Remove gates & fences at La Puerta and El Pueblo

to prohibit his removal of those structures until a court can determine the propriety or the authorization of those fences and the gates being maintained and then the safety problem which is our number one problem; and the number two problem is whether those gates would be permissible and allowed to stay.

Mr. Randolph responded if they do decide to reinstall the gates and the fence, they put some sort of a warning on the beach side where people are coming out onto the road that they should watch for cars. He felt there were several options - one, to do nothing - two - put the gate up and not follow up with any action - or put the gate back up and simultaneously seek a judicial determination and it could possibly be coupled with an injunction, not against any particular individual but against anyone from moving those gates during the pendency of the proceeding.

Mr. Heeke indicated he would like to see the injunction and he called for a motion stating there is a finding of fact that a safety hazard exists to youngsters and elderly people existing this location and the Town Manager be directed in the exercise of our police power to immediately restore the gates and fences in that area and also place the appropriate sign on the inside of the gate warning people using that path of the danger of cars. Mrs. Douthit so moved. Seconded by Mr. Ilyinsky.

Mrs. Wiener thought all of them ought to get into this a little bit so that for whatever purpose, as she thought it was outrageous that anyone regardless of what their ultimate goal might be would put themselves in a situation where they are jeopardizing lives in this Town or any other Town and beach access has nothing to do with this whatsoever and it is not question of beach access. She thought that what has happened today was the destruction of private property. Mrs. Douthit agreed indicating she had heard on the radio this morning on the way to this meeting that Mr. Medlen was about to take down the gates and fences.

Mr. Heeke agreed it was a grandstand play of someone who really doesn't care about human life in this area and it's a shame that we are forced to spend our time and effort on this of this nature. Mayor Marix recalled this also is a blind corner just before you get to this spot. Mrs. Douthit agreed noting that sometimes people do not observe the speed limits and wouldn't have the opportunity to stop if a child should dart out.

On roll call, the motion carried unanimously.

Mr. Heeke called for a second motion directing the Town Attorney to see whatever legal injunction might be available to prohibit the removal of or the tampering of those gates, when they are reinstalled. Mrs. Wiener asked if it could be an injunction or any other recourse? Mr. Heeke responded he would prefer an injunction if that is possible and secondly, to ask for a Declaratory Judgment on the issue itself and asked Mr. Randolph if he thought they needed a second part? Mr. Randolph stated they may and suggested it may be proper to go with the injunction relief or to ask for the declaratory relief at the same time and Mr. Ilyinsky so moved. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Dedicate Town Hall

DEDICATION OF TOWN HALL: Mr. Doney reminded all of the dedication of the restored Town Hall at Noon on March 13, 1990.

VIII. ADJOURN PUBLIC HEARING. There being no further business, the meeting was adjourned at 4:45 PM.

Grace T. Peters
Town Clerk

TOWN COUNCIL MINUTES OF MARCH 13, 1990

Roll call and call toorder

I. CALL TO ORDER AND ROLL CALL: A meeting of the Town Council was called to order by President Heeke at 9:30 AM in the Town Council Chambers on March 13, 1990.

On roll call, the following elected officials were found to be in attendance: Mayor Marix, President Heeke, President Pro Tem Ilyinsky, Councilwomen Douthit and Wiener and Councilman Weinberg. Also attending for all or a portion of the meeting were Town Manager Doney, Attorney Monaghan, Town Clerk Peters, Mr. Moore Mr. Crouse, Mr. McPhail, Mr. Elwell, Chief Terlizzese, Chief Elmore, Mr. Jakubiak, Ms. Haynie-Timmons, Mr. Bitzer, Mr. Zimmerman, and Mr. McPhail.

Invocation & pledge

II. INVOCATION AND PLEDGE OF ALLEGIANCE. Invocation was given by Father Warren. Pledge of Allegiance was led by Mr. Doney.

Approve minutes

III. APPROVAL OF MINUTES OF FEBRUARY 13, 1990. Motion was made by Mrs. Wiener, Seconded by Mr. Weinberg to approve the minutes of February 13, 1990. On roll call, the motion carried unanimously.

Approve agenda

IV. APPROVAL OF AGENDA. Agenda was approved on motion of Mr. Ilyinsky, seconded by Mrs. Douthit with Item 13 (b) (8) and (9), Variance No. 13-90 and Variance No. 14-90 deferred to November 13, 1990. On roll call, the motion carried unanimously.

Swearing in of Mrs. Douthit

Mrs. Douthit noted that she has been sworn in by the Town Clerk in order to participate in the March 9th Town Councilmeeting, therefore that should be removed from the agenda also. Motion was made by Mr. Ilyinsky, seconded by Mrs. Wiener the agenda be approved in its entirety with Item V removed and Item 13 (b) (3), Variance No. 8-90 withdrawn. On roll call, the motion carried unanimously.

V. Swearing in of Mrs. Douthit (removed from the agenda).

Donation of Mobile Intensive care unit

VI. A. Citizens; Association South of Sloan's Curve - Donation to Town for Replacement Mobile Intensive Care Unit - Presentation by Mr. Irving Wolfe, Co-Chairman. President Heeke was presented with a check for purchase of MICU from the Citizens' Association South of Sloan's Curve which were contributions from over 1200 people. The Mayor and Town Council thanked the Citizens' Association and Mayor Marix read a letter of appreciation from herself and the other elected officials in the Town and presented a plaque to Councilman Weinberg in appreciation for outstanding leadership and his efforts to raise these donations for this replacement unit.

B. Retirement of Walter J. Gannon - Police Department. Officer Gannon was presented with a plaque in appreciation of his seventeen years of service.

C. Recognizing and Commending Detective Richard Howe, Palm Beach Police Department - 1989 Distinguished Law Officer of the Year Award for Crime Solution Category. Chief Terlizzese was presented with a letter of commendation from Mayor Marix for presentation to Detective Richard Howe on receiving the award sponsored by the Palm Beach Post.

President Heeke reminded all that the dedication of Town Hall would take place at noon today.

VII. COMMENTS OF THE MAYOR. Mayor Marix indicated she would be giving her comments throughout the meeting.

Mayors Comments

VIII. LICENSES AND PERMITS.

Licenses & permits

A. Charitable Solicitations - Recommended for Approval.

1. Palm Beach Festival, No. 159-90
2. Alzheimer's Association; No. 256-90
3. The Armory Art Center; No. 281-90

Mrs. Peters indicated the three stated are recommended by staff for approval. Motion was made by Mr. Ilyinsky, seconded by Mr. Weinberg to approve the charitable solicitations recommended. On roll call, the motion carried unanimously.

Other:

1. Center for Famlily Services, No. 252-90. Mrs. Peters explained this is a request for an extension of their permit which expires on Feb. 28, 1990, in order that they may have an additional event on April 19, 1990. Mr. Weinberg moved the request be granted. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

2. Muscular Dystrophy, No. 46-90. Mrs. Peters advised Mrs. dePorro who has antique shops on Worth Avenue would like to hold an auction and give ten per cent of the proceeds to Muscular Dystrophy. She explained the application has not been approved totally by staff as it still needs to have a police check and an auction permit; and a waiver of the advertising rule. Mrs. Douthit asked if an auction could be held on March 23rd? Mrs. Peters advised the Ordinance governing auctions allows this after March 20th. Mr. Heeke noted she would be permitted to have the auction even if it was not for a charitable purpose. Mr. Ilyinsky stated his concern about traffic and hordes of people. Mayor Marix asked if they would be securing off duty police to cover the traffic control. Mrs. Peters responded Mrs. dePorro was supposed to be here this morning to address these concerns, but she has not shown up yet. Mr. Ilyinsky felt this should be a condition for the granting of the permit. Mrs. Douthit felt the number of people allowed in the store should be within the amount allowed by the Fire Codes. Mr. Ilyinsky moved the permit be granted with the conditions that the proper perusal is done by the Police Department, both with regards to the check they do on the application but also how many off-duty police would be needed to control the traffic and waiver of the advertising rule and there be strict enforcement of the Fire Code occupancy provision. Seconded by Mrs. Wiener. On roll call, the motion carried with Mr. Heeke voting against the motion as he has stated previously these applications should be filed more timely and he will not be voting for the waiver of the advertising rule. Mr. Weinberg also voted against the motion. Motion carried 3-2.

B. New Beverage License

Beverage License

1. Camilla Faye Galles d/b/a The Best of Italy, 105 N. County Road - 2 Aps. Mr. Doney explained the approval is recommended for approval by staff with the condition that beverages be sold for take-out only and there be no consumption on the premises. Mr. Joseph Casselli addressed the Council requesting the approval. Motion was made by Mr. Ilyinsky to approve the new beverage license for Cammila Faye Galles d/b/a The Best of Italy. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

IX. COMMITTEE REPORT:

Committee Report

a. Administrative and Personnel Committee - March 7, 1990.

Admin. & Personnel Comm.

A meeting of the Administrative and Personnel Committee Meeting was called to order by the Chairman, Hermine Wiener with Committeemember, M. William Weinberg on March 7, 1990 at 10:30 AM in the Town Hall Council Chambers. In attendance were Town Manager Doney, Town Personnel Director Crouse, Attorney Randolph, Town Clerk Peters, Director of Public Works Dusey, Mr. Meadows, Mr. Kennedy, Mrs. Paynie-Timmons from the Town Staff; Stanford Purnell and his attorney, Stuart Silverman.

After hearing testimony from all concerned for a two hour and forty-five minute period, it is the RECOMMENDATION of the Administrative and Personnel Committee that the decision of the Director of Public Works, Mr. Dusey and the Personnel Department be upheld with regards to the dismissal of Stanford Purnell.

Stanford Purnell dismissal

There being no further business, the meeting was adjourned at 1:15 PM.

Signed Hermine L. Wiener, Chairperson, and
M. William Weinberg, Committee Member

Mrs. Wiener explained this was a tough decision but the Committee does recommend the decision of the Public Works Director be upheld. She stated there was a number of accidents and some were not at fault, but it was felt if the employment of Mr. Purnell was continued and there was a further serious accident, the Town would be in jeopardy and the Committee felt they could not keep him on, even though he was a relatively good employee. Attorney Silverman addressed the Council on behalf of Mr. Purnell noting he was an eight year employee of the Town and in his last evaluation by his supervisor, which was a part of the record, he received an excellent review and he was a versatile employee as a trash truck operator and then was asked to work the crane, which he eventually did and that is when he had the three at-fault accidents.

He noted after the third accident, his client was suspended from operating the crane and they felt that was the proper action by the Town. He noted a month later he was involved in an at-fault accident on the trash truck and was dismissed. He noted in the dismissal letter, there was no mention of the three at-fault accidents he had with the crane. He noted there were some other problems which Mr. Purnell had, such as the taking of sick leave and that area was improved and he would like to have his job back and if the Town doesn't wish to have him in a driving capacity, he thought with the skills that Mr. Purnell has, it would be possible to retain him in that capacity, either in the Public Works Department or any other department. Mr. Silverman congratulated the Committee in listening to the evidence and examining the witnesses and it was a tough decision and he asked the Council to retain Mr. Purnell in some capacity.

Mrs. Wiener indicated the Committee was concerned with Mr. Purnell in a moving vehicle and after the meeting, she mentioned to the Town Manager and to Mr. Dusey that if there were a possibility of finding him a position that would not put the Town in any kind of jeopardy so that he would not be involved with a moving vehicle, the Committee had no problem with that. Mrs. Douthit assumed there was no other job open for him at this point of time. Mr. Doney explained as the Town Manager he did agree with Mr. Dusey that the dismissal was appropriate under the circumstances as progressive discipline was utilized in this case and

Admin. & Personnel Comm.

he felt the discharge was in the best interest of the Town. He has talked with Mr. Dusey and Mr. Crouse and at this time there are no current positions available which they believe Mr. Purnell's qualifications would match, however, if Mr. Purnell wishes to apply at a later date for an employment position, based upon the job descriptions of that particular position, he would be considered for re-employment but the reconsideration would have to be on the merits of the opportunity at that time.

Mr. Weinberg stated they have spent house on this matter and he would now like to move the appeal by Attorney Silverman be denied but in the future if Mr. Purnell is qualified, then he may apply for a position which matches his qualifications. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Mr. Ilyinsky moved to accept the report of the Administrative and Personnel Committee of their meeting held on March 7th, 1990. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

X. OLD BUSINESS

a. Ordinances - Second Reading

Ordinance 2-90

1. Or. No. 2-90 - Amendment to Retirement Ordinance. Attorney Monaghan read the Ordinance by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 15 OF THE CODE OF ORDINANCES AT SECTION 15-18 SO AS TO PROVIDE A MINIMUM BENEFIT TO FIREMEN AND POLICE IN COMPLIANCE WITH STATE LAW; AMENDING SAID CHAPTER AT SECTION 15-43 TO SPECIFY LIMITATIONS ON INVESTMENTS IN COMMON STOCK OR CAPITAL STOCK AND TO MAKE PERMISSIVE THE RETENTION OF AN INDEPENDENT CONSULTANT TO EVALUATE THE PERFORMANCE OF THE FUND MONEY MANAGERS; FURTHER AMENDING SAID CHAPTER TO COMPLY WITH U. S. INTERNAL REVENUE CODE LIMITATIONS ON BENEFITS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Mayor Marix noted there was a long memorandum recieved from Mr. Adrian Winterfield on this subject and she will make it available to the Town Attorney. Mr. Winterfield addressed the Council noting in the section concerning regulation of investment, he believed the language proposed does not allow the uniniated reader to know what is intended as the State Statutes specifically limits it on the identities on which the Pension Fund may exist, and he did not know if it was the intention of the Ordinance to include those provisions. He submitted they are of such an importance that Council should consider that language on whether the limitation on the amount of the investment in an authorized company is retained and if it is, then he felt it should be explicit as it is not at this time. He believed the Council had the responsibility to spell out which provisions are applicable. He referred to the amount of 50% whereas the Statute provides 30% and the memo indicates the investment counsellors have a 40% target and if that is so, he believed the limit should be 40%. He had numerous other questions which are set out in the memorandum and he suggested this item be deferred.

