mr. Doney suggested a copy go to the Department of Environmental Resources Management.

Mrs. Douthit believed it may be well to write the Legislative delegation and the Governor. Mr. Mr. Heeke suggested also one to Harry Johnston and Tom Lewis.

State Road A1A Right of Way

4. DISCUSSION BY TOWN ATTORNEY ON PALM BEACH COUNTY'S CLAIM TO ALLEGED OLD STATE ROAD A1A RIGHT OF WAY. Mr. Randolph advised the County Commission in response to a recommendation which came from their legal staff recommended the staff pursue obtaining leases from all the entities which have active encroachments on what the County considers to be its right-of-way. He indicated a Workshop meeting on this subject will be held on April 9, 1991 at 3 PM at which time they will give further consideration as to amounts, etc., and he believed the decision was made to pursue this but the workshop meeting is to refine the manner in which it will be pursued and the amounts that are going to be requested. He believed they would only be seeking leases from those entities which have active encroachments, where actual structures are built over what the County considers to be its' right-of-way.

He did read in the paper that perhaps they may seek leases from those which have passive encroachments, such as walkways, but he did not see a formal recommendation in that regard.

Mr. Weinberg believed someone should be going to that meeting as that is the day the regular Town Council meeting is being held.

Mrs. Wiener asked if taxes have been paid on any of that property? Mr. Randolph did not know the answer.

Mayor Marix believed when the first one built on it they were not notified so the next building came along and did it and then the one after that and she didn't believe the County could sit back and just let it happen. Mr. Randolph explained the County claims it filed a right-of-way map which was its' way of announcing to the public that it claims the right-of-way. Mayor Marix didn't think this was something that you would just sit back on and wait for people to do more and more. Mr. Randolph agreed. Mr. Weinberg recalled in 1974 when the Harbour House was built the County agreed there was an encroachment and the Harbour House paid for many years and then stopped.

Mr. Druck, who attended a meeting on behalf of his condominium, addressed the Council indicating this is a very murky situation as there seems to be a question as to whether or not the County actually owns this land. He believed they were going to court April 12 when the Sea Lord is being sued and their attorney has been taking depositions from the County Attorney and others and that attorney has indicated it is not clear and he indicated it is not clear there was title, but there is an inclination on the part of the County to try and collect this whether or not they can prove they have clear title. He indicated his building has a slight encroachment as their sea wall encroaches eight tenths of a foot on the north and they would simply remove the seawall if they have to. He thought there might be a question as to whomever has jurisdiction over the dunes and the protection would allow that to happen.

Mr. Heeke recommended they do not consider a quit claim deed for eight tenths of a foot of a seawall. Mr. Druck stated if they accept the lease, then the implications as to access, open up, so it is a dilemma.

Attorney Randolph advised at this point if they had someone be present at the upcoming meeting, it would be strictly as an observer as they don't have a position to take right now. He understood the proposal that the Town itself will not be approached to enter into a lease, and the Town has not taken a position as to what the Town's feeling is with regard to it, but it might be well to monitor the meeting. Mrs. Wiener stated it is property in the Town and she would definitely like to know if taxes have been paid on the entire parcel and if that is so, then the Town has the upper edge. Mr. Heeke stated his position is if it is municipal property, the Town government has a concern but if it is privately owned property, the Town does not and he questions whether they want to put the County on notice at some point that we do not acquiece to their position. Mr. Randolph reminded the Council that the staff has not been given instructions that the Council wants to become actively involved in this and has not made a decision to become actively involved but he believes he is hearing that they now want the County to be put on notice that the Town does not acquiece to their position and he will do that, to which the Council agreed.

