MINUTES OF THE TOWN COUNCIL MEETING HELD ON MARCH 10, 1998

I. CALL TO ORDER AND ROLL CALL

The Town Council Meeting was called to order by President Lesly Smith at 9:30 A.M. on March 10, 1998. On roll call the following Elected Officials were found to be in attendance: Mayor Paul Ilyinsky, President Lesly Smith, President Pro-Tem Sam McLendon, Councilmen Jack McDonald, Leslie Shaw, and Allen Wyett. Also in attendance for all or a portion of the meeting were: Town Manager Robert Doney, Assistant Town Manager Peter Elwell, Assistant to the Town Manager David Jakubiak, Town Attorney John Randolph, Chief Code Compliance Officer Brian House, Finance Director James Demming, Fire-Rescue Chief Ken Elmore, Personnel Director William Crouse, Planning, Zoning & Building Director Robert Moore, Zoning Administrator Paul Castro, Planner/Projects Coordinator Timothy Frank, Police Chief Joseph Terlizzese, Police Major Frank Croft, Public Works Director Al Dusey, Purchasing Agent Charles Boggs, Recreation Director Russell Bitzer, Town Engineer James Bowser, and Town Clerk Mary Pollitt.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Reverend Dwight Stevens of Paramount Church. President Smith led the Pledge of Allegiance.

III. PRESENTATIONS

A. Recognition of Marc J. Katzenberg, Seaview Park Commission - From 1995 to 1997

Mr. Katzenberg was not in attendance.

B. Retirement of Joseph L. Terlizzese, Chief of Police - 19 Years and 9 Months

Mayor Ilyinsky read the following:

JOSEPH L. TERLIZZESE, Chief of Police, Town of Palm Beach Florida: For his nearly twenty years of loyal and valuable service to the Town of Palm Beach, its citizens, and its fellow employees. Joe began his career with the Town on July 5, 1978, as Chief of Police, with a vision and goal of developing a professionally staffed, well-equipped and very proficient agency. The ultimate objective was to leave behind a highly respected agency with a demonstrated track record of accomplishments consistent with the highest ideals of the law enforcement profession. Thanks to Chief Terlizzese the Palm Beach Police Department is both a federally and state accredited law enforcement agency. It is respected in the law enforcement community, and enjoys a great deal of support amongst the residents of Palm Beach. The department's police and general employees have developed into a highly professional and effective law enforcement team, one that this whole community is proud of. The Town Council members, your fellow employees, and I wish you good health and happiness in your new environment.

Chief Terlizzese thanked the Mayor and Town Council, stating that it had been a distinct honor to serve the Town of Palm Beach.

Town Manager Doney announced that there would be a retirement party as a special tribute to Chief Terlizzese, on Monday, March 23, 1998 at The Breaker's Hotel, from 5:30 - 7:30 P.M. He commented that Chief Terlizzese had done an exceptional job as Police Chief, and had given thought to his retirement, arriving at his decision with the organization of the Town in mind. He thanked him for everything he had done for the Town.

IV. COMMENTS OF THE MAYOR

The Mayor had no further comments at this time..

V. APPROVAL OF THE AGENDA

President Smith announced that the Preservation Foundation had requested that there would be a kick-off photography session for the historical street lighting program "the right light" at 12:30 P.M. today.

President Smith announced that the dedication ceremony for the Greater South County Road Association plaque for the tree planting project would take place during the lunch break at the April 14, 1998, Town Council Meeting.

President Smith requested that there be the following modifications to the Agenda:

ADDITION: Page 5, Item XIII, New Business, D. Other, Add Item 8 - Consideration of Request by Miller and Van Eaten for the Town to participate in funding program to oppose Florida Rights of Way 1998 Proposed Legislation - House Bill 3291.

ADDITION: Page 3, Item IX, Licenses and Permits, Add Item B. - Charitable Solicitation, Rotary Cub of Palm Beach, No. 231-98.

DEFERRAL: Page 3 - Item XII, Old Business, A. 1. - Deferral (as recommended by staff) to May 12, 1998 of: Resolution 3-98 - Amendment to Rights-of-Way Standards Manual.

Councilman Shaw moved approval of deferral of Resolution 3-98 - Amendment to Rights-of-Way Standards Manual to the May 12, 1998, Town Council Meeting. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

TIME CERTAIN: Page 4 - Item XII, Old Business, C. 5. - Consideration of BellSouth Franchise Fee and Public Service Tax Audit. In order to minimize expenses to the taxpayers of the Town, President Smith suggested that this item be heard at a time certain of 1:30 P.M.

Councilman Wyett moved approval of Item XII. C. 5 Consideration of BellSouth Franchise Fee and Public Service Tax Audit to be heard at a time certain of 1:30 P.M. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

DEFERRAL: Page 6 - Item XVI, Development Reviews, D. 1. - Variance 2-98 - 328 E Vedado Road. Director of Planning, Zoning & Building Robert Moore announced that there was a request from Attorney Robert Deziel, representing the applicant, to defer Item XVI. D. 1 - Variance 2-98 - 328 El Vedado Road to the April 14, 1998 Town Council Meeting.

Councilman Wyett moved approval of deferral of Variance 2-98 to the April 14, 1998 Town Council Meeting. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

TO BE HEARD EARLIER IN THE AGENDA: Page 5 - XIII. New Business, Item D. Other 6 - Consideration of Flagler Rotary Club Proposal to Fund the Installation of Emergency Call Boxes on Lake Trail and Other Locations in Town. To replace XII. Old Business, A. 1. (Which was deferred).

Council McDonald moved that XIII New Business, Item D. Other B. 6 -[Consideration of Flagler Rotary Club Proposal to Fund the Installation of Emergency Call Boxes on Lake Trail and Other Locations in Town] be heard under XII. Old Business, A. 1. The motion was seconded by Councilman Wyett. On roll call the motion carried 3/2, with Councilman Shaw and President Smith casting dissenting votes.

ADDITION: XIII, New Business, Item D.9 - Consideration of Appointment of Bridge Committee.

Councilman McDonald moved that XIII, New Business, Item D. 9 - Consideration of Appointment of Bridge Committee be added to the Agenda under XIII, New Business, Item D. 9. The motion died for lack of a second.

ADDITION: XIII, New Business, Item D. 9 - Consideration of Review of Worth Avenue Sign Ordinance.

Councilman McDonald moved that Consideration of Review of Worth Avenue Sign Ordinance be added to the Agenda under XIII, New Business, Item D. 9. The motion was seconded by Councilman Wyett. On roll call the motion carried unanimously.

ADDITION: XIII, New Business, Item D. 10 - Discussion of Holding One Additional Zoning Meeting.

Councilman McDonald moved that Discussion of Holding One Additional Zoning Meeting be added to the Agenda under XIII, New Business, Item D. 10. The motion was seconded by Councilman Wyett. On roll call the motion carried unanimously.

The Agenda was unanimously approved as amended, through motion of Councilman Wyett, seconded by President Pro-Tem McLendon.

VI. COMMUNICATIONS FROM CITIZENS - 3-MINUTE LIMIT PLEASE

Mr. Eric Nord Gilbertson addressed the Town Council commenting on the need for a crosswalks in the Town.

VII. ORGANIZATION ITEMS

A. Consideration of Recommendation by Town Manager Robert J. Doney that Major Franklin A. Croft be Appointed Chief of Police Pursuant to Section 2-2 of the Town Code of Ordinances

Town Manager Robert Doney referred to his memorandum dated March 5, 1998, which included his recommendation that Franklin A. Croft be appointed as Police Chief, effective March 29, 1998. He noted that any time there was a department head vacancy, it was the responsibility of the Town Manager to carefully evaluate the options and alternatives. In that regard, Mr. Doney advised that he had reviewed the personnel file of Major Croft, conducted a lengthy interview with Major Croft, who had been with the Town for 21-1/2 years, and spoken with Major Reiter, who had been with the Town since 1981. Chief Terlizzese had identified the reasons he believed Major Croft was especially well qualified for consideration of the position and recommendation to the Town Council. Major Croft had been able to participate from the ground floor under the direction of Chief Terlizzese in the progressive law enforcement growth of the Police Department. After careful evaluation, Mr. Doney commented that he believed Major Croft possessed the education, performance level, and credentials in order to be appointed as Police Chief.

President Pro-Tem McLendon commented that he endorsed the comments of Town Manager Doney, and moved approval of the appointment of Franklin A. Croft as Police Chief. The motion was seconded by Councilman Shaw.

Councilman McDonald commented that he agreed with everything that Mr. Doney had said, however, he had some problems with the process, as Mr. Doney had known of the retirement of Chief Terlizzese several weeks ago, but apparently had not felt it important enough to tell the Council until March 5, which gave only five days to evaluate the recommendation. He stated that when such an important decision was made, he would like time to respond, and five days was not enough time. He questioned the item even being on the Agenda, as Town Council people were required to give fifteen days notice to get an item on the Agenda, and this required only five days.

Councilman Wyett commented that he would also have liked to have more time to make a decision, however, he believed that a very fine choice had been made.