Attorney Monaghan responded to these comments by stating it was important to know the Ordinances have to be read in conjunction with the Statute. He stated the authority to waive the requirement of 50% is limited to this type of waiver and if the Statute is read in conjunction with the Ordinance, it is clear the 40% limit on investments is being waived. Mr. Heeke reminded the Council that this part of the Florida Statute has been litigated going to the Supreme Court. He noted the Retirement Board is active and functioning and we have independent financial advisors and a performance monitor who reports to the Board and he felt there was a good bit of checks and balances. He invited all who were interested to attend the next Board Meeting as they do an outstanding job and he didn't believe it was Council's job to make the investment determinations.

On motion of Mrs. Wiener, seconded by Mr. Weinberg, the Ordinance No. 2-90 was adopted. On roll call, the motion carried unanimously.

B. Appointments:

Appointments

1. Architectural Commission - Balance of Term to Expire March 1991 - Deferred from February meeting. (Request consideration of Item XI.C.1 at the same time).

XI. (C) 1. Architectural Commission - Two Terms to Expire February/March 1993.

President Heeke reported that Jeff Smith and Leslie Smith's terms are expiring and they are both eligible for reappointment. Mr. Ilyinsky moved Jeff Smith and Leslie Smith be reappointed to the Architectural Commission. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Mrs. Douthit moved that Mrs. Frost-Golino be elevated from an alternate to serve the balance of Mr. Lawrence's term to expire March 1992. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Mr. Ilyinsky moved that Mr. Jessie Newman be nominated to the alternate member slot on the Architectural Commission. Seconded by Mr. Weinberg. On roll call, the motion carried with a negative vote cast by Mrs. Douthit stating since Mrs. Newman is on the Seaview Park Commission, she is voting against this as she doesn't consider it proper for a husband and wife to sit on different commissions in the Town.

2. Landmarks Preservation Commission - Two Terms to Expire February 1993. Deferred from the February meeting.

Mr. Heeke pointed out Mr. Eigleberger and Mr. Newman served on this Commission and were not eligible for reappointment. Mrs. Wiener placed in nomination the name of Jacquelyne Alberran-de Mendoza. Seconded by Mrs. Douthit. Mr. Moore asked if this was for the unexpired term. Mrs. Wiener indicated this was for the full term seat. Mrs. Douthit withdrew her second stating she would like to elevate Mr. Gublemann and Mrs. Perry from the alternate seats and placed their names in nomination for the full time members. Mrs. Wiener believed that one or the other should remain as an alternate as Mrs. Alberran-de Mendoza works very well and we have seen her before the Council and she would like to see her on the Commission as a full member. Mr. Heeke noted the motion died for lack of a second.

Mrs. Douthit moved to make Mr. Gublemann and Mrs. Perry full time members and Mrs. Alberran de-Mendoza and Mr. Peter Halmos as the alternates. Mrs. Wiener asked if that could be taken separately to which the President agreed. Mr. Heeke asked Mrs. Douthit to make an amendment to her motion to make Mr. Gublemann and Mrs. Perry full time members of the Landmarks Preservation Commission. Seconded by Mr. Ilyinsky. On roll call, the motion carried with Mrs. Wiener voting against the motion.

Mrs. Douthit then moved to fill the alternate seats on the Landmarks Preservation Commission, the names of Mrs. Alberran de-Mendoza and Mr. Peter Halmos be appointed. Mr. Ilyinsky seconded the motion. On roll call, the motion carried unanimously.

3. Zoning Commission - Two Terms to expire Feb. 1993 and One Term to Expire February, 1992. Deferred from February meeting. Mr. Heeke explained Mrs. Hufty is completing her second term and is not eligible for reappointment. Mr. Ilyinsky moved Mr. Robert M. Grace be reappointed to the Zoning Commission. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Appointments

Mrs. Douthit stated she knew Mr. Martin Murphy wished to resign from the Retirement Board and she would like to submit his name for consideration on the Zoning Commission and she so moved. Mr. Heeke advised Mr. Murphy has submitted his resignation from the Retirement Board and will be available to serve on the Zoning Commission in late Fall. Mr. Heeke handed the gavel to Mr. Ilyinsky to chair the meeting and seconded the motion. On roll call, the motion carried with Mrs. Wiener voting against the nomination. (4-1).

Mr. Heeke noted there is another seat to fill on this Commission for the two year unexpired term of Eugene Pollack. Mr. Weinberg moved the name of Arthur Silverman be put into nomination. Seconded by Mr. Ilyinsky. Mrs. Wiener suggested this item be deferred as this Commission will not meet until the Fall. Mr. Heeke noted there has been some discussion from members of the Commission about reappointing Mr. Stern to this Commission. Mrs. Douthit indicated she did not wish to cast any dispersions against Mr. Silverman but Mr. Stern has served on this Commission and has vast experience. Mr. Ilyinsky felt there should be a better way of appointing these people as there are so many good people who have volunteered to serve the Town. Mrs. Wiener noted there was a resignation from another Board and that person was considered for this and although there were a couple of people who we have been thinking about and planning to have in one of those positions and she has seen Mr. Murphy work on the Retirement Board but was never considered for this position on the Zoning Commission. Mr. Moore noted this is a two year term and they may wish to deviate slightly and appoint someone for the two year term and then the seat will come open again in two years. Mr. Ilyinsky withdrew his second of the nomination of Mr. Silverman. Mr. Heeke asked if they were going to limit this appointment to two years to which the Council agreed. Mr. Moore commented he thought the Council had the ability to do that. Mr. Heeke noted there was no second to the nomination of Mr. Silverman and that motion died for lack of a second. Mr. Weinberg noted there was a two year term open and he placed in nomination the name of Arthur Silverman for that two year term. There was no second to the motion.

Mrs. Wiener asked if anyone on the prevailing side would call for reconsideration of the appointment of Mr. Murphy. Mrs. Douthit moved the nomination of I. Henry Stern to the Zoning Commission for the two year term to expire in Feb. 1993. Mr. Moore stated this will be limited to the two years to cover this term and then the seat will be up again for nomination at that time. Seconded by Mr. Ilyinsky. On roll call, the motion carried 4-1 with Mr. Weinberg voting against the motion.

Mayor Marix agreed with Mr. Ilyinsky that the way they appoint is not acceptable and she understood full well the appointments have to be made in the Sunshine, however, she discussed with Mr. Moore a different type of procedure they may adopt so it wouldn't be a name brought before the Council and there be quite a background form on each one who wanted to serve and if someone didn't get an appointment, they could review the others proposed and may realize the other person got it because he or she had more qualifications. Mrs. Wiener recalled when she was attempting to get appointed to the Zoning Commission, there were a number of people who wished to be appointed and the Council acted on it by ballot. Mrs. Wiener indicated she had background on all of the applicants appointed today except for Mr. Murphy. Mayor Marix stated each one would submit their background but she was talking more about knowledgeability. Mr. Moore stated they had discussed the possibility of developing a list of questions which would relate to the various boards and they would be philosophic type questions and a potential candidate for those boards would give their thoughts on various issues before the Town. Mrs. Wiener did not agree as she felt that would be a commission that would rubber-stamp. Mayor Marix did not agree. Mrs. Wiener felt there ought to be an orderly rotation among the members of the Council as to appointments.

Mrs. Harwitz addressed the Council stating she felt the procedure should be one whereby when one is nominated the one who makes the nomination should give a background and the reasons why that nominee would be good for the Commission or Board to which they are being nominated.

C. Other

1. Existing Lighting of Two (2) Clay Surface Tennis Courts at Seaview Park - Hours of Operation - Deferred from February meeting. Mr. Doney explained the background information has been distributed to the Mayor and Council. Attorney Prosperi indicated because of the freeze in December, some rather high hedging became threadbare and now the rear portion of his home has become illuminated with the glare of the lights. He appreciates the concern the Town has shown on this matter. He believed the lights have been redirected and the timer has been repaired, so the situation has improved, but he would suggest State-of-the art lights be purchased for the tennis courts and he would be willing to contribute towards the new lighting. He will also request of the Seaview Park Commission that a cut off time be considered, perhaps at 9 PM rather than 10 PM. Mr. Bitzer indicated he would suggest this be deferred until Mr. Prosperi has an opportunity to appear before the Seaview Park Commission. Mayor Marix suggested Mr. Prosperi also discuss with the Commission the noise problem, if there is one. Mr. Prosperi indicated there was a noise problem, however, he is the only house impacted by this, however, there is a noise problem when the closest courts to his house are in use, but the problem with the lights due to the defective timer were more annoying. Mayor Marix suggested perhaps Mr. Prosperi could suggest to the Seaview Park Commission that the courts nearest to his house not be used later in the evening. Mr. Prosperi stated it is difficult to live in this area as the Day school is using one of the houses as a faculty center and there is bus parking in the rear so they are impacted and they are a landmarked area. He appreciated the Town Council's concern and is confident that the recreation people have done what they could and he would like to help them to do more.

Lighted clay tennis courts hours of operation

XI. NEW BUSINESS

A. Ordinances - First Reading

Land Development Regulations

1. Ordinance No. 3-90 - Water Saving Devices Required for New Development.

Ordinance 3-90

Attorney Monaghan read Ordinance No. 3-90 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE STANDARD PLUMBING CODE, 1988 EDITION, AS ADOPTED BY THE PALM BEACH CODE OF ORDINANCES; PROVIDING FOR WATER SAVING DEVICE REQUIREMENTS IN ALL NEW DEVELOPMENT, REDEVELOPMENT, AND RESTORATION; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Motion was made by Mrs. Douthit to approve Ord. No. 3-90 on first reading. Seconded by Mr. Ilyinsky. On roll call the motion carried unanimously.

Mr. Heeke explained these ordinances are to bring the Town into the requirements of the Town's Comprensive Plan.

Ordinance 4-90

2. Ordinance No. 4-90 - Amendment to Definition of "High Hazard Area" Mr. Monaghan read the ordinance by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE DEFINITION OF "COASTAL HIGH HAZARD AREA", AMENDING THE SPECIFIC STANDARDS FOR FLOOD HAZARD REDUCTION; PROVIDING FOR REPEALS OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mrs. Wiener moved for adoption of Ordinance No. 4-90 on first reading, seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously for approval.

Ordinance 5-90

3. Ordinance No. 5-90 - Amendment to Streets and Sidewalks Ordinance, Proving for Shared Access. Mr. Monaghan read the Ordinance by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 19 (STREETS AND SIDEWALKS) OF THE TOWN CODE OF ORDINANCES BY CREATING ARTICLE IV, SECTION 19-46 TO PROVIDE FOR SHARED ACCESS TO PUBLIC STREETS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Mrs. Douthit moved for approval of Ord. No. 5-90 on first reading. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Ordinance 6-90

4. Ordinance NO. 6-90 - Amendment to Subdivision Ordinance, Providing for Lot Splits. Mr. Monaghan read the Ordinance by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING SECTION 20-1 OF THE TOWN CODE OF ORDINANCES TO PROVIDE FOR FILING OF PLATS AND REPLATS; PROVIDING FOR THE PROCEDURE TO OBTAIN A LOT SPLIT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Motion was made by Mrs. Wiener to approve Ordinance No. 6-90 on first reading. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Ordinance 7-90

5. Ordinance No. 7-90 - Concurrency Management System Ordinance. Mr. Monaghan read the Ordinance by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, CREATING CHAPTER 25 (CONSISTENCY AND CONCURRENCY MANAGEMENT SYSTEM) OF THE TOWN CODE OF ORDINANCES, TO PROVIDE THAT PROPOSED DEVELOPMENT SHALL BE CONSISTENT WITH THE TOWN'S COMPREHENSIVE PLAN; PROVIDING THAT PUBLIC FACILITIES AND SERVICES SHALL BE AVAILABLE AT PRESCRIBED LEVELS OF SERVICE CONCURRENT WITH THE IMPACT OF THE DEVELOPMENT UPON THOSE FACILITIES; PROVIDING FOR PROCEDURES AND CRITERIA TO ENSURE THAT FACILITIES AND SERVICES NEEDED TO SUPPORT DEVELOPMENT ARE AVAILABLE CONCURRENT WITH THE IMPACTS OF SUCH DEVELOPMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Weinberg moved for approval of ORDINANCE No. 7-90 on first reading. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Ordinance 7-90

Ordinance 8-90

6. Ordinance No. 8-90. Natural Resource Protection Ordinance. Mr. Monaghan read the ordinance by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, CREATING CHAPTER 26 (NATURAL RESOURCE PROTECTION) IN ORDER TO PROVIDE THAT PROPOSED DEVELOPMENT IS CONSISTENT WITH THE TOWN'S COMPREHENSIVE PLAN; PROVIDING PROTECTION TO RESOURCES FROM POTENTIALLY HARMFUL EFFECTS OF DEVELOPMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

Motion was made by Mrs. Douthit to approve Ordinance 8-90 on first reading. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Five minute break was taken. President Heeke called the meeting back to order.