Request for Excep. to Sect. 12-51 - 400 Royal Palm Way

5. Request for Exception to Section 12-51 "Hours of Construction Works" of Town Code of Ordinances by Mr. David Palmer, General Contractor for Work at 400 Royal Palm Way. Mr. Moore reported the general contractor was hired for an asbestos removal project at the office building at 400 Royal Palm Way and in order to accomplish this and give minimum risk to the public, the contractor needs to work three consecutive weekends with removal on Saturdays from 7 AM to 7 PM and Sundays would be the testing day on each of the floors. He classified this as an emergency and urged the Council to grant the waiver. Mrs. Douthit moved the waiver be granted. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Comm. from Citizens

XIV. COMMUNICATIONS FROM CITIZENS:

Mr. Adrian Winterfield addressed the Council on the ARCOM report inviting their attention to B-90-91, which is identified as a cabana and pool which he didn't believe was quite accurate as this is more of a guest house as it has three guest bedrooms with bath and lounge. He suggested a little more care should be given to the ways these items are identified.

Mr. Winterfield referred to the disposition on a certain restaurant on Worth Avenue which allows outdoor dining, provided there were no extra seats. He knows that all of the tables outdoors were occupied but all of the seats inside the restaurant were also occupied. Mr. Moore stated they have come back and got this permission. Mr. Winterfield finds it difficult to understand why Renata's is treated in one manner where there is far less parking and Lim Cuisine treated in another manner by imposing a 33 and 1/3% reduction for one parking space, as there would not be that much congestion from one automobile. Mayor Marix agreed with Mr. Winterfield on this point.

Mr. Winterfield suggested there be a Recreational Enterprise Fund that would include everything as the Docks are recreational, Par 3 is recreational and it would make sense to put the Seaview Park Facility into this Fund also and he suggested this be studied.

Mr. Winterfield wondered why the request of the Croquet Courts was not submitted first to the Seaview Park Commission to make some recommendations to the Council.

Any Other Matters

XV. ANY OTHER MATTERS:

Budget

BUDGET: Mr. Heeke recalled this item has been put over to this time and the Mayor raised the question of getting to a zero budget, which he thought would require a consensus of the Council to the staff, as there would have to be preparation and he thought this needed to be discussed to see if this is really the direction that will be more beneficial for the Council to have the Town staff go this route.

Mayor Marix stated she didn't follow the reasoning as it seems when a Department Head is preparing the budget, which they are obviously very familiar with and they are discussing the next year's programs, they are touching on every type of expenditure they have and are looking at it and discussing every aspect of the next year's budget. She felt if that is what they are doing, it would seem it would not take any extra effort to make notes about certain items which could be dropped and how it would effect the level of service. She didn't see where it would create a lot of research. Mr. Moore asked to be heard on how he perceives taht and how it would affect him - as there are several functions which his office takes care of and what she is asking them to presume that one of the functions which now exists is possibly not essential and he viewed that as a policy decision which must be recieved through the Town Manager who gets it from the elected officials to find a function or service which they are performing, which can be eliminated.

Budget

Mayor Marix pointed out she is talking about the least important one and maybe when it comes right down to it, it would not be eliminated. Mr. Moore stated that does leave them in making a decision and used as an example whether Code Enforcement would be more important than Landmarks and it is too subjective. Mayor Marix recalled last year Al Dusey suggested they could eliminate lethal yellowing which is not what the Council wanted and she knows people do this to ensure it actually won't be eliminated. Mayor Marix stated the kind of thought she is looking for is if they didn't have a new typewriter or a new secretary, it may save a little bit but the work wouldn't get done. She cited as an example, the Recreation Center could have suggested not buying the extra chairs and as it ended up they didn't buy them, but they could have suggested it by stating what they could save but the kids would have to sit on their hands, then the Council can make the decision of whether to buy or not to buy. She felt that the fact that they never even suggested not buying the chairs is what troubled her as they didn't recognize they could do without them. She wants to be sure to save whatever monies that can be saved and if it will effect the services, then it is up to the Council to make the decision to buy or not buy the chairs.