President Smith stated that she believed the Town of Palm Beach had been fortunate to have Joseph Terlizzese serving as Police Chief, and one of his greatest legacies was in grooming his successor, Frank Croft.

On roll call, the motion to approve the appointment of Franklin A. Croft as Police Chief, effective March 29, 1998, was unanimously approved.

APPROVED AGENDA

VIII. APPROVAL OF MINUTES OF FEBRUARY 9, AND 10

IX. LICENSES AND PERMITS

A. Charitable Solicitations

1. Royal Poinciana Chapel; No. 440-98
2. Florida Philharmonic; No. 441-98

<u>Other - Results Forms Filed Late and $25 Late Fee Paid</u>

3. Ballet of Florida, Inc.; No. 156-98
4. Food Relief International; No. 272-98
5. The River Fund; No. 408-98
6. Palm Beach Cat Rescue & Humane Society; No. 413-98

<u>Other - Application Filed Late and $25 Late Fee Paid</u>

7. Bascom Palmer Eye Institute - Ann Bates Leach Eye Hospital; No. 213-98

<u>Other - Application Filed Late and $25 Late Fee Paid</u>
<u>- Results Form Filed Late and $25 Late Fee Paid</u>

8. Croquet Foundation of America; No. 216-98
9. The Lord's Place Auxiliary; No. 229-98
10. The Salvation Army Women's Auxiliary; No. 362-98

The Approved Agenda was unanimously approved through motion of Councilman Wyett, seconded by Councilman Shaw.

B. Consideration of Charitable Solicitation Permit Application Received from the Palm Beach Rotary Club, No. 231-98

Hermine Wiener addressed the Town Council stating that the Resolution was missing from the Charitable Solicitation Application. She submitted the Resolution from the Rotary Club, and read it to the Town Council. She requested permission to hold the event on March 21, 1998 at the Sailfish Club to benefit the Palm Beach Rotary Club Scholarship Program, and to provide funds for the purchase of a new crime prevention vehicle for the Town of Palm Beach.

Councilman Wyett moved approval of Charitable Solicitation Permit Application 231-98. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

REGULAR AGENDA

X. PUBLIC HEARINGS

A. Landmark Designation of 324 Brazilian Avenue; Resolution No. 11-98

Planner/Projects Coordinator Tim Frank reported that the Landmark Commission had studied the property at 324 Brazilian Avenue, and found that it met the following criteria for designation as a landmark of the Town of Palm Beach: Criterion A: Exemplifies or reflects the broad cultural, political, economic, or social history of the nation, state, county, or town. Criterion C: embodies distinguishing characteristics of an architectural type, or is a specimen inherently valuable for the study of a period, style, method of construction, or use of indigenous materials or craftsmanship. He introduced Historic Preservation Consultant Jane Day, who would continue with the presentation.

At this time Town Clerk Pollitt administered the oath to all those who would be testifying in the following matters.

Historic Preservation Consultant Jane Day reported that the property at 324 Brazilian Avenue had been built in 1924. The building was wood frame covered with stucco, and was designed in the Mediterranean Revival style. The house had an interesting history because the year after it was completed the Brazilian Court Hotel was finished on the site directly next to the property. The house was eventually purchased by the hotel and used as an executive residence. It stayed as part of the hotel property until 1995, at which point the Brazilian Court was designated as a landmark, however, the building at 324 Brazilian was not included in that proceeding. The present owner would like the property to be landmarked, as it met the criteria, fulfilling criteria A and C.

Councilman Shaw moved approval of the report. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

Councilman Shaw remarked that there were certain issues to be aware of in creating landmarked homes; it was necessary to make certain that landmarks were not created simply to circumvent regulations in the Town. He requested that the landmark reports include how the landmarking affected the property, and the intent of the applicant.

Mrs. Day responded that she would be happy to include that in future reports. She agreed that the landmarking process should be looked at philosophically, and that it would be up to the Town Council to determine how the process was implemented.

Councilman Shaw commented that it may be necessary to re-address the tax abatement regulations, and look at what would be eligible for abatement.

David Pressley, on behalf of the owner of the property, commented that the whole purpose of the tax abatements was as an inducement for people to landmark their property.

Councilman Wyett suggested that Mrs. Day inform all those applying for landmarking that abatement did not necessarily follow landmarking, especially if it applied to additions.

Town Attorney Randolph read Resolution 11-98. 324 Brazilian Avenue:

> A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY HEREINAFTER DESCRIBED MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE 3, OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, AND DOES HEREBY DESIGNATE SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK, PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE 3, OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Councilman Shaw moved approval for landmarking, however, specified that it was landmarked for the landmark qualities of the property, and it was not to be construed as a vehicle to do the FEMA required restoration, or the fifty percent rule. Councilman Wyett seconded the motion.

Town Attorney Randolph noted that he did not believe that the second part of the motion was appropriate under the Landmarks Ordinance; the only concern was whether the property was or was not a landmark.

Councilman Shaw agreed, and noted that he would not make it as part of the motion, but as a side comment. He withdrew that portion of the motion, moving that Resolution 11-98 be approved on the grounds that the property met the criteria as stated in the report.

Councilman Wyett accepted the amendment to the motion. On roll call the motion carried unanimously.

B. Landmark Designation of 209 Seaspray Avenue; Resolution No. 12-98, by title:

Planner/Projects Coordinator Tim Frank reported that the property at 209 Seaspray Avenue had been studied by the Landmarks Commission and had been found to meet the following criteria for designation as a landmark in the Town of Palm Beach: Criterion A: exemplifies or reflects the broad cultural, political, economic, or social history of the nation, state, county, or town. Criterion D: representative of the notable work of a master builder, designer, or architect, whose individual ability has been recognized, or who influenced his age.

Historic Preservation Consultant Jane Day reported that 209 Seaspray Avenue was an example of a Mediterranean Revival style built in the Town of Palm Beach in the early years of its development. Although there was not an original building permit available, the building had been built in approximately 1920. In 1914, the Oscar Jose family began coming to Palm Beach from Indianapolis. Jose was one of a trio of Midwestern developers who came to South Florida and promoted the area. The other two were Joseph Young in the City of Hollywood, and Carl Fisher in Miami Beach. These men came to South Florida and determined that it would attract visitors from all segments of society. Jose's company, City Builders Realty, Inc., was important because it packaged an entire area of Palm Beach called Poinciana Park. The house was one of 29 of the City Builders' properties that was left standing in the Town. This development platted the streets, provided street lighting, had an ocean club, promoted schools for the children who would be accompanying their parents on winter visits, and offered packages that included financing and completely decorated houses. The house itself was a Mediterranean Revival Style house, however, Mrs. Day pointed out that the house was not being designated under the criteria for architecture–it was a mediocre example of the Mediterranean Revival Style–its importance was that it was associated with Oscar Jose, with the 1965 addition by Marion Sims Wyeth, and related to the developmental history of the Town.

Councilman Shaw moved approval of the report. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

Councilman Wyett noted that he had some problems with the presentation, as architecture was landmarked for the nature of the property, not for the history. He agreed that the house was very mediocre and he did not see anything distinctive about it. He commented that if every property that had an architect, builder, or family associated with it was landmarked it would justify landmarking every house in Town.

Mrs. Day replied that this property was brought forward by the owner of the property, and the way the ordinance was written, with the four criteria, it was the job of staff to look at the criteria and see if the property fit into it. Oscar Jose was quite significant in the developmental history of the Town, perhaps more so than someone who came and built one house or another. If consideration was given to the overall environment, the street scape, and the scale, more opportunities for the future were saved. Because this property was one of 29 properties still standing that had been completed by Oscar Jose, and was included in the original promotion of the Town, she believed it was historically important, and as staff, believed the house met the criteria of the ordinance.

Director of Planning, Zoning & Building Robert Moore commented that the criteria was valid, and the Town had used the criteria since 1979. In this case, on this particular location in Town, a survey of doing an entire district had been considered, and it was determined that it would be more appropriate to look at the houses on an individual basis, rather than on a district basis. For that reason, this applicant had brought the property forward. He suggested that the historical value should remain as an effective tool in the landmarking process.

Councilman Wyett replied that he agreed that the history was very important, however, if the only major issue was history he had difficulty with the house not having any special features. He commented that the house did fit the street, and the street itself was worthwhile preserving, and therefore moved approval of Resolution 12-98. The motion was seconded by President Pro-Tem McLendon.

Town Attorney Randolph read Resolution 12-98, 209 Seaspray Avenue, by title:

> A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY HEREINAFTER DESCRIBED MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE 3, OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, AND DOES HEREBY DESIGNATE SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK, PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE 3, OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

On roll call the motion carried unanimously.