B. RESOLUTIONS

Resol. 21-90

1. Resolution No. 21-90. Town Bond Issues Regarding Succession of Comerica Trust Co. of Florida, N. A. from First American Bank and Trust. Mr. Heeke stated the purpose of this resolution is because the Trust Department of First American has been taken over by Comerica and this has been approved by the FEDS. Mr. McPhail stated that was so and they are about eleven billion dollars in assets and this is simply an escrow agent registrar paying agent type of operation they have with the 1986 refunding bonds and the resolution is in order to be adopted. Mr. Monaghan read the resolution by title:

RESOLUTION NO. 21-90 - A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, FLORIDA APPROVING THE SUCCESSION OF FIRST AMERICAN BANK AND TRUST'S POSITION AS THE TOWN'S ESCROW AGENT, PAYING AGENT AND REGISTRAR TO COMERICA TRUST COMPANY OF FLORIDA, N.A.; AUTHORIZING THE PROPER TOWN OFFICIALS TO DO ALL OTHER THINGS DEEMED NECESSARY OR ADVISABLE IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE FOR THIS RESOLUTION.

Mr. Heeke noted this bank is a nationally chartered bank. Mrs. Wiener asked why the Town remained with First American so long after it was evident they were having problems. Mr. McPhail responded this is the trust department and is not involved with the banking operation. Mr. Heeke pointed out it would have required the bond holder's approval to move it out of one trust department o another and normally, the trouble doesn't lie within trust departments when there is difficulty such as the First American experienced and the assets held in trust are not jeopardized.

Mrs. Wiener indicated she knew that but was concerned about any earnings going to questionable institutions.

Mr. Ilyinsky moved Resolution No. 21-90 be adopted. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Resol. 43-90

2. Resolution No. 43-90 - Town Request for Florida Department of Natural Resources to Establish an Erosion Control Line for the Mid-Town Beach Nourishment Project. Mr. Monaghan read the Resolution by caption:

A RESOLUTION OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, PETITIONING THE TRUSTEES OF THE

STATE OF FLORIDA'S INTERNAL IMPROVEMENT TRUST FUND TO ESTABLISH AN EROSION CONTROL LINE FOR THE PURPOSE OF BEACH RESTORATION FROM APPROXIMATELY WELLS ROAD TO APPROXIMATELY BANYAN ROAD IN THE TOWN OF PALM BEACH. Resol. 43-90

A motion was made by Mrs. Wiener to approve Resolution No. 43-90. Seconded by Mr. Ilyinsky. On roll call the motion carried unanimously.

C. APPOINTMENTS: Appointments

1. Architectural Commission - Two Terms to Expire February March 1992. (Considered earlier in the agenda).

2. Retirement Board - Citizen Member for Balance of One Term to Expire January 1993. Mr. Heeke noted Mr. Murphy resigned from the Retirement Board effective May 1, 1990 and Mr.James McCartney Wearn has agreed to serve in that capacity. Mrs. Douthit moved that James McC Wearn be appointed to serve on the Retirement Board effective May 1, 1990. Seconded by Mr. Weinberg. Mrs. Wiener wondered if there was a conflict here with Mr. Murphy serving on two boards to which Mr. Heeke responded the Zoning Commission is not presently in session and he saw no conflict. Mr. Doney believed the rule that no-one could serve on more than one Commission related to Landmarks Preservation Commission and the Architectural Commission, the Zoning Commission and the Seaview Park and he did not believe there was a prohibition for the Retirement Board. On roll call, the motion carried unanimously.

D. BID AWARDS Bid Awards

1. Sealed Bid No. 002A89/90 - Underground Storage Tank Removal at Loftin Street, South Fire Station and Par 3 - Resolution NO. 41-90. Resol. 41-90

Mr. Monaghan read the Resolution by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING A CONTRACT TO PIECO MIAMI, INC. FOR THE UNDERGROUND STORAGE TANK REMOVALS.

Mr. Heeke asked if the staff was comfortable with the experience of Pieco? Mr. Dusey indicated they have done background checks and they came out very well and they have used them before.

Mr. Ilyinsky moved for adoption of Resolution No. 41-90. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

2. Sealed Bid No. 007-89/90 - Diesel Cab/Chassis with 13 Cubic Yard Aluminum Recycling Body. Mr. Dusey indicated this item has been budgeted for in the current budget to institute the recycling program in teh single family residential areas in July Mrs. Wiener moved Sealed Bid No. 007-89/90 be accepted for award to South Florida Mack Trucks in the amount of $34,420. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

3. Reconsideration of Sealed Bid No. 033-88/89 - Par 3 Golf Course Fueling Facility, Resolution No. 42-90. Mr. Monaghan read the resolution by title: Resol. 42-90

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING A CONTRACT TO GLASGOW EQUIPMENT SERVICE, INC. FOR THE PAR III GOLF COURSE FUELING FACILITY.

Mr. Weinberg moved for adoption of Res. No. 42-90. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

E. OTHER

1. Florida Power & Light Services in Town of Palm Beach - Comments by Mr. Moffett, Vice President, Eastern Division, FP&L. Mr. Moffett read a statement: "I am here to give a response to Councilwoman Douthit who wrote a letter to our President, Mr. Bob Tallon which came right back to me. I have this responsibility. Again, my name is Ted Moffett. I am Vice-President of Florida, Power & Light Co. My office is 400 North Congress. And these items fall in my area of responsibility. This letter in response to yours, if I may read it - will take me three of four minutes. It is addressed to you. "I have assembled the following narrative in response to your letter of January 11th, 1990 concerning electric service in the Town of Palm Beach. First, please accept my sincere regrets for the extended power failure that occurred during the Christmas holidays. FPL has been keeping records on weather for 42 years and the freezing temperatures that blanketed the state in more than 43 hours, had never occurred during that period. The 1989 Christmas Freeze rewrote the whole history book for the State of Florida. Now, we are particularly self-critical of our communications effort and our telephone service. Those areas are important to us because first, our policy demands that the customer be our top priority and secondly, we recognize that a fully informed public can be an effective partner in times of great stress. We could and should have done better to inform our customers earlier about what was happening. We have already taken steps to to that. A communications package, much like the one we had in place for use during a hurricane has been developed. The media throughout our service area is helping in preparation of this package which would be updated annually. This is an idea of what that package is in volume. It went to every major newspaper, television station and radio station in our service area, from Georgia State Line right down to the City of Homestead and over to the west coast. They are responding to this very well. That package is just about completed in development. We already have a hightly sophisticated phone system in place and have new procedures under study to see how it can be improved. Let me give you a brief description of the telephone system that is in place and has been in place about one year. It is similar to the ones that the airlines use. West of I-95 - north of 45th Street is the center of our telephone system in Florida Power & Light Company. It has a switch - a telephone switch - the latest technology that you can get - it has been in use a year and a half and if you phone FP&L right now, your phone call may be answered there or may be answered in Daytona or it may be answered in Ft. Lauderdale or Miami. All four of these are tied together. We are studying better ways to effectively answer telephone calls during these extreme emergencies and already are moving ahead in procedures to make sure these phone calls get through. Planning for the increased loads and maintenance are currently in place for the Town of Palm Beach. The north section of the Town has had extensive upgrade in the facilities as to poles, transformers, conductors, underground and other things in that area and has been taking place since 1985. In addition, a new 13,000 volt feeder is being constructed for additional improvement and reliability from the mainland to the north section of the Town. We have applied for a permit for that sometime ago from the Corps of Engineers. We are awaiting that permit to put that cable across from the plant over to the north end of the Town. That is really going to make a difference in resoration time when something happens over here. We need that circuit in this area. That has been under study for several years. We finally have it engineered and other than this crossing, it is ready

Florida Power & Light services

Resol. 43-90

to go. There are seven major maintenance programs that are in place for continuous improvement to the electric facility in the Town of Palm Beach. I would like to describe a few of these briefly. The seven programs are:

The line clearing - better known as tree trimming.

Pad mounted transformer surveys - those are transformers placed on the ground that we have to check once a year to make sure they are in good shape and that they are adequate for service to that particular location where they are.

Overhead facilities surveyed - starting very soon, this month, as part of our storm restoration following a hurricane, we are going to a training period. Employees would ride these circuits out to get familiar with them, in the event of a hurricane - they would be very familiar with the lcoation of all the facilities and while they are doing this - riding these facilities out, they look for problems and get them corrected.

Pole survey - we do this routinely and make sure the poles are in good shape.

Firmavision survey - that's a device that reads infra-red from a connection both inside of a transformer - at a transformer and overhead lines to look for potential problems. It measures a temperature on a graph - on a screen electronically through the scope that you put up and it's called hot spot measurements. We do that routinely.

Transformer loading surveyed. There is a program and some of the engineers in this room might be familiar with it called transformer load management. By the use of the kilowatt hour or usage in every home, that goes into a computer and from that data, it can calculate whether that transformer is sufficient or not and that is going on now. Mr. Grace's transformer in January showed it had 270 per cent load. That transformer was replaced from a 25 kva serving three homes to a 75 kva and that indicated that the overload had occurred. The transformer was replaced right there at Christmas, as you folks well know.

Conductor and cable replacement - this especially has been taking place in the north end of Town and fusing it off. This project started about 1984 - 1985 - I was personally involved in this because the facilities survey - part of our quality program, the demming, I am sure you have heard about it is being proved in service to our customers and this is one area I personally got involved and that has been going on for some time now.

There are other issues for us to be involved in - such as increase capacity and transmission lines as well as to look at the demand side for our solutions. Some of these look at the demand side for our solutions. Some of these are load management. This has taken place right now. We have had over the years what we call "industrial commercial customers" during times of stress, such as Christmas - cold weather - and they have a rate if they would shut down certain loads - non essential loads - they get a special rate for it. They get a benefit out of it. And we call them regularly during the year when things happen like a generator drops off the line - load management. This also takes place at our southeastern division - Ft. Lauderdale and in Miami. Our customers - our residential customers receive a benefit on their bill if they will volunteer for this and electronically what it means is a certain load within the house, at times when we do not have the capacities, are interrupted. I'll give you one example - let's say - space heaters or water heaters. From our central control office, they can push a button, it sends out a signal on the line that opens a switch for that water heater or what have you. We are expanding that to include more and more homes in that so that we can interrupt in that capacity when we don't have enough on the line to take care of our customer needs. That's moving rapidly ahead. It has been in place about five years - now we are accelerating that type of load management. And the conditions we faced over Christmas might happen only once in a lifetime - that can be an explanation but it is not an excuse. If it happens again FP&L's commitment is to a substantial improvement. I hope I have pointed out the two areas of your concern. The Town of Palm Beach - we are here regularly working, trying to keep it up to where it should be - the best service to our customers. And we are doing more in this area now to ensure that happens."

Mrs. Douthit stated she was glad to hear about the updating of equipment which they are pursuing as when they eventually arrived at Seagrape Circle, the gentleman stated they hadn't seen equipment like that for fifteen years, implying this was old and outdated and no wonder that it failed.

Mayor Marix indicated that new poles have been installed and many are duplicates now and she wondered if the older ones were going to be removed and also reported she has a huge bag of wiring lying outside her home for months. Mr. Moffett indicated he will have someone check on this and take care of it.

Mrs. Wiener commented they seem to be moving forward but had a question on one of the comments, that if this cold snap should happen again, they will be committed to substaniitial improvement and wondered if they were committed now to substantial improvement or would it have to happen again to be committed? Mr. Moffett responded if it happens again, they are committed to substantial improvement and if it happened today, they have procedures in place which would be a big improvement.

Mr. Moffett explained what happened at Christmas as they received a revised weather report at 4 PM in the afternoon indicating they would be having freezing temperatures along the coast and if that should happen today, they would advise the public by the media there is a cold front and everone should work with them to get through it. He believed the customers should have been informed of this a few days before the freeze hit and that it would have some effect on capacity and they know that now and today they would be doing that.

Mr. Heeke stated his concern about Mr. Grace not being able to get through to the proper people on the telephone to let them know of his problem, and it was 2:45 AM before he was able to have an answer to the phone. His problem was because of failure of old and decrepit equipment and was something that should have been foreseeable because of the age of the transformer which was overloaded. Mr. Moffett explained this would be a part of the Transformer Load Management (TOM) and that transformer should have been caught earlier and they are constantly working to replace these older transformers and that program fully identified the overload prior to the freeze and should have been caught by them.