Mr. Moore asked if she was requesting them to get back to this year's level? Mayor Marix responded it could be that, but it would depend upon how much they are plannigg to increase their budgets. Mr. Moore noted there are always fixed costs which they have no control over and the only thing left to do would be to eliminate service or personnel who are performing services. Mayor Marix stated she really didn't know how they would do it but it could be to change a schedule or get more part time people. She felt if they told her there was no way they could prioritize expenses, then that is another story. Mr. Moore stated he didn't say that as he could but the Council may not agree as to how he goes about it. He used as an example the lethal yellowing project. Mayor Marix did not think that project was a very legitimate one and she didn't think that was a priority and she didn't think they would say that was the least important thing he has got in his budget. Mr. Moore asked what wulld they have thought if this was the least important thing as he perceived it? Mayor Marix hoped that most of the Department Heads perceived things very correctly overall. Mr. Moore stated he was concerned that if they picked the wrong thing perhaps and that could be a problem. Mayor Marix stated she has more faith in the Department Heads that they would not do that. Mr. Moore stated they would still run the risk of offending the Mayor or someone on the Council. Mayor Marix thought they still ran the risk of offending people anyway. She felt they worked through their budget process with other people in their departments and did not do it blindly but she thought they could discuss certain ways of making certain things could be cut off and bring forward the drawbacks. Mr. Moore stated if they wanted services reduced, the Department Heads would need some guidance as to what they would accept to be reduced. Mayor Marix did not agree stating the Department Heads are the ones that know where their expenses are, item by item, and they could find the least damaging saving they could make. She didn't think it was so difficult and she wanted to challenge the people who make up the figures to how they can make the best use of their money.

Mr. Doney explained there was a justification process in submitting a budget which Department Heads turn into him and in their submits to the Council and they have to be able to defend what is in the budget and the fact they have given careful consideration that the expenditures they are requesting are properly justified and on a line item basis, they have asked for items which are justified. He noted every year they are scrutinized by the Finance & Taxation Committee and the Mayor and Council. Mayor Marix commented if he is saying there is no way that the budget can be cut, he should simply say so. Mr. Doney stated he was not saying as there are always things that could be cut, but it will effect services. Mayor Marix stated she wasn't saying they will get to zero or one or two, but there should be a way of knowing what the least important expenses each department has. Mr. Heeke thought this type of prioritizing and sorting had already been made by the Department Heads when the Budgets were presented and that type of dialogue was not had at that level, but he believed those considerations were made during the review process by the Department Heads and the Manager. Mr. Doney indicated in order to maintain the same level of services currently being provided, the budget was legitimately justifiable. Mr. Heeke agreed but wanted to make the point they didn't didn't discuss aspects of the budget that had already been tought about during the review process. He thought perhaps those points could be brought up when they go through the Budget hearings.

Mr. Doney stated this will be taking time but he is willing to go through the budget, line item by line item if that is what the Mayor and Town Council are requesting and if the Council believes a desk need not be replaced or a car does or doesn't, even though they have an equipment replacement program in place hwich they believe keeps the equipment replacement on a level funding basis and they are giving it their best thoughts. Mr. Heeke believed the Departments Heads and Manager debate items when the budgets are first starting to be prepared and suggested some of these items be brought before the Council. Mr. Heeke felt the Department Heads could simply state these items had to be justified to the Town Manager and the reason it is still in the budget, which he thought would get to the point the Mayor is trying to make. She wants to be sure these tests are being applied. Mayor Marix didn't believe it would take extra time as they are already doing it and she certainly didn't want to hear about every item in rolling stock, but what would be good to know that certain areas have been considered to be cut down on, like how many vehicles are being ocnsidered or if they could be used in some other way, but the problem with doing that would be such and such. She believed it was what they were doing anyway and this way it would enable her and the Council to know where, if they had to pare, they could, or where they couldn't and what the result would be. Mr. Heeke felt it was simply a communication problem. (Mrs. Douthit left the meeting).