XI. COMMITTEE REPORTS

A. Report of the Ordinances, Rules, and Standards Committee Meeting of February 12, 1998

REPORT OF THE ORDINANCES, RULES, AND STANDARDS COMMITTEE
MEETING HELD ON FEBRUARY 12, 1998

XII. CALL TO ORDER AND ROLL CALL

A meeting of the Ordinances, Rules, and Standards Committee was called to order by Chairman Sam McLendon at 1:30 p.m. on February 12, 1998, in the Town Council Chambers. On roll call, Chairman McLendon and Committee Member Lesly S. Smith were found to be in attendance. Also attending for all or part of the meeting were: Town Manager Robert Doney; Town Attorney John C. Randolph; Assistant to the Town Manager David Jakubiak; Finance Director James Demming; Police Chief Joseph L. Terlizzese; Police Major Frank Croft; Public Works Director Al Dusey; Director of Planning, Zoning & Building Robert Moore; Zoning Administrator Paul Castro, Chief Code Enforcement Officer Brian House; and Town Clerk Mary Pollitt. Councilman Leslie Shaw also attended the meeting.

XIII. APPROVAL OF AGENDA

The agenda was approved as printed.

III. CONSIDERATION OF ISSUE OF NEWSPAPER RACKS IN THE TOWN OF PALM BEACH (*deferred from December 9, 1997, Town Council Meeting)*

Mr. McLendon said the existing ordinance for newspaper racks would need minor revisions at least and requested Town Attorney Randolph provide a short history of the newspaper racks.

Mr. Randolph said the issue had been addressed several times in the past. Attempts were made to regulate the placement of newspaper racks, the location, the design, and to discuss permitting schemes. Mr. Randolph recalled that representatives of the various newspapers were in attendance in the past, and if the newspapers are not represented at this meeting, the input will not be the same as it was in the past. Mr. Randolph said the media was very zealous regarding this issue in protecting, what they consider to be, their first amendment rights. The reason they are so zealous is because if they allow one municipality to implement a permitting scheme or to implement a regulation which they feel is going to set a precedent in other municipalities, they do not hesitate in pursuing litigation regarding those matters.

Mr. Randolph said permit fees have been discussed in the past and representatives of the newspapers were adamant against them. Mr. Randolph cited a previous example of a Council decision on a terra cotta color for all newspaper racks and the newspapers saying that would be the same as making it mandatory for all men to wear green pants.

Mr. Randolph reported that at one time, the Town Council decided that all newspaper racks should be enclosed in similar containers in the Town's Historic District. The result was the existing gray lattice work containers.

Mr. Randolph said because of the proliferation a commitment was received from those newspaper rack owners, existing at the time, that they were satisfied with the locations of the containers they had at the time, and they would not try to set up other locations in the Town. Mr. Randolph reported that Brian House said that had pretty much been adhered to except for the fact that two publications have come in and added on to those particular locations.

Mr. Randolph said the Town's newsrack ordinance is pretty much of a "bare bones" type of ordinance. It requires the minimum involvement by the Town that the media would like to see. It does allow the Town to establish location of newsracks from the standpoint of public safety or keeping them within a certain distance of driveways, sidewalks, etc. The current ordinance does not go very far regarding aesthetics; however, it does provide that the only information that can be shown on the rack is certain lettering identifying the name of the publication, the address, and the phone number. From an aesthetics standpoint, it provides that newsracks shall be encased withing the historic districts. The status of the law on this has changed over the years since last addressed by the Town. The courts, at the time the Town addressed this, were probably more in favor of the First Amendment Rights side as opposed to the regulation side. Mr. Randolph said they allowed reasonable regulation, but to the point that it treaded on the right to the freedom of speech, the Courts always sided on the sides of the newspapers. They still do, but decisions have come out that are more favorable to municipalities regarding being able to address the aesthetics in the Town.

Mr. Randolph said he did not believe the Town could have direct prohibitions against newsracks in the Town, but that the Town could do more than they do now regarding the regulation and placement of the newsracks.

Mrs. Smith recalled discussions with free newspapers and paid newspapers in the past. The representatives from the free newspapers were definite that they wanted different colors for racks to promote their handouts. She said it became such a scramble that the Town was fortunate to have an ordinance regarding the newspaper racks at all.

Mrs. Smith said she thought the ordinance, as it stood, might have prohibited the addition of new newsracks. She questioned the number of racks on the corner of Peruvian and Cocoanut Row but recognized the fact that many residents do not have home delivery, and the residents are entitled to their newspapers. Mrs. Smith said she thought there should be a limit, and she looked at the model submitted in the backup for this meeting. Mrs. Smith noted that the distances shown in the model were ten feet whereas the Town's ordinance mentions five feet. She thought the direction should be to expand the distance from five to ten feet. Mrs. Smith said she was not enthusiastic about the module that was to be presented as part of the plan at this meeting.

Mrs. Smith said her remarks, made years ago, were pertinent today, and that was no one could agree on what was the right type of model. That was where things were today.

Mr. McLendon noted that Section 10-166 of the Code of Ordinances defined newsracks as coin operated units and that would not include the "freebie" ones.

Mr. Randolph replied the Town has not prohibited those types of boxes just because they do not fit in with that definition of newsracks. Mr. Randolph said the free papers have presented problems with the increase in numbers during recent years. Mr. Randolph said the distances between banks of newsracks were intended to keep down the proliferation; however, adverse comments were received from the supporters of the free newspapers. Mr. Randolph added that those distances can be regulated.

Mr. Randolph said he had included a copy of the Carmel, California, newsrack ordinance which allows only a certain number of newspapers to be placed within a certain set of modules, and those locations are awarded on a lottery basis. A permit fee is assessed by Carmel.

David Jones, Palm Beach Civic Association, reported on the background of the Civic Association's involvement with the issue of the newsracks. Mr. Jones said that some of the racks are abused. Some are rusty, contain garbage, and some are unused. Mr. Jones mentioned that the racks could be cleaned up and produce some revenue. He said that the Civic Association's role is to be helpful, and the plan was not to eliminate them but to have them policed better.

Mr. Jones said he did not wish to criticize the existing Code but thought that it was incomplete and has not been followed too closely. Mr. Jones introduced the group from City Solutions.

After hearing a presentation by Tom Trento, President of City Solutions, who stated his company would have to have commercial advertising on seventy percent of all of the newsracks, the Committee determined that the City Solutions project was not appropriate for the Town. The Town's ordinance prohibits advertising on newsracks that deals with advertising other than the newspaper. Mr. Trento confirmed that his company would not be interested in a project for the Town without advertising.

Ned Barnes, Palm Beach Civic Association, apologized for not realizing advertising was involved with the City Solutions presentation.

The Committee discussed the condition of the present newsracks and after discussion, **RECOMMENDED THAT CHIEF CODE ENFORCEMENT OFFICER BRIAN HOUSE CONTACT EACH OF THE NEWSPAPERS RESPONSIBLE FOR THE BOXES, INFORMING THEM THEY ARE RESPONSIBLE FOR CLEANING THEM UP. THIS NOTIFICATION COULD BE DONE BY MAIL, RETURN RECEIPT REQUESTED.**

Harry Horwich, member of the Palm Beach Civic Association Committee regarding Newsracks, presented the regulations and pictures from the City of Honolulu regarding their newsracks.

Mr. Randolph volunteered to provide additional information regarding the newsracks in Carmel, California, including the requirements of the lottery system they use. Mr. Randolph suggested the Town Council could specify the type of racks required by the Town, and the newspapers using the racks would have to comply with those specifications.

Mr. McLendon added that if the newspapers could not afford to comply with the specifications or chose not to, they could drop out of a lottery system the Town might impose to control the placement of newsracks.

Mrs. Smith suggested the idea of an enclosure for the racks might be part of a Town beautification program that many groups or citizens may wish to be involved in, particularly the groups located in the areas where the number of newsracks is a problem.

Mr. Doney suggested he could request that Mr. Jakubiak obtain examples of colored enclosures to present to the Committee and the requirements imposed by other municipalities from ICMA and the National League of Cities. Mr. Doney questioned if it would be possible to limit the number of newsracks, whether they be paid or unpaid publications, by location.

After discussing the issues related to newsracks, **THE COMMITTEE RECOMMENDED INFORMATION BE SUPPLIED TO THE COMMITTEE BY TOWN ATTORNEY RANDOLPH REGARDING THE CARMEL, CALIFORNIA, NEWSRACKS AND TOWN MANAGER DONEY OBTAIN MATERIALS FROM ICMA, NATIONAL LEAGUE OF CITIES, AND ANY OTHER SOURCES AS DISCUSSED PREVIOUSLY.**

IV **CONSIDERATION OF TENT PERMITS AND THE LENGTH OF TIME ALLOWED FOR TENTS TO REMAIN IN PLACE** *(deferred from November 12, 1997, Town Council Meeting)*

Mr. McLendon reported that some members of the community have thought that some tents have been up in Town too long-as long as a year. Mr. McLendon said he learned that is not the case, but he thought it was to the Town's advantage to have time restrictions and maintain control over the length of time a tent may be up.

Mr. Robert Moore, Director of Planning, Zoning, and Building, referred to his October 27, 1997, memorandum to Mr. Doney outlining the present procedure the Building Department follows for tents. Mr. Moore said these tents are normally put up by tent companies who are in the rental business. Mr. Moore said two tents, currently, are individually owned and put up and down by tent companies for the owners.