Mr. Heeke asked if they were upgrading their phone system? Mr. Moffett responded they are and it will work.

Mr. Heeke recalled they have had this problem with Comcast also and the Town Council hears about it from the residents in the Town when there is a problem.

Mr. Moffett responded over the Christmas holidays, they had 114,000 telephone calls which came into their system in a 48 hour period and answered 53,000 in a 24 hour period and normally, they would peak out with 4000 calls in a 24 hour period, so they were able to take care of some of the problems, but agreed they needed to answer everyone of them and that is what they are attempting to do.

Mr. Moffett was thanked by members of the Council for keeping them up to date on what FP&L is doing. Resol. 43-90

Meeting adjourned at 11:50 for the dedication ceremony of the reconstructed Town Hall and for lunch.

President Heeke called the meeting back to order at 1:35 PM.

Audit Report

(a) Audit Report for Fiscal Year ending September 30, 1989 - Discussion and Acknowledgement of Receipt. Mr. Doney explained a copy of the report has been provided along with Mr. McPhail's memorandum dated Feb. 27 and 28, 1990 and the Report to Management. Mr. McPhail explained this was a good audit the Town is in very good financial condition and the General Fund is very healthy, although there are a lot of things on the horizon which may effect these fund balances. He stated the other funds in the Town are also in good financial condition. Mr. Heeke noted the Undesignated Fund Balance is slightly under five million dollars. Mrs. Douthit moved the Town Council acknowledge and receive the Coopers and Lybrand audit report for the fiscal year ending September 30, 1989. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

(b) Management Letter and Staff Response. Mrs. Wiener noted the second item is the Health Care benefits which need to be evaluated and she viewed this as very urgent and important. She asked about the third item where they talk about the internal audit program and wondered how much of that is really needed? Mr. McPhail stated any good financial operation has a good internal audit program and they do internal audits now but the auditors have asked that function be expanded and they needed to evaluate that and the cost. Mayor Marix addressed at a Finance & Taxation Committee meeting? Mr. Heeke felt this was the official response and they needed to address that but it could be discussed later at a Committee meeting. Mrs. Wiener noted the fifth item is computerization of financial reporting which would automate certain financial reporting functions and she asked to which functions they were referring? Mr. McPhail responded a lot of reports now prepared manually can be put onto the computer and as they get into the system becoming fully operational, they will be able to develop more reports which will be by-products of the functions that are done on a daily basis. Mrs. Wiener stated she just didn't want them to get caught up in costly paper work where someone is reporting to someone who is reporting to someone else and it is a vicious cycle and she didn't want to see them get into that kind of a trap. Mr. Ilyinsky moved the Management Letter and Staff Response be accepted. Seconded by Mrs. Wiener.

On roll call, the motion carried unanimously.

Part time clerk for purchasing

3. Request for Authorization and Funding to Employ Part-time Clerk I for Purchasing Office Through September 30, 1990. Mr. Heeke noted the cost for this request will be $8500. Mr. Doney explained this particular item was an audit comment to management for the fiscal year ending 9-30-88 and Mr. McPhail has written a memorandum dated 2-20-90 and they have tried to, within the present personnel within the Finance Department, and also utilizing the Risk Manager's secretary to accomplish the tasks and responsibilities of this clerical function and that hasn't worked out and have looked at having other existing personnel to perform these functions but it has not worked out very well. He recalled five years ago, the Purchasing Office did consist of a Director, Assistant Director, a Buyer and a Secretary and now there are only three personnel a Director, a Buyer and a Secretary and the volume of activity for which they are responsible overloads the present personnel and this is the major reason why this additional part time assistance is necessary. He recommended the funding for this part time position through the balance of this fiscal year through September 30, 1990 be provided out of the Undesignated General Fund Balance and the request for a full time position will be studied and audited and further documented and independently evaluated by the Personnel Department.

Mayor Marix asked about the mail run to which Mr. Doney responded this is a daily pick-up and delivery of mail throughout all the departments. Mr. Louis Pryor addressed the Council indicating he has been working with the Personnel Department, at the Council's request, and also has had meetings with Mr. Doney, and while it is too early to give his final conclusions, he wished to give them an overall impression he had. He believed they wished to have in the Town and largely they do have good people who are dedicated working for the Town and the purpose of the study is to ensure they are well paid and that there is an opportunity for progress within the Town. He felt after the studies he has made that there is one area where if the total Town is looked at in all Departments, there may be able to be some savings in clerical staff and the cost of $8500 is not a large sum between now and 9-30-90 but he would suggest a message might be given to challenge the Town Administration and the Department Heads to seek a way to fill this part time position from an employee from some other department, in the event they find they are one or two clerks over that could fill in this position.

Mr. Ilyinsky noted it states that every purchase order takes longer than it did three to four years ago. Mayor Marix wondered why they did it. Mr. McPhail advised a lot of information must be entered on a purchase order and certain fields which must be filled in and it may be it takes longer because there is information which must be included, however, this will leave an audit trail for all the purchase orders, as it has been computerized and it is a good system.

Mrs. Wiener felt they had to make every effort to save tax dollars, but on the other hand, we have to be careful about how we go about these things and if there is one person spending a little more time on something, in this case a purchase order, rather than three or four doing an individual thing which is not part of the report, we are obviously saving time and money and it concerns her to talk about the possible firing of people on staff and she hasn't had an opportunity to talk to Mr. Doney or the Department heads about this matter. Mayor Marix asked if she was saying they were going to fire people? Mrs. Wiener responded the statement was they may have one or two too many employees. Mayor Marix did not believe they fired people as when Mr. Dusey reduced his staff, they did it by attrition. Mrs. Wiener agreed but felt there was a lot of things the Town doesn't normally do, but may find itself in a position that they would have to.

Mr. McPhail indicated he would like the opportunity to study it with a job audit to make the determination as to whether or not they can get away with a part time person or whether there is enough there for a full time person to do and they could help with the warehouse distribution and the mail run which will free up the buyer to allow him to perform his duties. Mr. Pryor clarified that they do have 13% turnover in the Town and he thought they knew him well enough that he would never request someone be fired, unless there was a case of gross incompetence. He felt attrition would take care of any decision that needs to be made about too many people available to do the job required; or the job is no longer necessary, but never would suggest that someone be fired as the tighter the ship is run, they should never have to discuss dismissing anyone unless there was gross incompetence or dishonesty. Mr. Heeke noted these job tasks are now being performed by the use of compensatory time or overtime and this is a recommendation made to us for two consecutive years by Coopers & Lybrand. Mrs. Douthit moved the request for authorization for a part time clerk be granted for the Purchasing Department and the amount of $8500 be authorized through 9-30-90 from the Undesignated General Fund Balance. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Mr. Doney referred to the comments of Mr. Pryor. Mr. Doney knows that Mr. McPhail would be looking at what can be accomplished with the part time person, and it is his goal and he viewed it as his responsibility to look at every possible way the work can be accomplished with existing people and if it can be done on a part time basis, that would be recommended by way of budget request for next year.

Part time clerk for purchasing

4. FY91 Proposed Budget Calendar - Request for Approval. Mr. Heeke noted the calendar has been distributed to the Mayor and Council and asked if there were any conflicts. After discussion, the dates for the Finance & Taxation Committee were changed to June 4th and June 5th. Motion was made by Mrs. Wiener to approve the budget calendar with the change of the Finance & Taxation Committee meetings to June 4th and June 5th. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

FY91 Proposed Budget Calendar

5. Proposed Town "Major" Items of Legislative Concern for 1990. Mr. Heeke read the proposed major items:

Coastal Management

I. Coastal Management - support funding of State's share of Mid-Town Beach Nourishment Project; and support a legislative amendment to rescind the exemption granted to the Port and other deep water ports from the responsibility for providing sufficient sand transfer to bypass the inlets that serve them; and support an identified and permanent funding source for shore protection projects.

Municipal Finance

II. Municipal Finance - continue to support changes in the State sales tax and revenue sharing distribution formulas to better reflect the Town's seasonal population fluctuation.

III. Criminal Justice - support various legislative initiatives related to police enforcement activities.

Municipal building departments

IV. Municipal Building Departments - support various legislative initiatives designed to reduce restrictions imposed on building departments.

Fire safety

V. Fire Safety and Prevention - Oppose legislation that places a greater financial burden on local governments to fund the operation of the State Fire College.

Public officials

VI. Local Public Officials - support legislative which excludes locally appointed boards, other than those which are quasi-judicial from financial disclosure requirements; and oppose any expansion of financial disclosure requirements for elected officials of municipal government.

VII. General - Support legislation to fully protect local governments decision making authority regarding local issues and oppose any legislation that may infringe upon same.

Mr. Doney requested that the Council consider the authorization to utilize Mr. Ron LaFace on as as-needed basis and also that the Mayor or the President of the Council or their designees be authorized to file official responses on these major items. Motion was made by Mr. Ilyinsky to approve the recommendations of the March 5, 1990 memorandum with regards to legislative concerns and the Mayor and President of the Town Council or their appointees be authorized to execute necessary documents and also to continue the retaining of Ron LaFace and his firm on an as-needed basis. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Underground utilities

6. Proposal for Cost-sharing of study on Underground Utilities and Related Issues - Requests by Daytona Beach Shores and Ft. Walton Beach. Mr. Heeke indicated there has been a request received from the City of Daytona Beach Shores for financial contribution of $2,529.64 for Phase I of the study. Mrs. Douthit believed they shouldn't contribute to this as it will increase taxes although from a cosmetic standpoint, she would like to see everything underground.

Mrs. Wiener noted she has been involved in discussion on this with people on the state level and local Civic Associations and the FP&L people are now approaching it differently than they were in 1982. She felt it was not just a metter of cosmetics but life and safety and is misunderstood with regards to the financing. She stated part of the budget of utility companies include all money spent on damages which include settlements and all of this is included in those figures and they have to be above that figure and a percentage is added to that base figure which is allowed to be their earnings. She felt the reason for the study was to show that the individual homeowner will be paying less as there would no longer be accidents involving the poles and therefore, no more settlements. She believed they were finally getting to the point at the State level where they are considering using the settlement sums as part of the cost which has not been allowed before.

Mrs. Mary Ritter addressed the Council stating she was surprised to hear that people were hitting the telephone poles as most of them run up the back alleys. She has lived in areas where there is underground wiring and the utility companies are constantly digging and here we would have a flooding problem.

Mrs. Douthit felt they would go ahead and do the report and it will be a matter of public record, therefore, they would have access to it.

Mr. Heeke noted another part of the memo is that Mr. C. Thomas Maney, a City Councilman in the City of Ft. Walton Beach is requesting the Town become an intervener in a matter pending before the Florida Public Service Commission. Mrs. Wiener referred to page six of the documents which gave an overview of what they were requesting. She explained the study is going to be done by a university and the people on staff have high qualifications.

Mr. Doney advised the proposal would have eleven participants with cost sharing by them for a total of approximately $25,000.

Mrs. Wiener noted Mr. Maney's letter states there are many issues that may be debated but only one totally controls the result and that is the one that defines which cost components are to be considered. She stated he felt the PSC needs to know there are interveners out there supporting this cause. Mr. Heeke was concerned that if there is legal action, we may be liable then for legal costs. Mrs. Wiener noted further information can be secured from the City of Daytona Beach Shores Councilman Arthur Dannecker or Ft. Walton Councilman C. Thomas Maney.

Mr. Heeke felt they didn't know the overall cost of this until they got into it and perhaps they could secure further information.

Mrs. Douthit noted there are many expenses, such as travel costs, fringes and salaries and she felt they may be in for a lot more than what has been requested.

Mrs. Wiener felt if the Council didn't want to spend the monies, that was fine, but she thought a phone call to one of the two gentlemen she mentioned should be made and see what they have to say on the subject and then have that come back to the Council and see if there may be further interest.

Underground Utilities

Mrs. Wiener reported the salary figures are what these men earn and it will take so many hours of their time to do the study, therefore, they have come up with the figure of $25,000. She stated these men are on the payroll of the University and would be doing this in conjunction with their work and the University charges us for their time. Mr. Heeke stated it is like a funded grant.

Mr. Heeke wondered if the Civic Association would be interested in picking up the tab. Mr. Pryor in the audience indicated he would be happy to make the request on behalf of the Council.

Motion was made by Mrs. Douthit that they deny the expenditures of any monies for this study from the Town of Palm Beach.

Motion was made by Mrs. Wiener to call the two gentlemen involved and get some further information and then a determination be made by the Council at its next meeting.

Mr. Ilyinsky seconded the motion made by Mrs. Douthit. On roll call, the motion carried unanimously.

Mr. Weinberg seconded the motion made by Mrs. Wiener. On roll call, the motion carried unanimously.

Alternate water supply

7. Alternate Water Supply Investigations - Proposed "Notice to Consulting Water Engineers" and Relatated Matters. Mr. Dusey explained the Town Council at the workshop meeting held on Feb. 21, asked them to prepare a Notice to Engineers for the pubpose of acquiring engineering services to do feasibility studies on a desalinization water plant. He stated the Comprehensive Plan requires that certain studies be done within a certain time period regarding water planning, so the staff thought it would be appropriate to have the same engineer do both of these studies and he is now looking for direction as to whether or not they should proceed with the advertising for the two studies.