Mr. Doney stated they have talked about examples and they used the Recreation Department and the chairs, which was a frictional situation last year and it was not a big dollar item. Mayor Marix asked if it would have gotten them upset, if they had been asked where they could save? Mr. Doney explained that was not the problem, the chairs were a multi-year program. Mrs. Wiener stated this is a philosophical problem here and those of them who are used to large budgets, and when you have a service business, you know what the situation is going to be. She stated they have to have a certain amount of confidence, and they have a line item situation and the Finance & Tax Committee does a super job going through it as well as the Finance Department, but this is a policy making body and the get to a point when they are running the inner runnings of the Town which is not this Council's job. Mayor Marix disagreed. Mrs. Wiener stated as far as she is concerned, some of these things are beyond the policy. She stated Mr. Doney has received instructions and he has in turn passed them on to his Department Heads and she believes they are being followed but to have them go through a lot of exercises when there are a lot of important issues which need to be taken care of and that could produce revenue, she felt their time was better spent doing those things than proving they are doing the job properly.

Mayor Marix stated that was not the point of her statements at all. Mrs. Wiener stated what she is saying what the Committee does and what the Council does is the right way to do it and if they start to use a lot of staff time to do these things. Mayor Marix thought they were doing it anyway. She recalled when she was on the Council the Town had a five million dollar budget and she predicted then they were increasing the budget each year and would be at thirty million and now we are twenty seven million now and looking at thirty million quite soon.

Budget

Mr. Doney knew when he started working with the budget in 1974 when he first came to the Town, there were a certain number of personnel and every year through the Finance & Taxation Committee meetings, the budget was dissected to see what it consists of and there is nothing in that budget which is not identifiable and things have grown. Mayor Marix agreed they were all identifiable and they all knew that. Mr. Heeke felt they went through line item budget and staff prepares a budget with a lot of caution and care and each year it is refined and improved. He suggested if there were some thoughts that they had during the reviews with the Department Heads, the Town Manager share them with the Committee and if something is not in the budget it could be brought to the attention of the Committee and if there was something that was eliminated it should be pointed out to them.

Mr. Heeke agreed with Mrs. Wiener and didn't believe they could get in and do each Department's budget. Mayor Marix stated she was not asking that. Mr. Doney understood what the Mayor was saying but the problem he had with it is the assumption that in their professional responsibility preparing a justifiable budget, thay they must be putting something in there that shouldn't be there. Mayor Marix did not agree stating again the least important items she would like to know what they are, and that doesn't mean they get thrown out but simply a matter of being interested in what are the lowest priorities and she believed there was a misunderstanding there on Mr. Doney's part, as she didn't believe this would take more time. Mr. Heeke called for an end to this discussion.

Palm Beach Co. Municipal League Legal Fees

PALM BEACH COUNTY MUNICIPAL LEAGUE SPECIAL ASSESSMENT FOR LEGAL FEES. Mr. Doney stated this is a request for the payment of $525 for a special assessment for legal fees in defending the actions of the Countywide Planning Council. Motion was made by Mr. Weinberg to authorize the payment of $525 for the special assessment for legal fees by the Palm Beach County Municipal League. SEconded by Mrs. Wiener. On roll call, the motion carried.

80th Birthday of Town

EIGHTIETH BIRTHDAY OF THE TOWN - April 17, 1991. Mr. Doney asked the Mayor and council if there was anything they wished to do in recognition of that. Mr. Heeke asked if the Council wished to have this recognized in any way? Mayor Marix suggested they talk with Mrs. Maxwell as that is her birthday also. Mr. Heeke requested if they have any special thoughts on this they should communicate them to the Town Manager.