Mr. Moore reported that the tents have become larger through the years. He said he surveyed other communities and that list is included with his memorandum in the back up information. Mr. Moore stated the permitting is handled on an individual basis with each jurisdiction. The word temporary is the issue, from a zoning standpoint, and to comply with time restrictions, a tent could be up and dropped just to comply with the time restraint. Mr. Moore noted that tents have not been permitted in the "off" season which is the hurricane season. Mr. Moore reviewed the Building Code requirements for putting up tents.

Mr. Moore suggested that if the Committee's desire was to establish a fee for tents that were going to be erected for longer than a period of two weeks or fifteen days, a reasonable fee for a tent that was over 500 square feet would be approximately $1,000 per month.

Mr. Moore said he would recommend that if tents were allowed to stay up for extended periods of time, they should comply with setback locations that would be applicable to accessory structures on properties.

Mr. Randolph questioned if these tents were left up for extended periods when would they become more akin to a permanent structure where limits could be applied including lot coverage?

Mr. Moore replied that he thought no one could have a tent under the lot coverage requirements. He said the Building Department has used the figure of 50% that is used commonly in Zoning and Building Codes to define a temporary structure. He gave the example if a tent were up for six months or more, then it would be a permanent structure and would have to comply with all regulations.

The Committee discussed the costs of erecting and taking down a tent and the length of time a tent is up at the Mar-a-Lago Club with Wes Blackman from Mar-a-Lago and Attorney Ray Royce who represented Mar-a-Lago.

THE COMMITTEE RECOMMENDED A CHARGE OF $1,500 PER MONTH OR PART THEREOF (NOT PRO RATED) BE ASSESSED FOR TENTS THAT WOULD BE UP FOR A PERIOD OF MORE THAN FIFTEEN DAYS; IF A TENT IS UP LONGER THAN FIFTEEN DAYS, THE TENT MUST MEET THE LOT COVERAGE AND SETBACK REQUIREMENTS FOR THAT PARTICULAR ZONING DISTRICT. IF THE TENT DID NOT MEET THE LOT COVERAGE OR SETBACK REQUIREMENTS FOR A PARTICULAR ZONING DISTRICT, IT COULD NOT STAY UP FOR MORE THAN FIFTEEN DAYS.

V. **ANY OTHER MATTERS**

There were none.

VI **ADJOURNMENT**

The meeting was adjourned at 3:00 p.m.

SAMUEL MC LENDON, COMMITTEE CHAIRMAN

LESLY S. SMITH, COMMITTEE MEMBER

As Chairman of the Ordinances, Rules, and Standards Committee, President Pro-Tem McLendon reported that the meeting on February 12, 1998, had been held for two purposes: 1) Discussion of Newspaper Racks in the Town of Palm Beach; 2) Discussion of tents, which were permitted in Town Code without specific guidelines.

Mr. McLendon explained that there was a presentation by a firm that was expected to provide rack assembly enclosures, however, it was discovered that advertisements would need to be on the enclosures, and that was not suitable for Town requirements. Mr. McLendon recommended that the Chief Code Compliance Officer, Brian House, contact each of the newspapers responsible for the news racks to inform them that they are responsible for cleaning them. In addition, Town Attorney Randolph would supply information regarding the Carmel, California approach to newsracks.

President Smith explained that the project for the City Solution module was brought forward by the Civic Association, and they were not aware of the involvement of commercial advertising, which was forbidden by ordinance in the Town of Palm Beach. She clarified that the Civic Association had not been aware of the advertising that would be on the enclosures.

Mr. McLendon continued that the presence and frequency of tent installation in Town had been discussed, and the Committee recommended that a charge of $1,500 per month, or part thereof, not pro-rated, be assessed for tents that would be up for more than 15 days. If a tent was up longer than 15 days, the tent must meet the lot coverage and set back requirements for that particular Zoning District. If a tent did not meet the lot coverage for set back requirements for a particular Zoning District, it could not stay up for more than 15 days.

Councilman Wyett commented that many residents, especially those living south of Sloan's Curve, had questioned a major tent staying up six months of the year at one of the local clubs. He suggested that a tent was a temporary structure, and temporary did not mean six months, but rather a week or two.

Director of Planning, Zoning & Building Moore responded that there was no definition for temporary in any ordinances, other than the 50% figure used to go forward with items such as restorations and abandonments. The issue regarding the six month period came up as far as a maximum that could be considered temporary under the Building Codes. That was the only yardstick that could be used to determine that.

Town Attorney Randolph noted that the Committee considered concerns such as those of Mr. Wyett in the second part of the recommendation, by indicating that if a tent were to remain up more than 15 days, it would be treated more as a permanent structure, and therefore, would have to meet lot coverage and set back requirements, just as a permanent structure would.

Councilman Shaw asked the maximum number of weeks that a tent could be up during a 12-month period?

Mr. Moore responded that the maximum number of weeks would be 26 weeks in a 12-month period, that the tent could not come down and then go up a week later, and that the total number of weeks was cumulative, with a total of 26 weeks being the maximum in a 12-month period.

President Smith noted that Chief Code Compliance Officer Brian House was asked to contact the newspapers supplying the racks to have them cleaned up.

Chief Code Compliance Officer Brian House reported that he had made a tour around the Town to locate all news racks, and contacted the suppliers. Those that he was not able to contact, he red-tagged, and notified suppliers that the Town would remove them if they were not going to be renovated or replaced, and they would then pay storage fees.

President Smith suggested that notification be done by mail, with return receipt requested. If the news racks were then not taken care of within a certain time frame, they would then be removed.

Councilman Shaw moved approval of the report and recommendations of the Ordinances, Rules, and Standards Committee. President Pro-Tem McLendon seconded the motion. On roll call the motion carried unanimously.

XII. OLD BUSINESS

A. Resolutions

1. Resolution No. 3-98 - Amendment to Rights-of-Way Standards Manual *(Deferred from January 13, and February 10, 1998)* - **Staff Recommends Deferral to May 12, 1998**

2. Ordinances (Second Reading)

1. Ordinance No. 3-98 - Amendment to Article IX of the Town Code of Ordinances Relating to Architectural Review

and Procedure

Town Attorney Randolph read Ordinance 3-98 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA AMENDING ARTICLE 9 OF THE TOWN CODE OF ORDINANCES, ARCHITECTURAL REVIEW AND PROCEDURE AT SECTION 5-387, CRITERIA, AMENDING SECTIONS E AND F THEREOF, PROVIDING FOR SEVERABILITY, PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT, PROVIDING FOR CODIFICATION, PROVIDING AN EFFECTIVE DATE.

President Pro-Tem McLendon moved approval of Ordinance 3-98. The motion was seconded by Councilman Shaw. On roll call the motion carried 4/0, as Councilman McDonald had temporarily left the room.

Councilman Wyett commented that he voted in the affirmative because the amendment was technical, but he suggested that the Town Council re-visit the recommendations of guidelines to the Architectural Commission, especially the language "not excessively dissimilar," which he believed was ambiguous and caused inconsistent decisions.

Mr. Moore commented that the Ordinances, Rules and Standards (ORS) Commission could review the language and guidelines.

Councilman Wyett moved that the matter be referred to ORS. The motion was seconded by President Smith, who passed the gavel. On roll call the motion carried unanimously.

2. Ordinance No. 4-98 - Authorizing the Fire-Rescue Chief to Vacate and Close Public Assembly Occupancies

Town Attorney Randolph read Ordinance 4-98 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES RELATING TO FIRE PROTECTION AND PREVENTION AT ARTICLE 2, BY INCLUDING A NEW SECTION 7-27, TITLED "PROCESSES DEEMED HAZARDOUS TO LIFE AND PROPERTY", AND A NEW SECTION 7-28, TITLED "EVACUATION OF OCCUPIED BUILDINGS OR STRUCTURES"; PROVIDING FOR SEVERABILITY, PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT, PROVIDING FOR CODIFICATION, PROVIDING AN EFFECTIVE DATE.

Councilman Wyett moved approval of Ordinance 4-98. The motion was seconded by Councilman Shaw. On roll call the motion carried unanimously.

3. Other

1. Report by Mr. Jim Wolfe, Director of Operations, Florida Department of Transportation, Regarding the Royal Park Bridge

James Wolfe, Director of Operations, Florida Department of Transportation (FDOT), addressed the Town Council, stating that the Department was aware that the condition and operation of the bridge was a vital concern to Palm Beach. Detailed inspections of the condition of the bridge were done at least every two years, as well as diving underwater inspections of the piers. In October, a diver observed an unusual amount of deterioration of some wooden piles, which was difficult to observe, because the wooden piles go into a concrete pile cap. Mr. Wolfe introduced Joe Borello, Design Project Manager, and Manuel Then, Director of Production.