Mr. George Ford, 300 Regent Park, addressed the Council informing them we are faced with a great water shortage which each day and year gets worse. He recalled three years ago there were two reverse osmosis plants on the west coast of Florida and today there are 15, with four more in the planning stages and two in the planning stages on this coast. Delray Beach has a permit to take two hundred million gallons of water from the aquifer and Jupiter also has a permit. He recalled DuPont has made us an offer which was they will design a plant, which would include them doing all the engineering and then do all the necessary things to drill our well and follow through and will need only a 50 x 100 piece of ground, although 100 x 100 would be advisable. He stated they will guarantee us the purest water we have ever had and it will not have any cancer causing agents in it as the present water does. He felt it was only be reverse osmosis that the various cancer causing agents can be removed.

Mr. Ford stated if the Town attempts to do this on their own, with all the studies necessary and the engineering design and specifications, he believed it would mean within 15 years, it would cost us between twenty-six or twenty-seven million dollars, whereas the DuPont offer will cost us nothing but the cost of the water. He stated at the present time we are paying about a dollar for 750 gallons and Gov. Martinex has made the statement that we must all realize that no matter what we think or do, our water costs will go up three to one in the next year. He believed our water system was substantially destroyed when the Kissimee Kissimee Ditch was built and now that is going to be replaced. He has heard all kinds of prices for this replacement ranging from twelve million to two billion dollars. He felt even if it is replaced, it would take an additional ten years to get some good water back. He advised DuPont has made an additional offer and that is they will furnish us within the next two days, complete specifications detailing everything that is necessary to get quotations and they would allow the Town to use these engineering specificaions and material specificaions to go to any competitor to get competitive prices so we can move ahead on this matter. He believed that offer should be given extremely good consideration as every municipality in South Florida is interested in this. He noted two permits are necessary, one from the South Florida Water District and the other from Department of Environmental Regulation and he strongly urged these permits be pursued.

Mr. Ford asked the Council not to have a joint operation with the City of West Palm Beach as their water is full of chlorine and he felt the Town should be an independent source of pure clear water.

Patrick Henry of 630 Crest Road addressed the Council agreeing the water from West Palm Beach is not of very good quality and he has a purification and filtration system in his home. He believed the existing inadequacies should be addressed promptly. He felt desalinization was the way to go in providing the citizens of Palm Beach with a reliable secure proven supply of pure chemical free water. He felt the Town had an unique opportunity to have a state-of-the-art desalinization plant installed and operated by DePont on a cost effective basis and he urged the Council to no wait any longer and pursue this matter.

Mr. Louis Pryor addressed the Council noting we are in a buyer's market for seeking sources of feed water and he urged them to seek the permits as of today as he believed the buyer's market will be turned around and in a few short weeks, it will become a seller's market and then we may not be able to secure the permits necessary and he could see nothing lost by seeking the permits at this time.

Mr. Anthony Baker, 150 Clark Avenue addressed the Council noting he has a purification system on the water in his house and three days ago, the filter was white but today it is yellow-brown. He believed they should not stick their heads in the ground and wait but take advantage of the offer made by DuPont.

Mr. Heeke noted in the back-up information, the proposal for the Consulting Engineers is that the general scope of the work the Town wishes to have done is a Feasibility Study performed to determine the advantages and disadvantages of contructing a desalinization water plant to provide Town residents with potable water. He noted this study may include, but is not necessarity limited to facility size and location, well fields, plant ownership, plant operation, total cost, required user charges, analysis of distribution system value and ownership alternatives, distribution system adequacy and required modifications and other related issues. He noted the Town also desires to explore other water source alternatives in connection with the Comprehensive Plan activities. He indicated these alternatives may include the use of alternative non-potable sources, such as storm water to reduce water consumption. He indicated that based upon the feasibility study results, the Town may or may not desire to proceed with preliminary design, final design and construction of some or all of the issues referred to. He believed the consensus at the Workshop meeting was to seek to get an Engineering Study to address these various issues and make recommendations to the Council. He felt DuPont should be encouraged to stay with us because it is a matter we are now considering and it is one of these considerations and also with respect to permitting, he believed they had to have more definitive information before applying for the permits.

Alternate water supply

Mayor Marix asked if DePont was willing to do the engineering, draw up the specifications within a short period of time, would they be allowed to bid on it if they drew up the specs? She recalled DuPont is willing to give us this service in return for selling us water and it was her understanding they were going to find out whether there was anyone else willing to do the engineering, the planning, the leg work and then sell us the water. She felt if DuPont was willing to do all they said they would, the Town should be pursuing this as fast as is possible.

Mrs. Douthit indicated she was very interested in the DuPont offer as they have vast knowledge and expertise in this field and would give us fifteen years to train our people and that is one of the reasons she was vastly interested in the DuPont proposition.

Mr. Weinberg asked how much does a permit cost and how long does it take to get one. Mr. Doney responded he didn't think there was a standard cost as it all depended on what was being requested.

Mr. Ford indicated he has discussed this with DuPont at great length and they have been doing this type of work for years, designing plants, doing the engineering, operating them and running them as plants. He didn't understand why the Town wished to pursue an engineering study as DuPont has done this type of study hundreds of times and they will give us their findings and then will operate the plant and this should save us the cost for the engineering.

Mr. Heeke responded the study was not to be limited to the design but was to make recommendation about which direction we want to go, whether we want to do this by ourselves or as a joint venture and other issues.

Mr. Ford exclaimed we are almost out of water here and we need to protect ourselves and he suggested they do what the Mayor suggested, make some kind of a deal with DuPont and then go out and get quotations and if they are better than DuPont, go with them, but this matter should not be delayed.

Mrs. Wiener recalled at the Workshop meeting, they decided to move in this direction and she would like to hear from staff.

Mr. Doney explained he understood they were to prepare a notice to consulting water engineers that would invite them to submit their letters of interest, statements of qualifications to be evaluated by the Town and from that point forward, we would negotiate a contract and define the scope of work and Mr. Dusey has submitted two draft notices and the more detailed requests for proposals is to identify the scope of work. He indicated he further understood that if the Mayor and Town Council believe that other issues need to also be included within this notice to the engineers, that would come up today so staff would receive further direction.

Mr. Heeke believed they were to proceed with the determining which notice to engineers should be published and the next logical step would be to lay out perimeters and the firm selected they would want the DuPont contract submitted for them to look at.

Mayor Marix agreed but believed another possibility was to look around and find an Engineer and another one was to discuss with West Palm what their other program might be and thirdly, was to see how many more people would like to build us a plant and operate it for us. Mr. Dusey stated it was his understanding that if it were determined by the engineer that the operation, ownership and maintenance of the facility would best lie in the hands of a private firm, such as DuPont, they they would pursue that at that time, but that was all to be a part of the Feasibility Study.

Mayor Marix agreed but further understood that DuPont would either just give them specs or build it and foot the bill or build it and run it and we haven't discussed other possibilities further with them. Mr. Heeke believed the engineer is the one who is going to be charged with giving us the advice on this. Mr. Dusey agreed they would evaluate the alternatives. Mayor Marix did not believe we had information on all of the alternatives. Mr. Dusey agreed stating they don't have an engineer yet either and that would be the first step.

Mayor Marix didn't believe they have approached DuPont on time frame and what they would charge for the specs and she didn't see why all of this could not be done concurrently.

Mr. Dusey stated he guessed it could be done concurrently but as a matter of reality- if DuPont were able to put up a plant tomorrow at someplace in Town, there would be no way they could get the water to the residents as they have to have a plumbing system to go with it. Mayor Marix agreed noting they belong to West Palm Beach and what we have to find out is whether we can buy the pipes and what the cost would be and that should be part of the concurrent process. Mr. Dusey commented they don't know if the pipes will even work in the condition they are in. Mayor Marix felt if they weren't going to work very long in the condition they were in, what were they planning on doing about having any water at all in the next three or four weeks? Mr. Dusey explained West Palm has told us we don't have to worry about that as right now they have to rehabilitate the system. Mayor Marix felt they should be looking at these things concurrently. Mr. Dusey felt the next step in progressing with the project is to hire an engineer. Mrs. Douthit asked if DuPont is going to do the engineering for nothing, couldn't we have them do their bit as to the well fields?

Mr. Dusey responded he could be wrong but he believed DuPont would want a firm commitment before they would go out and spend all that money on test wells. Mr. ford indicated once they get a sample of the water they can give a final price and contract but they will do everything else and he felt if the Town went ahead with the consulting engineers and feasibility studies they would lose the opportunity with DuPont as they have a lot of people waiting at their door and he believed the offer should be sewed up and then the details worked out.

Mayor Marix asked if DuPont was going to dig a well also? Mr. Ford explained it would be an exploratory well. Mayor Marix wondered if they could give us an idea of what the exporatory drilling would cost? Mr. Ford responded that he guessed it would be between twenty five and fifty thousand dollars because it is a feeler pipe and they would have to go down about 350 to 400 feet. Mayor Marix asked regardless of whom we get, there has to be a well drilled to know what the water has got in it? Mr. Dusey agreed. Mayor Marix asked if all agreed a well would have to be drilled and it would cost approximately $25,000? Mr. Dusey responded this would be done at an appropriate point in time. Mayor Marix felt if that was a true statement, she couldn't see why they wouldn't have DuPont come and do all the extra work for free, prior to making any kind of a commitment and at the same time, we get the bids in from the engineers. She stated when we get the engineer we like, we will have all the information that we can possibly have, except for the well and then a decision can be made as to whether or not to spend $25,000 ir $50,00 for the well. She felt if DuPont is going to do it for free and we try and find an engineer, we look to see what location DuPont would recommend, as if we don't know what area they will recommend, we can't ask the engineer if it is a good idea or not. Mr. Dusey responded the engineer would have to site the plant. Mayor Marix thought perhaps DuPont has an idea or where they would like the plant sited. Mr. Dusey felt if they are going to get into it, they would have to come to the Town and find out what we own, etc. Mayor Marix was sure they would be interested in discussing this with us. Mr. Dusey indicated he agreed with the Mayor as if they were willing to do this with no charge, tnd they were willing to drill a well for free. Mayor Marix did not believe they would be doing the well. Mr. Ford indicated they would do the drilling, if the Town showed enough interest. Mayor Marix thought if we have to pay for the drilling or not pay for it, we would not be losing anything as if we show them the land we own or how much it would cost to buy another piece of land, it seemed to her we should use DuPont for what they are worth. Alternate water supply

Mr. Ford explained he has been working with two of the top water authorities in the country with Universities and they have told him that regardless who is used as a consultant, they go back to DuPont who will give them recommendations on what to do, because they are the best in this industry.

Mr. Heeke indicated he prefers to do the feasibility study which would embody the requirement needed for the Comprehensive Plan and he viewed that as the logical next step that should be taken. He did not believe that forecloses us from approaching DuPont at the same time. He believed it would take DuPont some time to generate something to bring back to us and in the meantime we will have begun taking some steps as we have a number of choices to make. He recalled we have had a Workshop on this matter which was very lengthy. He believed the feasibility Study was needed for the Comprehensive Plan and also we need to know about other approaches. He didn't see any problem with approaching DuPont and asking them to make their proposal to us because this is obviously something that we would want looked at as it could well be in our best interest. He was concerned about the Town Attorney's opinion however if someone generates a plan and an Engineering Study and it is put out for bid, there may be a question of whether anyone else could meet those same criteria. He stated it would have to be a proposal that was not so unique that other people could not fall within that category and that would be a very significant legal question. He felt if even all were agreeable to use DuPont right now today, he didn't think it was possible to do so under Municipal Law.

Attorney Monaghan felt it was a good point and they have to be careful that when they do go out to bid on things on which they are required to bid, that they go out with a set of specifications that are such that allow all qualified people to bid.

Bob Pollard of 216 Emerald Lane addressed the Council indicating he was sold on the DuPont Plan and he knew they had to take all the legal precautions and get the bids that are necessary, but he felt this is a windfall almost dropped at our feet and for whatever reasons DuPont is willing to do this at a bargain price and operate the plant for ten to fifteen years with no cost to us, other than buying the water and they offer to sell it to us and even then we don't have to buy it. He felt if he was on the Council fifteen years from now and the plant was operating properly and they were doing a good job, they might just want to continue on with the DuPont people but it was a proposal that should be seriously looked at by the Council. Mr. Ilyinsky asked where such a plant could be built? Mayor Marix felt there were several places where it could be. Mr. Ford explained that DuPont had specs which could be used this week, if necessary and they would be broad enough that anyone could read them and would not be specialized. Mr. Heeke stated he wanted to move ahead with this as he didn't want to be at the point of having done nothing.

Mrs. Wiener moved that staff be authorized to proceed based on the notice to the engineers and that we move forward in that direction as we have instructed staff to do and at the same time we ask DuPont if we can get further involved with them as to the specs and see if we can find a melding somewhere where we can move forward quickly and at the same time cover all the legal ground that needs to be covered. Mrs. Douthit asked if there could be an amendment to the motion that if it was possible we move also towards permitting? Mrs. Wiener responded before there can be a permit, a well would have to be dug and there are a lot of things that have to be done before we get to that point. Mr. Ford responded they don't have to dig the well to get the permit, they must describe where they want to put the well. Mr. Heeke wondered if the motion should state that they should examine the immediate application for permitting, if at all feasible. Mrs. Wiener didn't know where the well was going to be. Mayor Marix explained that is what DuPont is supposed to help us do. Mr. Ilyinsky asked that it be put that way. Mrs. Wiener did not agree.