Community Service signs

COMMUNITY SERVICE SIGNS. Mr. Moore explained the Zoning Commission declined to take up this issue which leaves the request on the floor to the Town from the Palm Beach Community Chest Red Feather sign. Mr. Heeke suggested there are a number of organizations who have consistently over the past ten or fifteen years, had a sign on a temporary basis erected in the Memorial Fountain area, and he believed they could recognize and limit the location of a sign of the Red Feather as to time, size and location. He suggested it be no larger than two by four feet and no higher than six feet for a period of two or three weeks for those organizations who have consistently been in existence for fifteen years. He thought it should be on Royal Palm Way or some area like that. He believed those organizations, such as the School adn the Bethesda Church who have their festivals and erect signs on their property should be allowed to be continued on a very temporary basis. Mr. Heeke believed that this could be handled administratively to which the Mayor and Town Council agreed. Mr. Moore stated he would need direction from the Council to call these temporary signs as they are now prohibited. Mrs. Wiener felt this was part of a small community feeling and the guidelines with regards to fifteen years and limitation on the time, size and location. Mr. Heeke suggested the time allowed should be no longer than three weeks.

Adjournment

XVI. ADJOURNMENT. There being no further business, the meeting was adjourned at 8:52 PM.

TOWN COUNCIL MINUTES OF MARCH 12, 1991
HELD AT 5:01PM on page 3156

Grace T. Peters
Town Clerk

MINUTES OF THE TOWN COUNCIL MEETING
HELD ON MARCH 20, 1991

Roll Call

I. CALL TO ORDER AND ROLL CALL. A special meeting of the Town Council to consider zoning matters was called to order by President Heeke on March 20, 1991 at 9:30 AM in the Town Hall Council Chambers. On roll call, the following were found to be in attendance: Mayor Marix, President Heeke, President Pro Tem Weinberg, Councilwoman Douthit, Councilman Ilyinsky, Councilwoman Wiener. Also attending for all or portions of the meeting were: Town Manager Doney, Town Attorney Randolph, Mr. Moore, Mrs. Peters, Mr. Zimmerman, Mr. Frank and from Adley, Brisson & Engman Associates, Mr. William Brisson.

Invocation

II. INVOCATION AND PLEDGE OF ALLEGIANCE: Invocation was given by Mrs. Peters. Pledge of Allegiance was led by President Pro Tem Weinberg.

III. PROOF OF PUBLICATION: Mr. Moore reported the Proof of Publication has been filed.

Approval of Agenda

IV. APPROVAL OF AGENDA: Motion was made by Mr. Ilyinsky, seconded by Mr. Weinberg to approve the agenda as printed. On roll call, the motion carried unanimously.

V. PROCEDURES FOR COMMENTS BY GENERAL PUBLIC: Mr. Moore indicated the staff will put forward the Zoning Commission recommendations and public comments will be taken, the Town Council will deliberate and then a motion and the vote is taken.

Administrative Proposals and Recommendations Zoning Comm.

V!. ADMINISTRATIVE PROPOSALS AND/OR RECOMMENDATIONS (ITEMS 1 THROUGH 4) AND RECEIPT OF THE RECOMMENDATIONS AND REPORT OF THE ZONING COMMISSION DATED FEBRUARY 15, 1991.

Mr. Moore explained the Zoning Commission's recommendation is to amend SubSection (e) of Section 5.33.

Mr. Moore reported the Zoning Commission recommended approval of the proposal as submitted by the Town Administration and as modified by the Town's planning consultant in his Technical Memorandum dated 1-24-91 to amend footnote (3) of Section 4.20 A. "Schedule of Lot, Yard and Bulk Regulations" and to amend Section 5.30, "Yard Regulations" by adding a new subsection (e) to Section 5.33 to read as follows:

Item (B) Footnote (3) of Section 4.20 A:

"(3) With the exception of arcades and colonnades in the C-WA District, all buildings shall be set back so as to provide atleast ten foot wide pedestrian walkway between the street curbline and the building, exclusinve of beautification strips, not more than five (5) feet of which may be on the Town street right-of-way, where appropriate, and additionally, to provide for the minimum building front yard setback, which shall be measured form the inside (lot side) of said required pedestrian walkway.

Within the C-WA District, arcades or colonnades may be constructed, subject to approval as a Special Exception, over the sidewalks in the required front yard setback, provided they meet the requirements of Secion 5.33 (e)."