Mr. Wolfe continued that the bridge was actually two bridges, with one constructed in 1924 and reconstructed in 1928; in 1959 two more lanes were added, which were on modern concrete piles, which were in good condition and undamaged. On the 1924 portion of the bridge, the wooden piles were encased in concrete, a pile cap, upon which the bridge sits. These piles could be in good condition indefinitely (and had been for about 75 years), particularly if they were submerged underneath the mud line. Mr. Wolfe displayed a graphic displaying the mud line. Over the years scour occurred, which exposed the wooden piles. Over the decades bags filled with concrete had been placed around the piles. On occasion concrete had been pumped underneath the pile caps. Repair efforts had made a bit of a hodge-podge of what was underneath the piles, making it very difficult to inspect the piles. When a diver found damaged piles in October, subsequent dives were made, and to date, only about 40 of the piles had been observed out of the approximately 600 that should be there. All of the piles that had been seen had been damaged by marine borers. The marine borers were quite large, eat into the wooden piles, and then go up and down with the grain, eating a channel in the wood. The condition was very serious; this was not the accumulated damage of 75 years, as inspection in 1991 and 1994 indicated no more than 10% section loss. This damage had occurred in recent years at a rapid rate, and it was ongoing, causing FDOT to question the integrity of the bridge, and to presume that the damage would increase and ultimately result in failure of the pilings.

Mr. Wolfe addressed the question of the bridge being safe to leave open to traffic, and advised that they were confident that it was. The failure of this, if it did fail, was likely that certain piles would become too damaged to be able to bear load, and the remaining piles would take on that load; as the remaining piles were unable to support the weight of the bridge, they would not suddenly snap, but would settle further into the lake bed. That settlement would be evidenced with cracking in the arches, and with settlement of the piers. Therefore, there would be early warning, and a sudden failure was not expected. Fortunately, detailed inspection showed that there was not cracking in the arches, nor significant settling of the piers. However, in order to assure that it was safe, load testing was done approximately three weeks ago. That load testing involved placing 135 tons of weight on each of the piers in sequence, and then measuring whether those piers settled. That gave a degree of confidence that at this time the bridge was safe. The ongoing damage ultimately would bring the bridge down or render it unsafe. The bridge was being inspected regularly. The load testing would be done every six months to try to detect any settlement that would indicate that we the bridge needed to be closed.

Mr. Wolfe reported that methods of repairing the piles and assuring that the bridge could remain operating for decades had been serious concerns of FDOT, however, to date, they had been unsuccessful in determining any effective repair method. However, engineering was still being done, and it was hopeful that a new method would repair the damage. Given the possibility that the pilings could not be repaired, it had been considered prudent to begin on a parallel path to prepare a plan of action for replacement of the bridge. At this point, Mr. Wolfe turned the presentation over to Mr. Borello.

Mr. Joe Borello, FDOT Design Project Manager, reported that the feasibility of repairs that would extend the service life for a long period of time was not very promising, so the parallel path was to plan a replacement strategy. Currently there was an advertisement for a consulting engineering firm to respond to FDOT for a bridge replacement project. That effort would involve a preliminary engineering and environmental phase of the project. All the feasibility of all the different alternatives for the bridge replacement would be reviewed, while the environmental impacts of those alternatives would be studied. Mr. Borello displayed and explained a bar graph of the normal schedule for a project of this magnitude. The project development environmental phase was typically a 29-month effort. There was an attempt being made to reduce that time period to 18-months. In order to conform to National Environmental Protection Act (NEPA) requirements, all alternatives must be considered before the final engineering drawings could be done. The design phase for a project of this type was in a 2-year range, with efforts to reduce it to 18-months. Normally, there was a period of 8-10 months where bid documents would have to be prepared for advertisement, execution of contracts, allowance of time for the contractor to purchase certain specialized equipment and material for the project before actual construction would begin. It was the intention to maintain traffic at a minimum of one lane in each direction for the whole construction phase, and in order to do that, it extended the contract time. The 7-year time frame reported was not a typical schedule, but was the attempt to expedite a normal schedule, and if there was any other way found to do it better, it would be done.

In response to the query of Mayor Ilyinsky concerning replacement of only the north side of the bridge, Mr. Wolfe responded that during the project development phase, all feasible alternatives would be considered and analyzed. The cheapest, quickest method of fixing this problem would be to tear down the 1924 bridge structure and replace in kind the 1959 structure. The 1959 bridge was very narrow, had no shoulders, and could be of a more pleasing aesthetic design. As the appearance of a replacement was decided, input would be needed.

President Pro-Tem McLendon questioned how future traffic would be considered in the decision making process?

Mr. Wolfe responded that traffic projections would be completed and analyzed, however, he could not conceive that a six-lane bridge would be put up. There would be considerations of possibly removing the bascule with a tunnel or a high level bridge, however those were highly unlikely alternatives. The expectation was that a replacement bridge retaining four lanes, with the lowest level bascule permitted by the Coast Guard would be considered.

Councilman Wyett suggested that if four lanes was sufficient in 1959 when the island was not yet fully developed, perhaps six lanes should be considered.

Mr. Wolfe responded that would require six lanes on Royal Palm Way. Public input indicating the desirability of six lanes would be considered.

Councilman Wyett asked the expectation of the balance of the life of the old portion of the bridge?

Mr. Wolfe responded that there was no prior experience with wood borers, however, the rate of damage was rapid, and he would be surprised if the bridge could remain opened until construction began on a replacement bridge in approximately four years. It was likely that a test project to repair the worst pier would be done. It that was successful, perhaps the old bridge could be kept opened longer, and kept opened until construction began on a replacement bridge. If that were the case, there would still be approximately a three year period where there would be maintenance of two lanes, but that would only be during the construction. One of the problems with tearing down the old bridge and matching the 1959 bridge was the Coast Guard permit, as they objected to the current clearance of the bridge.

Councilman Wyett asked if there was any possibility that a total new bridge could be built side by side so there would not be the wait to tear down the old bridge?

Mr. Wolfe responded that the alignments had been considered, and it was not believed that was possible. The current bridge lined up perfectly with Royal Palm Boulevard, and if the bridge was offset, then the final bridge structure would be offset, and that would not be a desirable condition.

Councilman Wyett asked how much effort would be given to the feasibility of a tunnel?

Mr. Wolfe responded that there were many reasons why a tunnel would be problematic, however it was feasible. It would be very expensive, and it would have impacts, such as where it connected to the local street systems.

In response to the query of President Smith as to the length of time it would take to design the bridge, Mr. Wolfe responded that 18-months for the project development was not lengthy, given the requirements. The funding would need to come out of a State-wide pot of money, and the expectation was that $35-$40 million could be accessed to do the project. By the time the engineering was performed, the money would be available, however, it was not a sure thing. The money required to begin the engineering effort and hire the consultant was set aside already. The Coast Guard may approve a 21' clearance, and he presented a graphic of what that would look like. The current bridge was 1,050', and on that scale an elevation increase of 7' to 10' would hardly be seen. He pointed out that cooperation and quick resolution of issues was needed in order to achieve the 18-month schedule. He did not believe there was a significant time issue involved whether the bridge had a false front, or a real design with real arches.

Town Manager Doney suggested that Public Works Director Dusey be appointed to a Technical Advisory Committee in order to most efficiently allow the Town to communicate with FDOT. He noted that many individuals had contacted elected officials, and staff members of the Town requesting bridge committees, and he advised that he did not believe that would be in the best interest of moving forward on the bridge project. Mr. Dusey could report to the Town Council, and policy decisions could then be made.

President Smith confirmed that Mr. Dusey and staff could deal with the technical issues, and after the presentation of FDOT was made to the City of West Palm Beach; after that time she suggested a workshop between the Palm Beach Town Council and the City of West Palm Beach City Commission. She suggested that FDOT meet with the City of West Palm Beach as soon as possible.

Councilman Wyett asked if there was anything that could be done today by the Town Council or staff to expedite the process?

Mr. Wolfe replied that FDOT would like support in establishing a Technical Advisory Committee where Town staff could be worked with directly on a routine basis.

Councilman Wyett questioned if a council person from the Town of Palm Beach and a commissioner from the City of West Palm Beach should be on the Technical Advisory Committee?

Councilman Shaw asked what would happen in the period between now and when construction actually began–what effect would the loading on the bridge have on a day to day basis?

Mr. Wolfe responded that the live load, moving load, was actually more difficult on the bridge than the dead load. In this case, because of the nature of the construction of the bridge with the arches being filled with sand, it was a much heavier bridge than a beam construction. That meant that the amount of dead load that was always sitting there, the bridge itself, was a much greater proportion of the load than on a normal bridge. For that reason it was not believed that the live load (the traffic on the bridge) would have an impact on the life of the bridge, if it was shut down to one lane.

Councilman Shaw asked if there had been any consideration to a fishing level that could be built to the two sides of the bridge so that those who wanted to fish could be kept off the span?

Mr. Wolfe responded that had not been discussed to date, however, on many recently built bridges fishing piers had been included underneath. There would not be much room underneath the proposed bridge for such a pier. It would certainly be considered.

Councilman Shaw asked if there had been any consideration of a split span?

Mr. Wolfe replied that was a possibility. The bridge would be constructed in two phases in order to maintain traffic, and whether it was one bridge or two may be immaterial. It was not a major design consideration at this point.

Mr. Wendell Phillips, Senior Planner of the Metropolitan Planning Organization (MPO), addressed the Town Council, stating that the MPO was responsible for the transportation planning, in the county, and long range traffic planning, and was working on the bridge project with FDOT.