Mr. Heeke asked Mr. Dusey if he had two notices for the engineers? Mr. Dusey responded he did and one would include the study of other water resource alternatives. Mr. Heeke asked if this would comply with the requirement for the Compehensive Plan to which Mr. Dusey responded affirmatively. Mrs. Wiener agreed that this should be included in that also. Mr. Heeke believed the motion is that we would use the second notice to the engineers with the general scope of the work set out and DuPont be contaced and urged to submit the specifications and such steps as they are willing to take at this point. Mrs. Douthit noted there was nothing in the motion then about the Permitting? Mr. Heeke responded Mrs. Wiener was not inclined to add that to her motion. Mayor Marix asked if they had inquired about what the steps would be? Mrs. Wiener did not believe that needed to be a part of the motion. The motion was seconded by Mr. Weinberg. Mr. Ilyinsky asked if the motion included the permitting? Mr. Heeke responded it does not.

Mr. Pryor addressed the Council suggesting that in the instructions to the engineers due emphasis be given to the importance as to getting the necessary information as quickly as possible so as to be able to apply for the permits as soon as possible? Mr. Heeke believed the staff will be getting information from experts as to the permitting process.

Mr. Ford suggested they go after the permits immediately as it is a matter of being there first and permits as soon as possible? Mr. Heeke believed the staff will be getting information from experts as to the permitting process.

Mr. Ford suggested they go after the permits immediately as it is a matter of being there first and there are people that are preparing now to do this thing and they will be taking 200 million gallons a day out of this aquifer which will lower it considerably and he urged they go for the permit immediately. Mayor Marix suggested Mr. Dusey contact the Engineer from Jupiter as they have their permit and find out how they got it.

On roll call, the motion carried with a negative vote cast by Mrs. Douthit who stated she felt the motion should allow the permitting process and that is why she was voting against it.

Mrs. Douthit made a motion that the staff be authorized to contact Jupiter and Delray who have been permitted and find out the steps that need to be taken for the permitting process and this be acted upon as quickly as we possibly can. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Mr. Heeke stated the ad will be published within the next several days and asked if they would be asking for a response within thirty days? Mr. Doney advised they will advertise on March 18th and receive proposals which would consist of the information identified in the backup material for evaluation by April 9th. He indicated they will short list the bids received from consultants during the week of April 16th and then the Selection Committee interviews and ranks the Consultants during the week of April 23rd and the selection made after which the Town Staff would negotiate an agreement with the selected Consultant and it would be on the Town Council agenda for the June 12, 1990 meeting. Mr. Heeke asked if it was possible to have

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this done by the May Town Council meeting? Mr. Dusey stated that is possible but he didn't want to make that commitment, because sometimes negotiations don't always go well. Mr. Heeke asked about the Selection Committee? Mr. Dusey responded they are established by Administrative Policy. Mr. Heeke suggested that this is the time in which we need assistance to our staff and he believed they would be getting into legal questions and he recommended Mr. Sundstrom be a part of the Selection Committee. Mr. Doney explained the Selection Team is the Chairman of the Related Town Council Committee, or alternatively the Committee member; the Town Manager or his Designee; the Director of Public Works or his Designee and another individual as deemed as appropriate by the Town Manager. He stated an alternative method is the Town Council in its entirety. Mr. Heeke stated he was not willing to do that as he wanted to have the Selection Team be the staff and a professional. Mrs. Wiener stated the members of the Selected Committee are described on Page 2 of the Procedure manual. Mr. Heeke believed that Mr. Sundstrom could be included under Item D. Mrs. Wiener noted that states it should be an individual as deemed appropriate by the Town Manager and she felt these things were written for a reason and she would like to go by that procedure. Mr. Doney indicated if he was going to utilize someone other than staff, the Town would have to pay for these services and he would have to ask the Town Council for funding to engage that individual, be it an attorney, an engineer or whomever.

Mayor Marix felt if it had to come back to the Council for funding, it would mean another 30 day delay. Mrs. Wiener indicated her motion was to follow the procedure as outlined. Mrs. Douthit asked if the motion could state at the Town Manager's discretion, he be allowed to spend \$3,000 to \$5,000 if he elects to do so. Mayor Marix felt they had to have someone with knowledge. Mr. Heeke noted there was no second to the motion and the problem is there would be funding needed to hire an outside expert to serve as part of this team. Mr. Doney stated if they were going to use an outside expert, he would have to be paid. He felt a consulting water engineer is necessary as Mr. Dusey and Mr. Bowser have many other duties and responsibilities that need to be tended to also. Mayor Marix felt if they didn't have the staff or staff did not have the expertise, we should get an expert to tell us who is a good engineer. Mr. Doney felt they had the ability to make a choice. Mr. Dusey reported they are capable to hire or pick out a good engineer. Mr. Doney agreed the staff could but he knew there were legal issues here on which they would have to proceed very carefully and legally. Mrs. Douthit suggested a figure be set for the expertise. Mrs. Wiener agreed to set a figure of \$2500 on it. Mrs. Douthit suggested it should be \$5000 which would be a little bit more realistic. Mrs. Wiener did not agree. Mrs. Douthit felt that would again delay the process. Mrs. Wiener would not agree.

Mrs. Douthit moved that \$5000 be authorized to be spent in the Town Manager's discretion and he be allowed to choose whom he thinks is best. Mayor Marix asked if the figure should be up to \$5000? Seconded by Mrs. Wiener.

Mr. Heeke explained the motion is to follow the procedures and the Town Manager is authorized to employ an outside consultant expert, at a cost not to exceed \$5000.

On roll call, the motion carried unanimosuly.

Shore & Beach Preservation

8. Florida Shore and Beach Preservation Association Conference on February 14-16, 1990 at St. Petersburg - Report by Mayor Marix. Mayor Marix indicated she had a prepared report and would like to read it, however, Mr. Ilyinsky asked her to summarize it. Mr. Heeke asked her to give the report in any way she saw fit and Mayor Marix summarized her written report by stating: "Peter Elwell, the Administrative Assistant and herself and our Town Engineer, Jim Bowser, went to the Florida Shore and Beach Preservation Association Conference in St. Pete the 14th of February for two days. This was really to analyze what we could learn from Hugo. Mr. Bowser, Mr. Elwell and myself sort of got together a little bit on what we think we learned the most; or some of the things that affected us the most and, my biggest concern was on future evacuation. I have lived here for an awful long time and have been through a great many hurricanes and a lot of other people have too; and the ones who have been through a lot, probably have the least respect for the damage they cause. When a hurricane has threatened, since I have been Mayor, out biggest worry is going to how to convince people that they have to get out. Anyone who has seen the barrier islands up at Charlestown knows you had better get out, so I want, and what I learned, the most important lesson from that convention was we must, as of now, start working on a positive campaign to make people understand they are going to have to leave. Period. Whether you'd fine them or put them in jail - whatever you have to do - right now, all you can do is ask them to. It is absolutely totally important that they leave. If it is a small hurricane, it probably won't matter - you would have no lights for a couple of days. But if it is anything near serious, you could be in a disastrous position for weeks - days and days and days. There were some places that were six miles in that were flooded - six miles in! These are the kind of things we are going to have to put teeth into to getting people out of here. Jim was particularly interested in the Building Code. It is good news and bad. The structures which are built to a very strict building code survived remarkably well. Our Town Codes are even stricter, of course, than most any - so probably most of our buildings, (except where we will get an extra inlet or two) will survive. The bad news is that the people may well drown. And will have a building to come back to to rehabilitate in another life. But the threats to their lives is what we have to worry about and those islands which were overwashed (and many were not) they were bigger than this one. As I drive up and down now, I realize - (they had a twenty foot wave surge sometimes, and even if we don't get twenty feet, because of the Bahama Bank,) we are liable to get a complete overwash and it does tend to drown people.

Peter was particularly interested on the erosion aspect - with the sand and the inlet, because what they noticed was there was some evidence that in a one storm deal - that means - say a hurricane comes along - areas that had had beach renourishment - while they'll lose it and most likely lose the dune - a lot of that sand will come back. The sand that overwashed into the rest of the boon docks - that will not come back but it was quite nice how much of it did. And one more thing, just one, the FEMA subsidizes restoration of beach management program. I believe if we spend all this money doing our beach and it washes away - they will come and help bring it back or put another one back. However, the strings attached to that are so serious and quite complicated that no-one had better count on them doing it unless part of the renourishment you then plan for another one, and you ask to have it funded, so time and funding has to be in total place prior to the hurricane if you expect any Federal help. So those are the three most important items".

One more short thing I wanted to add and Mr. Doney, this is really for your benefit, we went into big buck spending on that because we get \$21 per day for breakfast, lunch dinner - \$3 for breakfast, \$6 for lunch and \$12 for dinner. Well, I had a stomach ache so that was ok by me but I do think as a policy for the Town to have the \$21 is fine but when you are in a hotel like that one, where you eat there because you live there and if there is no possible dinner served in a place you are staying at and you do have to pay more and you bring home a copy of the menu, I think it would be appropriate that the Town reimburse the difference to the employee. You could not get breakfast for \$3.00 - it was \$5.00. Mr. Heeke recalled a policy was adopted a few years ago where staff would be reimbursed in cases of this kind, irrespective of the per diem allowed by State. Mr. Doney indicated it would have to be documented. Mayor Marix felt they could bring back a hotel menu which showed there was nothing available for the per diem. Mr. Heeke recalled when Mr. Widener was President of the Council, he was authorized to approve the bill of the Town Manager since the Town Manager wasn't reporting to anyone else, and he would undertake that responsibility.

Mr. Heeke thanked the Mayor for her comments and felt the mandatory evacuation is something they would have to look into.

Approve warrant list

XII. APPROVAL OF WARRANT LIST AND FUND EXPENDITURES FOR FEBRUARY, 1990. Motion was made by Mr. Weinberg to approve the Warrant List and Fund Expenditures for February, 1990. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Ten Minute break was taken. Presidnt Heeke called the meeting back to order.

XIII. DEVELOPMENT REVIEWS:

Development reviews

A. Major Matters Previously Considered by the Architectural Commission at their meeting of Feb. 28, 1990. Motion was made by Mrs. Douthit, seconded by Mr. Ilyinsky that the major matters considered by the Architectural Commission on Feb. 28, 1990 be approved. Motion carried unanimously.

The major matters were:

B1-90- Robert Cummings, 665 N. County Road - Kitchen addition to be added to the second story above existing garage - brick, trim, windows and other materials to match existing structure. Approved.

B4-90 - New residence for Mr. Lenardo Sessa, 6 South Lake Trail - Approved conditionally.

B5-90 - Addition to residence of Mr. & Mrs. Alfonso Fanjul, 1161 N. Lake Way - Approved conditionally.

B74-89 - Landscape Plan for Sloan's Curve Property Owners Association, 2000-2100 S. Ocean Blvd. - Item removed from the agenda.

B6-90 - Addition and remodeling to residence of Mr. & Mrs. Holden Luntz, 234 Seminole Avenue - Deferred.

B7-90 - Addition and remodeling for Sloane Construction Co., 166 Everglade Avenue - Approved conditionally.

B8-90 - Demolition and install new tennis court and gazebo for Frank J. and Sandra Dee McKeown/J. Ira Harris as Trustee, 300 Wells Road. Approved conditionally.

B9-90 - Addition and remodeling to residence of Madeline Herbert, 111 Via Del Lago - deferred.

B10-90 - New residence for Mr. & Mrs. Lopata, 234 Eden Road - Approved conditionally.

B11-90 - Addition to home of Anne G. Perry, 277 Esplanade Way - Approved. B12-90 - Roof change - addition of conservatory to rear of house for Mr. & Mrs. Michael Kaiser, 245 Dunbar Rd. - Approved.

Variance 5-90

B. Variances, Special Exceptions and Site Plan Reviews the Town Zoning Ordinance. R-B District. Deferred from Feb. meeting. Attorney John Bannister addressed the Council for the applicant requested the variance to construct a small compact kitchen for their own personal use and their guests. He indicated they would be agreeable to sign a kitchen removal agreement and if the property is ever sold, to require the subsequent purchasers to apply for same also. He indicated extensive renovations to the house are now going on which are a result of termite damage and they will be moving into the guest house while their main residence is being repaired. Mr. Ilyinsky moved the Variance NO. 5-90 be approved with the provision a Kitchen Removal Agreement is signed and recorded in the County Court House. Seconded by Mrs. Douthit. Mr. Moore advised staff has no objection as long as the agreement is recorded in the Court House to which Mr. Bannister agreed. On roll call, the motion carried unanimosuly.