President Smith, to clarify for the record, asked if it had been determined that a new bridge was needed?

Mr. Wolfe responded negatively. He noted that the decision to replace the old bridge needed to be done through a project development study with full public input. There were parallel paths being taken to determine a method of repairing the existing bridge, and deciding on whether and how the bridge would be replaced. Neither aspect was delaying the other. One thing that could be accomplished by repairs, was to keep the old bridge opened until the initiation of construction. Right now, there was no confidence that would be the case.

President Smith responded that she would like to see the old bridge kept opened, but have the decision made that a new bridge was needed, so that movement could be made towards the design and studies necessary for a new bridge. She explained that she had a great deal of difficulty in there not being agreement that a new bridge was needed, and moving ahead with the design for the project.

Mr. Wolfe replied that it would be very useful if a resolution could be made by the Town Council to the FDOT, requesting that the bridge be replaced.

Councilman Wyett moved that the Town of Palm Beach exercise its authority to recommend to the Florida Department of Transportation that the bridge be replaced. The motion was seconded by President Pro-Tem McLendon.

In response to Councilman Wyett, Mr. Wolfe explained that it would take 7-years to replace the bridge because that time would include design of a new bridge, decision making in a public forum on how to proceed, procurement of materials, and maintenance of traffic. If the bridge could be closed during construction it could be done in half the time, however, there would be no maintenance of traffic. He assured the Town Council that FDOT wanted to do the project as quickly as possible, and if other mechanisms were found to move it faster, they would do so.

On roll call the motion of Councilman Wyett carried unanimously.

At this time, Councilman Shaw moved that XII. Old Business C. Other 4 - Consideration of Proposed Bicycle Lanes on State Road A-1-A be moved forward in the Agenda to be heard immediately after item 1 above. The motion was seconded by Councilman Wyett. On roll call the motion carried unanimously.

4. Consideration of Proposed Bicycle Lanes on State Road A1A

Town Manager Doney explained that the reason this matter was coming back before the Town Council was that Mayor Roberts of South Palm Beach had requested that this item be reconsidered by the Mayor and Town Council. There was a Resolution adopted by the Town of South Palm Beach that addressed the designation of State Road A1A as a scenic highway in the Town of South Palm Beach.

Town of South Palm Beach Mayor Margot Roberts addressed the Town Council, stating that the Town of South Palm Beach had passed a Resolution to make A1A scenic and historic, as did Ocean Ridge and Manalapan. She noted that she had received a copy of a letter from Mr. Silken, and also submitted newspaper articles opposing bicycle lanes on A1A. Mayor Roberts stated that the Town of South Palm Beach opposed the bicycle lanes strictly because there was not the space to use10' (5' on either side of A1A) for concrete. She noted that the area near Sloan's Curve would be affected by having the beautiful shrubbery removed, as well as greenery in the Town of South Palm Beach, where there was already very little room. She urged that the Town of Palm Beach pass a Resolution designating A1A as a scenic and historic highway.

Mr. Wendell Phillips, Senior Planner of the Metropolitan Planning Organization (MPO), and Bicycle/Pedestrian Coordinator for Palm Beach County addressed the Town Council. He advised that there was a bicycle facilities plan for the entire County that had been duly adopted by the MPO, which gave guidance and direction for the future. A1A was the primary bicycling venue in the County, and aesthetics was not the issue, however, safety <u>was</u> the issue. Very little pavement would have to be added to the roadway to make bicycle lanes. He introduced Richard Young from the Florida Department of Transportation (FDOT).

Mr. Richard Young, FDOT Environmental Management Office, and Assistant Bicycle/Pedestrian Coordinator for the district addressed the Town Council. He noted that the FDOT did support construction of paved shoulders adjacent to all rural highways for several reasons. The paved shoulders were a requirement of current design standards for all rural sections, which were sections without curb and gutter. Shoulders added safety to the roadway for several reasons not having to do with bicyclists. They provided an extra recovery zone for errant vehicles; they provided for additional drainage to move rain water off of the roadway to prevent puddling, and they also protected the edge of the roadway to prevent edge raveling and break-off of the pavement. In addition, they provide additional pavement for bicycles and vehicles to pass each other safely, which was not currently available on A1A. He stated that he believed there was sufficient right-of-way on at least 90% of A1A in order to construct paved shoulders. Paved shoulders generally would not increase the speed, nor the capacity of the roadway. Other counties and communities had requested bike lanes from FDOT, and they had been constructed along a great portion of A1A at this present time, and it was also the number one priority for the completion of a continuous bicycle route. It was a very heavily used bicycle route. FDOT had been very sensitive to the aesthetics of roadways, and in addition to the construction of paved shoulders, additional landscaping was often added to improve the visual aesthetics of the roadway. There was also a program in place within the department called the Florida Scenic Highway Program, which was designed to involve the local communities with the FDOT to get their input so that all parties involved could come to an agreement and an acceptable compromise as to the appearance of the roadway.

President Smith asked if the property was taken by FDOT if it was not available and the parties did not come to agreement?

Mr. Young replied negatively. If the right-of-way did not exist, then the bicycle lanes would not be constructed.

Councilman Shaw noted that the only place that he could see with adequate space without taking of land was a very small portion of A1A that ran from Sloan's Curve to the South Palm Beach Town limits. There was no land in the northern portion near the ocean, nor North of Widener Curve to the Southern Blvd. Bridge. He maintained that if there could not be a contiguous bicycle environment that was safe then it should not be promoted.

Mr. Young replied that if bicycle lanes could not be constructed that were contiguous, the lanes were ended at logical terminal points, where there was an intersection or some other direction for the bicyclists to go.

Joy Puerta Vice Chairman for the Metropolitan Planning Organization Bicycle Advisory Committee and Bicycle/Pedestrian Coordinator from the City of Boca Raton addressed the Town Council, stating that A1A had been consistently used by bicyclists and pedestrians for many years. Bicycle lanes were constructed in the City of Boca Raton via a grant from the FDOT to have these facilities put in. She distributed photographs of the area for viewing by the Town Council.

President Smith ascertained that Ms. Puerta had not physically seen the area, and commented that she was making a presentation on an area that she had not seen, pointing out that there was no right of way in the area north of Sloan's Curve in which to put a bicycle path.

Ms. Puerta responded that A1A was a scenic corridor, and tended to draw cyclists throughout the entire county. The safety of the cyclists and the safety of vehicles needed to be considered. Vehicles were competing with the cyclists for pavement space. A safe route for cyclists and vehicles was necessary. She suggested that the Town Council keep all options open regarding bicycle lanes, and not pass a Resolution giving a historic designation before all of the facts had been considered.

Mr. Phillips commented that he had done a study, during the last five years, of A1A from the Town of Palm Beach (including Palm Beach) and south, and there had been two deaths–one in the Town of Ocean Ridge, and one in Boca Raton. There had been no bicycle or pedestrian deaths on A1A in Palm Beach.

Police Chief Terlizzese commented that there had been no bicycle or pedestrian fatalities or injuries along A1A. He pointed out that the 50' right-of-way was only from Sloan's Curve to the south Town limits. There was no 50' right-of-way north from that point for the next 8-10 miles of A1A.

Mr. John Anderson, Planner, District Four, FDOT, commented that he was familiar with the Town of Palm Beach, and clarified that when FDOT resurfaced a State highway, it was a requirement that 5' shoulders be on each side, where it was possible to do so. When it was not possible, FDOT would not provide shoulders, because it could not acquire land to provide shoulders for resurfacing projects. He supported the idea of bicycle lanes, because it would improve safety, however, a bicycle was a vehicle that would have to use the street occasionally. The shoulders would not be laned bike ways in all cases. The Florida Scenic Highway Program was a positive approach to preserving, protecting, and enhancing scenic highways, such as A1A. He suggested that the Town of Palm Beach look at a more positive way of enhancing A1A and its scenic attributes, rather than a negative approach of preventing any action from taking place, which the request for legislative designation accomplished.

Mayor Roberts commented that the Resolution declaring A1A historic and scenic would mean that the FDOT would not be able to change the road, to make it into a three lane highway, however, it would not prevent bicycle lanes. The Resolution would not preclude bicycle lanes.

Mr. Silken commented that the Civic Association was waiting for answers to questions from FDOT, however, there was no rush on this matter, more information was needed, safety needed to be considered, and suggested that more discussion on this matter take place at a future time.

Councilman Wyett moved deferral of consideration of the Resolution designating A1A as scenic and historic. The motion was seconded by Councilman McDonald. On roll call the motion carried unanimously.

2. Consideration of Proposal to Move the Issuance of Occupational Licenses from the Planning, Zoning, and Building Department to the Finance Department *(Deferred from July 8, 1997)*

Town Manager Doney referred to his memorandum on this subject dated February 27, 1998, and reported that the consensus opinion of staff was that there should be no change in the administration of the occupational license function at this time.

Councilman Wyett moved approval of leaving the Occupational License function with the Planning, Zoning and Building Department as it currently was. The motion was seconded by President Pro-Tem McLendon.

President Smith commented that every member of the Council had different positions on different subjects, and that when staff reviewed and studied items before making recommendations, she hoped that there would not be lengthy discussion in defense of personal positions.

Councilman Shaw pointed out that the major reason he had made the recommendation to move the issue of occupational licenses to the Finance Department was because the issue was a financial issue involving renewal and collection of occupational licenses.

On roll call the motion carried 4/1, with Councilman Shaw casting a dissenting vote.

3. Preconstruction, Engineering, and Design (PED) for the Lake Worth Inlet Sand Transfer Plant - Consideration of Proposed Amendment to Existing Tri-Party Agreement Between the Town, Palm Beach County, and the Port of Palm Beach

Assistant Town Manager Peter Elwell reported that action had been taken to support Town participation as one of the three local sponsors in the Lake Worth Inlet project, as well as direction to negotiate an amendment to the Tri-Party Agreement that would set forth the specific relationship between the three local parties and between the Town and the Corps of Engineers. The amendment was included in the back-up material supplied to the Town Council. Mr. Elwell recommended that the amendment be approved, and authorization be given for Mayor Ilyinsky to execute the amendment, and for Town staff to take action to implement it.

President Pro-Tem McLendon moved approval of the amendment, as well as authorization for Mayor Ilyinsky to execute the amendment and for Town staff to take action to implement it. The motion was seconded by Councilman Shaw. On roll call the motion carried unanimously.

4. Consideration of Proposed Bicycle Lanes on State Road A1A

(This item was heard earlier in the Agenda).

5. Consideration of BellSouth Franchise Fee and Public Service Tax Audit

Assistant to the Town Manager David Jakubiak reported that the BellSouth Franchise Fee and Public Service Tax Audit had been completed, and findings had resulted in BellSouth owing the Town $33,675. He suggested that the auditors explain the findings.

Town Attorney Randolph commented that it was his understanding that the auditors would render the report today, and there was no action required by the Town Council, other than agreeing to move forward to authorize staff to proceed with determining the amount due. Once that determination was made, BellSouth would have 60 days to protest or accept. If the matter could not be resolved on a negotiated basis, BellSouth could contest the legality of the determination of the Town by filing an action in Circuit Court within 60 days after the determination became final.

Mr. Sid Poe, Regional Manager, BellSouth, addressed the Town Council, stating that he had been in touch with the senior tax manager in Atlanta, who was currently reviewing the matter. BellSouth was prepared to meet with staff to discuss the matter in detail.

Town Attorney Randolph advised that staff would need authority to move forward with the statutory process, to prepare a final determination setting forth the amount due, plus interest and penalties, and to incorporate all items required by statute. In the interim, BellSouth had requested an opportunity to discuss the matter with staff.

Mr. Jakubiak clarified that the auditors had spent the monies allocated to them by the Town Council. He expressed concern that there were no more approved funds for the Town to spend on auditors, and the matter should be resolved quickly.

Councilman Shaw asked if the auditors could establish that the amounts owed the Town were a reoccurring issue from year to year?

Mr. Garth Ashpaugh, of Public Resources Management Group, Inc., replied that revenue categories had been identified that would be consistent for years 1996 and forward, and possibly prior to 1996.

Councilman Wyett moved that a formal statement of funds due be prepared for BellSouth, and that a determination be made at the next Town Council Meeting, which would give time for negotiations within the next 30-60 days. If negotiations were not successful, the Town Council would then make a final determination at the May 12, 1998, Town Council Meeting.

Mr. Jakubiak pointed out that if the auditors would be involved in negotiations for the next 60 days, there would be a need for funding. Because of the Confidentiality Agreement, staff did not know the findings of the auditors, and could not be involved in explanations to BellSouth.

Councilman McDonald moved approval of funds, not to exceed the amount of $2,500 for the payment of the auditors from the Public Resources Management Group, Inc. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

XIII. NEW BUSINESS

A. Resolutions

1. Resolution No. 13-98 - Florida Department of Environmental Protection Beach Erosion Control Program for 1999/2000

Public Works Director Al Dusey reported that on an annual basis the State Department of Environmental Protection requested that the Town submit requests for State cost sharing in any of the beach preservation programs. Resolution 13-98 would approve a submittal to the State Department of Environmental Protection for the Florida Beach Erosion Control Program.

Town Attorney Randolph read Resolution 13-98 by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING THE APPLICATION TO THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE FLORIDA BEACH EROSION CONTROL PROGRAM.

President Pro-Tem McLendon moved approval of Resolution 13-98. The motion was seconded by Councilman Shaw. On roll call the motion carried unanimously.

2. Resolution No. 14-98 - Supporting a Dedicated Source of State Funding Assistance for Beach Management Projects

Assistant to the Town Manager Peter Elwell reported that Resolution 14-98 was a formal way for the Town Council to state support for the dedicated beach funding source as was endorsed at the Town Council meeting of November 12, 1997.

Town Attorney Randolph read Resolution 14-98 by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, URGING THE 1998 FLORIDA LEGISLATURE TO PASS HB3427 AND SB882 WHICH PROVIDES A DEDICATED FUNDING SOURCE FOR STATEWIDE BEACH

MANAGEMENT.

President Pro-Tem McLendon moved approval of Resolution 14-98. The motion was seconded by Councilman Shaw. On roll call the motion carried unanimously.

3. Resolution No. 17-98 - Support of State Funding for Treasure Coast Regional Planning Council

Director of Planning, Zoning and Building Robert Moore reported that staff recommended passing Resolution 17-98 in support of State funding for the Treasure Coast Regional Planning Council, as they assisted with Federal grants and numerous other intergovernmental affairs.

Councilman Shaw moved approval of Resolution 17-98. The motion was seconded by President Pro-Tem McLendon.

Town Attorney read Resolution 17-98 by title:

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, SUPPORTING PERMANENT AND CONSISTENT FUNDING FOR REGIONAL PLANNING COUNCILS

On roll call the motion carried unanimously.

B. Bid Awards

1. Sealed Bid No. 98-03 - D-14 Stormwater Collection System, Phase III; Resolution No. 16-98

Town Engineer James Bowser reported that the D-14 Stormwater Collection System, Phase III project would extend pipes on Cocoanut Row from Clarke Avenue to Pendleton Avenue, install pipes on Barton Avenue from Cocoanut Row to South County Road, and work on Seabreeze Avenue from Cocoanut Row to South County Road, Central Avenue from Barton Avenue south to the alleyway north of Seabreeze Avenue. Sanitary sewer improvements would be made in the alleyway between Seabreeze Avenue and Clark Avenue east of County Road, as well as the alley between Barton Avenue and Clarke Avenue between County Road and Cocoanut Row. Staff recommended award to Telcon, Inc., with a base bid of $2,050,834. Funding for the project was not adequate within existing budgeted items; an amount of $299,386.45 would need to be utilized from the Undesignated Capital Improvement Fund balance. The project would be the last significant phase to the D-14 system.

Town Attorney Randolph read Resolution 16-98 by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING A CONTRACT TO TELCON, INC. FOR THE D-14 STORM WATER COLLECTION SYSTEM - PHASE III.

President Pro-Tem McLendon moved approval of Resolution 16-98, Sealed Bid 98-03. The motion was seconded by Councilman Shaw. On roll call the motion carried unanimously.

2. Sealed Bid No. 98-04 - Bicycle Trail Lighting; Resolution No. 15-98

Town Engineer James Bowser reported that five bids had been received. The low bidder was Horsepower Electric in the amount of $74,865.60.

Town Attorney Randolph read Resolution 15-98 by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM EACH, PALM BEACH COUNTY, FLORIDA, AWARDING A CONTRACT TO HORSEPOWER ELECTRIC FOR THE BICYCLE PATH LIGHTING.

Councilman Wyett moved approval of Resolution 15-98, Sealed Bid 98-04. The motion was seconded by Councilman Shaw. On roll call the motion carried unanimously.

C. Appointments

1. Architectural Commission - Two Member Three-Year Terms to Expire March 2001, and Two Alternate Member

Three-Year Terms to Expire March 2001

The following were re-appointed as regular members of the Architectural Commission for three year terms:

John Schuler
Sally Gingras

The following were re-appointed as alternate members of the Architectural Commission for three year terms:

Eric Adams
Marvin Rosenberg

Councilman McDonald confirmed with Director of Planning, Zoning & Building Moore that Leighton Rosenthal (who was listed on the ballot for appointment to the Architectural Commission) had not yet resigned from the Landmarks Commission, suggesting that he therefore was not eligible for consideration on the Architectural Commission. Mr. McDonald moved that the name be removed from the ballot for this reason. The motion was seconded by Councilman Shaw. *(A vote was not taken on the motion).*

Councilman Wyett noted that each Council member had received a letter from the Chairman of the Architectural Commission making recommendations for members. He suggested that this was an inappropriate action.

President Smith agreed with Councilman Wyett, suggesting that the message be passed on to all commissions to remind them that the action was not appropriate. Director of Planning, Zoning & Building Moore and Town Manager Doney agreed to do so.