Variance 6-90

2. Variance No. 6-90 with Site Plan Review - John Raimondi, 1420 N. Ocean Blvd.; to allow erection of three sculptures exceeding maximum height allowed as follows: permit 12' height and a 15' in lieu of 4' maximum allowed east of Ocean Blvd. per Section 5.47 (a) and and permit 13' height in lieu of 12' allowed (west of Beach Area Zone) per Section 5.50 (b). Beach Area Zoning District. Deferred from FEbruary meeting. Mr. Raimondi addressed the Council on his own behalf indicating he was before the Council last month and appreciated their concern about the request. He has researched this and found that in the past twelve years, his request is the second one of this type. He suggested that in the future, there be an Art Review Committee set up to look over applications of this type with people on the committee from the academic museum world; the second, commercial aspect of the industry, such as a gallery owner or curator; and the third would be a practicing artist. Mr. Heeke asked if this was from an aesthetics aspect only to which Mr. Raimondi responded affirmatively. Mr. Heeke pointed out that a hardship must be shown for a variance and asked Mr. Raimondi what his hardship was to deviate from the Code? Mr. Raimondi felt an Art Review Board could look over any future requests and make the decision as to whether or not it would be acceptable. Mr. Raimondi informed the Council he has revised his request to have only one sculpture on the four feet requirement? Mr. Raimondi noted the 4' requirement is for the beach area only. Mrs. Douthit indicated she has viewed the sculptures and they are wonderful, but she was afraid they might be blown away in the event of a storm and that would be a threat to public safety. Mr. Raimondi advised he would follow the Town's Code and it withstand 120 Mile per hour wind force.

Mr. Heeke indicated there has been no hardship shown. Mr. Weinberg felt the hardship would be the size and art cannot be measured by its size or shape or subject and its harmony with the environment, the sea and the sky. He did not see how the Council could deprive people who live around there of this beautiful sculpture and he viewd this as a hardship to not show it.

Mrs. Douthit felt it could also be viewed as a commercial enterprise in a residential district, as it is a form of advertising in a residential district. Mr. Raimondi likened this to a building designed by an architect, as people will drive by and take a look at it. Mr. Moore noted that buildings are a permitted use. Mr. Raimondi indicated his work is sold out of galleries all over the world. Mrs. Douthit indicated she was not knocking his work. Mr. Heeke agreed the sculptures are quite beautiful.

Mr. Ilyinsky indicated there are letters from the neighbors who object. Mr. Raimondi stated there were also letters from other neighbors who did not object and those letters outnumbered those objecting. He doesn't want to make a great case out of this as he lives here and loves it here but he has had people knocking on his door asking for the sculptures to be put back only the beach.

Mr. Heeke indicated a lot of people live here for the reason that we adhere to our ordinances and it makes some people unhappy when they come before us and we have to turn them down. He realized most people would have no objection to the visual impact, but the impact to the community is quite different and if we do not support our ordinances and be consistent with them, there is no sense in having a Zoning Code. He asked what the hardship was which is unique to this property?

Mr. Moore gave the staff comments: Police consider this to be a traffic hazard for both the wind regulations and because of gawkers. Builidng Department objects to the placement of the structures as there

Variance 6-90

is no hardship being demonstrated. He believed four of these applications have come before the Council in nine years and have been denied. He felt a more important issue here as there are allegations he is using his home as a form of a gallery and there was also a question about a possible charitable event which was held at his home without benefit of the Town approval. Seconded by Mrs. Wiener. On roll call, the motion carried for denial with Mr. Weinberg voting against the motion (4-1).

Variance 8-90

3. Variance No. 8-90 - Leonard and Pat Sousa, 210 Colonial Lane; to allow construction of a new two-story residence with the following variances: allow lot coverage of 30% in lieu of 25% maximum allowed; provide 20' in front yard setback in lieu of 30'required; allow 100' minimum width; pvovide street side yard of 27' in lieu of 35' required to the east and 10' in lieu of 15' to the west side yard; and, allow construction of a swimming pool providing 15' street side yard setback in lieu of 25' required. R-B District. Deferred from meeting. Withdrawn.

Spec. Exc. 1-90

Special Exception No. 1-90 with Variance and Site Plan Review - The Sailfish Club of Florida, Inc., 1338 N. Lake Way to allow modification of this existing Special Exception Use by removing and replacing swimming pool and cabanas, and adding a tennis court. A variance is requested to allow a lot coverage of 31.84% in lieu of 25% maximum allowed and 30.30% existing. R-B District. Postponed from Feb. meeting.

Noe Guerra of Schwab, Twitty, Hanser Architects addressed the Council indicating the tennis court has been eliminated from the plan and they have readjusted the Site Plan so there is no additional lot coverage and it is as presently exists. He has provided eleven additional parking spaces. Mrs. Wiener noted since they are not exceeding the present lot coverage, she would like to move a approval of Special Exception No. 1-90 and the Site Plan Review. Seconded by Mr. Ilyinsky. Mr. Heeke indicated he is a member of the Sailfish Club and he will be voting on this as this will not enure to his benefit. On roll call, the motion carried unanimously for approval.

NEW BUSINESS:

Variance 10-90

5. Variance No. 10-90 - Peter May, 1409 S. Ocean Blvd., to allow construction of driveway gate posts at a height of 12' and gates at a height of 11' in lieu of 6' maximum allowed per Section 5.36 of the Town Zoning Ordinance. R-AA District. Mr. Mark Ferguson, Architect for the applicant addressed the Council requested new driveway gates set in from the property line 24', with the gates being metal and masonry to either side for support. He indicated the variance is requested to conform to the neighboring gates at 1410 S. Ocean Blvd., to make the two residences unified to some degree. Mrs. Douthit asked if there was a wall located on the requested new driveway gates set in from the property line 24', with the gates being metal and masonry to either side for support. He indicated the variance is requested to conform to the neighboring gates at 1410 S. Ocean Blvd., to make the two residences unified to some degree. Mrs. Douthit asked if there was a wall located on the property? Mr. Ferguson indicated they hope to erect a hedge which will grow to 6 to 8 feet in height. Mr. Heeke asked that the height was on the existing gates to which Mr. Ferguson responded the existing gates to the horizontal cross bars are approximately eight feet.

Mr. Moore indicated the staff has no objection generally to these type of requests, providing there is hardship in the fact that they are either matching walls that exist or similar gates in the neighborhood and that is the case here. He does not object to the variance request providing these gates proposed do not exceed the height of the gates across the street, at 1410 S. Ocean and another condition that they don't come back to ask for a variance for walls to match the gates.

Mr. Heeke asked Mr. Moore if a motion was made that the gates be allowed with the condition that the gates will be no greater in height than the existing gates across the street at 1410 S. Ocean Blvd., and provided that the request for walls of a similar height would not be requested in the future, could the Building Department live with that to which Mr. Moore responded affirmatively. Mr. Ferguson indicated he would have to redesign the whole thing to meet that requirement as he wished to keep it in conformance with the area. He stated the main body of the gate is an eight foot element. Mrs. Wiener moved for the approval of Variance No. 10-90 with the proviso that there not be a request in the future for walls which will be higher than allowed. Seconded by Mr. Ilyinsky. Mr. Heeke indicated he would not be able to vote for it as he would like to see it match the gates across the road and he could see no hardship. On roll call, the motion carried 3-2 with Mrs. Douthit and Mr. Heeke voting against the motion.

Variance 11-90

6. Variance No. 11-90 - Gerard Henkel, 156 Seabreeze Ave.; to allow construction of a one-story addition at the rear southeast corner of a two-story residence providing an eight foot side yard setback in lieu of fifteen feet required. R-B District. Robert Bell, Architect addressed the Council requesting the variance for the applicant. Mrs. Douthit asked if the extension was at the one story level to which Mr. Bell responded affirmatively. Mr. Heeke indicated he would not be voting for this as the new construction does not comply with the existing ordinance. Mr. Moore indicated staff has no objection as it fills in an existing area and it does not increase lot coverage nor decrease the green space. Mr. Ilyinsky moved that Variance No. 11-90 be approved. Seconded by Mrs. Wiener. On roll call, the motion carried 4-1 with Mr. Heeke voting against the motion.

Variance 12-90

7. Variance No. 12-90 - Kenneth Newberger, 320 Polmer Park, to allow construction of an addition to a nonconforming residence providing a ten foot side yard setback in lieu of 12.5' required, and to permit an increase in lot coverage from 30.8% to 31.6% thereby exceeding the 25% maximum allowable. R-B District. Mr. Jon Spradley addressed the Council for the applicant indicating the addition would be 8.4' by 15' and there is an existing concrete patio at the present time and they would like to remove the concrete patio and build the exercise room.

Mr. Heeke asked what the hardship was to which Mr. Spradley resonded there is none that runs with the land, however, his client has a medical problem and needs to exercise and he wants to build the room to house the exercise equipment.

Mr. Moore explained this application is a minimal type variance but it does increase the lot coverage which is already in violation and there is no hardship shown.

Mayor Marix asked if there was anywhere else where the exercise equipment could be placed? Mr. Spradley responded there was no other convenient space. Mrs. Douthit believed the exercise machine could be placed anywhere in the house, although they are not very pretty.

Mr. Ilyinsky moved Variance 12-90 be granted. There was no second to the motion.

Mrs. Southit moved the Variance No. 12-90 be denied due to the fact that the equipment could probably be located somewhere wlse on the property, although she knows they are not very decorative; and because there has been no hardship demonstrated; and also since the lot coverage allowed has already been exceeded. Seconded by Mrs. Wiener.

Mr. Spradley asked if the lot coverage could be reduced, would this be allowed? Mr. Moore indicated they would have to remove part of the building, square foot for square foot. Variance 12-90

On roll call, the motion carreid 4-1 with Mr. Ilyinsky voting against the motion.

8. Variance No. 13-90 - Lowry Bell, 220 Banyan Rd., to allow construction of a tennis court providing a 10' front yard setback in lieu of 35' required and providing a 2.5' west side yard setback in lieu of 10' required. R-A District. Deferred. Var. 13-90

9. Variance No. 14-90 - Lowry Bell, 700 S. County Rd., to allow construction of tennis court providing astreet side yard setback of 10' in lieu of 35' required; providing 2.5' front yard setback in lieu of 45' required; and providing 2.5' west rear yard setback in lieu of 10' required. R-A District. Deferred. Variance 14-90

10. Variance No. 15-90 Robert Lawrence, 30 Middle Rd., to allow construction of single family dwelling on a lot fronting 83 1/3' in lieu of 100' street front required. R-B District. Mr. Moore reported the staff has identified an additional variance that will be required as the proposed lot split will leave a non-conformity with the present residence and that would require an additional variance. Mrs. Peters reported the Town Manager's Office has advised the applicant is on his way to the Council meeting. Variance 15-90

Mr. Heeke indicated he has a conflict on this and will not be voting on this. Mr. Ilyinsky assumed the chair.

Mr. Wilbur Thomas, 5 Middle Road addressed the Council indicating he had his house landmarked last week along with four other houses on Middle Road and he felt these two lots have been co-mingled by their use over the last fifteen years and the burden of proof is on the applicant to prove that is not the case befoee they have the right to file for a variance.

Mr. Moore reported this property was acquired in 1962 and in 1964, the separate property was acquired and subsequently they built on it a utility shed and the Town Zoning dealt with a change in the Ordinance which requires accessory structures have a primary structure on the property before accessory structures could be built and they were required to demolish or cease use of the accessory structure with a twelve month period, but more importantly the main house would be made non-conforming as to its side yard, so an additional variance would be needed if this variance is granted.

Mr. Thomas stated it is the feeling on Middle Road that another small house is not needed on Middle Road.

Mayor Marix did not understand why they would be obligated to allow this split. Mr. Moore did not think they were obligated as this is a zoning decision and clearly there will be two variances involved instead of one.

Mrs. Douthit moved the Variance No. 15-90 be denied on the grounds it is improper for Council to create a ono-conformáty, Seconded by Mrs. Weiner

Mr. Robert C. Lawrence, Jr. addressed the Council on his own behalf indicating that his neighbor who protested the variance has changed her mind and will now support it as they have worked out an arrangement. Mr. Moore advised the staff has identified an additional variance and they believe the Council has the right absent the unity of title, to consider the variance but an additional variance will be required on the side yard they will be creating for the re-split of this property so another variance will be necessary to the Lot, Yard and Bulk Regulations since they would be creating a non-conforming structure where the house is now. He felt the Council would have a difficult time to grant such a variance without showing of a hardship and staff could not recommend approval.

Mr. Lawrence explained when his in-laws acquired the lot, the frontage requirements on Middle Road were 75' and not 100' and it was always their intent to have that lot for their daughter and her husband to build on it, to be next to them in their later years. He wished they had built on it themselves years ago and they wouldn't be having these problems. He didn't understand how the existing residence is not in compliance. Mr. Moore reported once the property is split, they will be five feet short on the setback. Mr. Ilyinsky explained if this was allowed to be done all over town, it would be horrendous.

Mr. Lawrence believed there were other small lots on Middle Road as there are a number of lots with less street frontage and the house he is building will not be the least valuable, so it should not detract from the neighborhood. Mr. Wiener explained that had his in-laws built on that property prior to the zoning changes, there would be no problem, but the zoning is being continually tightened so they are not overrun at every corner. Mr. Moore recalled the zoning changed about ten years ago from 75 to 100 feet for lot size so it has been non-conforming for the last ten years. Mr. Lawrence indicated he has sold his home in Ct., with a closing on it on May 15, 1990 and has made a wrenching commitment to change his life style and he has no other lot and is in a difficult situation if this house cannot be built.

Mayor Marix asked if it would not be possible for the in-laws to build onto the main house and build some kind of arcades for privacy. Mr. Ilyinsky commendted the Council has many tough decisions but has to think about sunlight between houses, breezes between houses and things like that and if you drive around the Town, he would notice these setbacks are being adhered to and he thought the Mayor's idea of adding an addition to the main house was a good way to solve this problem.

Mr. Paul Mason, 25 Middle Road, opposite the property in question stated he was in favor of the motion as the east side of Middle Road has a 125' minimum and most of the homes are well in excess of that and he strongly believes that if this was granted, it would reduce the value of his property and the desirability of living there.

On roll call, the motion carried unanimously for denial. Mr. Heeke abstained.

11. Special Exception No. 2-90 with Site Plan Review - Steven Spector, 242 Sunset Ave., to allow construction of a two story commercial building in a C-TS Zoning District per Section 5.48 of the Town Zoning Ordinance. Dr. Spector addressed the Council on his own behalf, requested the granting of the Special Exception with Site Plan Review. Mr. Moore indicated the Police Department has indicated this area is heavily travelled because of Publix being in the neighborhood; Engineer requests the first one inch of stormwater be retained on the property prior to overflow into the Town drainage system; green space and landscaping should be considered with the drainage plan; and the staff of the Building Department has no objection, however one on-street parking space will be lost with the driveway cut; and the Town Manager's office wishes the traffic and parking concerns to be addressed and he concurs with the Town Engineer's recommendations. Spec. Exc. 2-90

Dr. Spector indicated he has no problem dealing with the staff comments. Mr. Moore stated he will have

Spec. Exc. 2-90

to appear before the Architectural Commission for final review and landscaped plan. Mrs. Wiener moved for approval of Special Exception 2-90 with the stipulations as agreed to with staff. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously. (Mr. Heeke was out of the room).

XIC. COMMUNICATIONS FROM CITIZENS:

Communications from citizens

A. Erik Gilbertson addressed the Council requesting them to give consideration to the renourishment of the groins to protect the seawall. Mr. Ilyinsky explained the State of Florida will not permit the rehabilitation of these groins.

B. Erik Gilbertson strongly urged the return of the comments of the citizens to the beginning of the agenda.

XV. ANY OTHER MATTERS:

Exhibits requested

A. EXHIBITS: Mayor Marix requested the exhibits which are shown to the Council should be more detailed as the drawings shown today were so pale that it would not show up on the television screen and the public could not view them, nor could the Council see it well.

Mr. Heeke returned to the meeting and assumed the Chair.

Backflow prevention

B. BACKFLOW PREVENTION DEVICES: Mr. Doney indicated he has provided a memorandum dated 3-7-90 which tells how the Town of Palm Beach will work with the City of West Palm Beach to implement this program and if there are no questions, he will respond to Mr. Schutta, the City Manager of West Palm Beach and based upon the four conditions agreed to by the City of West Palm Beach, the City will implement the back flow prevention device program within the Town.

Bradley Pk. permit

C. BRADLEY PARK PERMIT: Mr. Doney advised the Chamber of Commerce plans to hold a band concert at Bradley Park on April 1, 1990 and this is brought to the Council's attention for information only and provided they meet all the conditions, this will be handled administratively.

Sea turtles

D. SEA TURTLES: Mr. Doney advised they will be sending out letters to property owners along the beach asking them to turn out their lights along the shore line during the time the sea turtles will be laying their eggs. Mr. Weinberg suggested the letters to the condominiums be sent to the property managers, as probably most of the Presidents of their Associations will be returning north. Mr. Doney indicated he will address his letter to both.

Cellulas phones

E. CELLULAR PHONES: Mr. Heeke reported Mr. Jakubiak has written a memorandum of March 12, 1990 as the question has been raised several times about how the Council and the Mayor can communicate with the dispatcher while they are driving their automobiles, as all pay close attention to what is happening around the Town and become frustrated with not being able to communicate with the dispatcher to have something looked into. He has had the Town Manager's office look at communication devices and the memorandum points out there is one available from BellSouth, which is a cellular mobile phone which could be limited to the non-emergency number and would not be construed as being a perc to them individually.

Mr. Jakubiak explained these phones have 32 buttons and there is a call restriction which would restrict the phone to lines 1, 2 and 3 and that is a standard feature at no additional cost. He indicated a hot link can be created which would be to the dispatch center, which costs $3.50 per phone extra or $200 per year.

He thought since it comes with programming features, that money could be saved by programming the business related numbers into the lines 1, 2, 3, such as the 5454 number. He stated a detailed bill will be submitted from every phone which will list out all the calls and the only disadvantage with the call restriction feature is that if anyone knows how to program a number into the phone, it can be used for any purpose. Mr. Heeke noted that would show up on the billing.

Mr. Jakubiak reported under State Contract, it would cost $625 and Motorola has the best make of phones and is recommended by the Purchasing Agent. Mr. Ilyinsky pointed out this price is high as he believed if these were to be purchased for their own personal use, he is sure they can be purchased for considerably less. He knows they also would get three hours of free service for the first two months of use.

Mrs. Wiener suggested that if they can be purchased for less personally, whomever wants one should buy one on their own and if those who don't want it for their personal use should go through the Town.

Mr. Heeke believed they should be authorized to go in either of the two directions. Mrs. Wiener moved that the Motorola 8000 with the three lines be approved for those members of the Council who wish to have it furnished to them and don't wish to purchase their own, pursue the purchase personlly. Seconded by Mr. Ilyinsky.

Mr. Winterfield asked how this would be funded? Mr. Heeke indicated it would come from the Undesignated General Fund Balance. Mrs. Wiener amended her motion to state with the funding coming from the Undesignated General Fund Balance. Seconder accepted the amendment to the motion. On roll call, the motion carried unanimously.

Municipal League meeting

F. MUNICIPAL LEAGUE MEETING: Mr. Doney advised the next Palm Beach County Municipal League Meeting will be at 11 AM on March 28th at the Recreation Center.

Hurricane evacuation

G. HURRICANE EVACUATION: Mayor Marix noted there is a wonderful article on evacuation in a government publication and she asked if Mr. Elwell would give it to the press for publicity and we can start programming people as to what a mistake it would be for them to stay on the island in the event of a hurricane.

Annual Review

H. ANNUAL REVIEW: Mr. Heeke asked each member of the Council and the Mayor to get together with Mr. Doney to evaluate him and then be in a position to act on a salary adjustment at the next meeting. Mr. Heeke suggested the anniversary date be changed to August, as it is very difficult for the new Council members to be voting on this item, without having the opportunity to evaluate.

Evaluate Department heads

I. EVALUATION OF DEPARTMENT HEADS: Mayor Marix stated she wondered if the Department Head appointment should also be changed as new Council members are required to act on the Town Manager's recommendations at their very first meeting after election and she further believed that the performance review of the Department Heads should also be considered by the Mayor and Town Council. Mr. Doney pointed out in the Charter this is a function of the Town Manager. Mayor Marix thought perhaps they could look at that and have it changed, but especially the appointment dates.

J. QUORUM FOR SUMMER MONTHS: Mrs. Wiener asked for the travelling schedules of each member, so there will be a quorum at meetings to be held this coming summer. Mr. Weinberg indicated he has planned his vacation to be back for all Council meetings except for the one in April. Mrs. Douthit indicatedshe anticipated being here also. Mayor Marix stated she has no firm plans. Mr. Heeke indicated he too had no firm plans. Mrs. Wiener believed she might not be here for the August meeting. Mr. Ilyinsky indicated he did not know when he will be traveling. Quorum for summer months

XVI. ADJOURNMENT: There being no further business, the meeting was adjourned at 5:45 PM.

Grace T. Peters
Town Clerk

MINUTES OF MARCH 27, 1990
SPECIAL TOWN COUNCIL MEETING

A Special Town Council Meeting was called to order by President Heeke at 1:05 PM in the Town Council Chambers on March 27, 1990. On roll call, the following electes officials were found to be in attendance: Mayor Marix, President Heeke, President Pro Tem Ilyinsky, Councilwomen Douthit and Wiener and Councilman Weinberg. Also attending were Mr. Doney, Mr. Randolph, Mrs. Peters, Chief Terlizzese, Mr. Moore, Mr. Dusey, Mr. Jakubiak, Mr. Elwell and Mr. McPhail.

Mr. Doney led the Pledge of Allegiance. Invocation was given by Mrs. Peters.

President Heeke noted during the recent hearings done on the beach adcess in the north end of the island, there has been a perception given to the public that the Town is denying access and very little emphasis given on the public safety at two particular locations. He reported the Court even noted the concern for public safety but this was not emphasized in the press and there was a perception that we are shutting off the gates and they were there for purposes other than protecting the people who were using the beach. He stated a memorandum has been received from the Town Manager and he called on him to read it: North end Beach access

Mr. Doney indicated the memorandum to the Mayor and Town Council is as a result of conferences with the Town Attorney, the Police Chief and Mr. Dusey and himself and he read: "Subject: El Pueblo Way and La Puerta Way Beach Accesses. Date: March 27, 1990. As you recall, subsequent to the recent removal of private fences and gates at El Pueblo and La Puerta Ways, concerns were expressed by certain residents in the area of those streets and by Chief Terlizzese as to the public safety hazards which may exist resulting from the absence of said gates and fences. The Town therefore directed the replacement of the gates and fences to address the problems which had been called to our attention.

In light of concerns recently expressed that gates and fences may be interpreted by some as impeding access, I have recently requested that an analysis be done to determine if the public safety concerns can be met at these areas without the continued imposition of the gates and fences by the Town. On consultation with Chief Terlizzese, we have determined that there are alternative methods available to address the above referenced safety concerns.

On that basis, therefore, I am recommending that the gates and fences placed by the Town be removed and that the alternative safety measures discussed with the Chief be put into effect. Specifically, I am recommending that the vegetation at both sites be substantially reduced thereby eliminating impairments to visibility.

Since there will no longer be a gate or fence at La Puerta or El Pueblo, the necessity for injunctive and declaratory relief no longer exists. It is my recommendation therefore, after consultation with the Town Attorney, that this action be dismissed."

Mr. Heeke called on Mr. Randolph for his comments and Mr. Randolph gave a history of where we are and how we got there - He stated there was a meeting subsequent to Mr. Medlen having removed the gates at La Puerta and El Pueblo and after the gates were removed, they were contacted by property owners who advised them that those gates had existed for so many years because of safety concerns that the property owners in the area had for their children and their grandchildren and others who used that particular access. We pointed out when presented with those public safety concerns, the Council determined that in order to maintain the status quo and in order to provide for the public safety, the Town itself would go ahead and put the gates and fences back up. He indicated to the Council at that time that there existed a 1975 judgment which caused some concern as to whether or not gates and fences could be placed at those particular locations. He stated because the public safety concerns were of paramount and immediate interest, the Council decided they should, to alleviate the problem immediately, go ahead and put the gates and fences back up. He thought be-causeof the concern that he noted to the Council that they indicated they wished to put the fences and gates up to take care of the safety concerns, but also enjoin their being taken down and find out for sure from the court what the status of the 1975 judgment is, so that the Town Council knew what they were doing was correct. He stated that is what they did and that is where they are today. He stated they are a little further ahead because they did go to an injeunctive relief hearing and because there was a promise made under oath that the gates would not be taken down, the Court denied the temporary injunctive relief and further indicated that since the Town sought to have the gates remain, that it erect signs which would indicate that this is public access to public beach. He stated the Order of the Court itself indicated that the Court was of the opinion that the Town was attempting to impede access at this particular area and there have been other concerns noted from others and in the press that that is the Town's concern. He thought this memorandum from Mr. Doney results from all that has happened and what they are looking at it whether or not there is another way to address the public safety concerns, so they do not have to have the continuation of the fences and gates. He believed if the Council felt the public safety concerns could be addressed in another way, then they could alleviate the questions that exist in the minds of some as to the purpose of the gates and fences, by simply removing them and dealing with the public safety matter in another way and in doing that there would no longer be a question as to the injunction or declaratory relief and no purpose to continue the lawsuit and it would be dismissed.

Mr. Heeke called for comments on th the public safety aspect of the issue. He noted the memorandum from Mr. Doney is a summary of an investigation made by the Police Department concerning this matter. Mr. Doney responded there also was a field review by the Chief of Police, Mr. Dusey and himself and viewing alternatives to address the public safety concerns as he understood them from the hearing and in order that the Town can be in the best position to protect its interests.

Mrs. Douthit was concerned about reducing the greenery in these areas in order to provide visibility and also about the maintenance of the dune and the beach in that area as we have heard about roots holding the beach sand and now we are talking about taking them down and that concerns her. Mr. Heeke asked if anyone wanted to address the pitential of damage to the dune by removal of the vegetation. Mr. Doney responded the vegetation between the fence as it exists and the edge of the roadway is principally Australian Pine and