2. Landmarks Preservation Commission - Three Member Three-Year Terms to Expire March 2001

The following were re-appointed as regular members of the Landmarks Preservation Commission:

Eugene Pandula
Jeffery Smith
Sari Wilkey

D. Other

1. Consideration of Date and Time for Special Town Council Meeting Regarding Proposed Development Review Applications for Neiman Marcus, 100 Worth Avenue, by The Goodman Company

President Smith noted that it had been recommended that this item be discussed at a special workshop meeting, and notification had been received from Attorney Brindell of possible dates: April 15, 16, or 17, 1998.

Councilman Shaw moved acceptance of the date of April 16, 1998 at 10:00 A.M. in the Town Council Chambers; the meeting would carry over to Friday, April 17, 1998, if necessary. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

2. Consideration of Date and Time for a Town Council Workshop to Invite Qualified Participants to Discuss Pros and Cons of Private Construction Relating to Reverse Osmosis/Water Re-Use Program

Public Works Director Al Dusey reported that thirteen companies had been sent letters of inquiry regarding the possibility of construction of a series of reverse osmosis plants in Town. Positive replies had been received from six companies, with more expected.

Councilman McDonald moved that the Water Workshop be scheduled for Wednesday, April 29, 1998 at 10:00 A.M. in the Town Council Chambers. The motion was seconded by Councilman Shaw. On roll call the motion carried unanimously. Each firm would be given approximately forty-five minutes to make a presentation.

3. Audit Issues:

1. Audit Report for Fiscal Year Ending September 30, 1997 - Discussion and Acknowledgment of Receipt

Town Manager Doney reported that the Audit Report for Fiscal Year ending September 30, 1997 would require a motion to acknowledge receipt. The highlights of the audit were identified by memorandum from Finance Director Demming

President Pro-Tem McLendon moved acceptance of the Audit Report for fiscal year ending September 30, 1997. The motion was seconded by Councilman Shaw. On roll call the motion carried unanimously.

Finance Director Demming reported that the Town had received an unqualified opinion on its Financial Statement, which was the highest form of assurance from a CPA firm. There was a balance of approximately $6,490,000 remaining in the General Fund, of which $1,300,000 was over and above the 15% threshold established by policy. The Capital Improvement Fund balance was $914,109. The Town received the Certificate of Achievement for the 1996 Financial Statement. Responses to the Auditor's Management Comments were identified in the compliance section of the report.

2. Management Letter and Staff Response - Acceptance (Pages 69-77 of Audit Report)

Town Manager Doney noted that Town Council action was required for the Auditors' Management Comments and staff comments.

Finance Director James Demming reviewed the recommendations of the auditors as stated in the "Management Letter" portion of the Audit Report:

Marina Dockage Credits and Billing: Auditors had made recommendations dealing with the Marina credits given to boats vacating early, and some billing arrangements. The Finance Department had historically not been involved in the Marina billing, therefore, the Finance Department would be given access to the Marina billing system. Information dealing with the credits would be forwarded to the Finance Department by the Marina. There was a procedure in place that the Marina staff and the Public Works Department currently followed.

Purchase Orders: Auditors had recommended that the Town consider a field purchase order system, which is a pre-printed, pre-numbered purchase order form. Staff believed the same result could be accomplished through use of the Daily Purchase Order Log, which is a mechanism to allow staff members to go to various vendors, and call back for an authorization number to authorize a purchase, rather than issue a formal purchase order.

Councilman Shaw asked why this issue had not been addressed and resolved last year?

Finance Director Demming replied that auditors focused on different things each year that they stayed with an organization. Toward the latter part of the relationship with the client, more management issues were addressed. He explained that it took considerable time to obtain an understanding of a client to where effective management recommendations could be made. This was the fourth year completed by the auditing firm of Caler, Donten, Levine, Druker, Gravett, Porter & Veil, P.A.

Mr. Mark Veil, of Caler, Donten, Levine, Druker, Gravett, Porter & Veil, P.A., explained that the audit process was a sampling process–it was not 100% verification. As a result of the sampling, different items could be pulled from different places, and this year the Marina credit issue had come up because the docks had been closed, and some boats could not be accommodated, so credits were issued. Areas of concern could be addressed according to management suggestions. The Town was unique in the sense that many of its financial operations were decentralized. As a result different areas had been reviewed periodically.

President Pro-Tem McLendon inquired about the status of the numerous changes suggested by auditors two years ago?

Finance Director Demming responded that it was his understanding that had been taken care of and implemented.

Sole Source Purchase: It was discovered that a purchase of police weapons designated as a sole source supplier was not a sole source purchase. Staff will scrutinize future sole source requests more closely to ensure compliance with Town policies.

Payroll System: These suggestions were made on a conglomerate basis. The response addressed those that could be immediately implemented, which required different individuals within departments to initial calculations. The remainder would take time in individual departments for improvements to be made. For example, there seemed to be duplication of data entered several times for different purposes. If that could be streamlined, departmental operations could be helped.

Building Permit Fees: Contractors deposit money with the Town, and then draw on it over time. Previously, those accounts were not being reconciled effectively. That recommendation had since been implemented.

Performance Bond Documentation: The Performance Bonds required a great deal of time from the Planning, Zoning & Building Department. The Finance Department had been receiving a listing of what was there. Formal documentation procedures had now been implemented.

Calculation of Fees: An error had been made in the calculation of a special exception value. Staff believed that no procedural changes were necessary. The employee was relatively new, and therefore, the Planning, Zoning & Building Department did not believe the same type of error would occur in the future.

Verification of Refunds of Accumulated Contributions: When employees terminate employment with the Town, an "Application for Refund of Accumulated Earnings" form was filled out by the employee, containing a line for the signature of Town personnel to indicate verification for payment. There were two instances in which this line had not been signed. The form was outdated and would be changed to include a Finance Department employee verifying the amounts.

Actuary Reports: There had not been an independent actuarial study performed in recent years. Staff will ensure that an actuarial report will be completed on a timely basis.

Donation Accounts: Numerous donation accounts had been set up individually, some in very small dollar amounts, and the recommendation was to simplify the record keeping, consolidating the smaller accounts into one smaller account, and possibly give the Town more flexibility with the use of the funds. Staff will review existing accounts and prepare a recommendation to the Town Manager.

Evaluation of Computer Needs: The Town was decentralized in many areas, with a system that had been developed over time. The goal this year was to have the Purchasing Department and Finance Department request two vendors to perform product demonstrations as a comparison to the current system. Staff would then review the present software for modification.

PRIOR YEAR COMMENTS AND RECOMMENDATIONS:

Receivables from Other Governments: Timely requests were not being made for reimbursement of monies due the Town from other governments participating in projects within the Town. Past due receivables would be billed and collection made on a timely basis.

Inventory: There were many items in inventory for which there was no activity. Purchasing had reviewed the inventory list to determine which items should be stocked, sold, or returned for credit.

Grant Administration: Currently the Finance Department was not involved in the grant process. Policy will be implemented regarding grant management.

Unclaimed Monies: Town Attorney and staff will address this item to determine the proper course of action.

Encumbrances: Encumbered amounts relating to purchase orders dating back several years was reviewed by the auditors, who felt that the money should not be encumbered if it was not going to be used in a timely manner. Staff would review the validity of purchase orders with each department and develop a procedure for encumbrances.

Building Permit Deposits Held on Account: This item was explained under "Building Permit Fees" above.

Filing of Statement of Financial Interest: Individuals required by Florida Statute 112.3145 to file Statements of Financial Interest had not done so. Staff would continue to remind all Town officials of their responsibility regarding the filing of financial disclosure forms.

Town Attorney Randolph, Town Clerk Pollitt, and Director of Planning, Zoning & Building Moore would work together to determine who had not yet filed financial disclosure forms, and report back to the Town Council.

Finance Director Demming advised that all comments made by the auditors would be reviewed and acted upon.

In response to the query of President Smith, Purchasing Agent Boggs advised that he would identify inventory items that could be turned over for credit; other items would be sold at the auction in August. Some items would be kept in stock.

Councilman Wyett moved approval of the Audit Report Management Letter and Staff Response for Fiscal Year Ending September 30, 1997. The motion was seconded by Councilman Shaw. On roll call the motion carried unanimously.

3. Renewal of Contract for Auditing Services for Fiscal Year Ending September 30, 1998

Town Manager Doney referred to the memorandum of Finance Director Demming concerning the renewal of the Auditing Contract, wherein recommendation was made for authorization of the remaining one (1) year renewal of the agreement with Caler, Donten, Levine, Druker, Gravett, Porter & Veil, P.A. in the amount of $60,000.

Councilman Wyett moved approval of renewal of the Auditing Contract for services for fiscal year ending September 30, 1998, with Caler, Donten, Levine, Druker, Gravett, Porter & Veil, P.A. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

Town Manager Doney requested direction on securing auditors through the Competitive Selection process, which was not mandatory.

The Town Council agreed that it would not be necessary to change auditing firms at this time.

In response to the inquiry of President Smith, Mr. Veil advised that the audit process usually began in July, when planning was done to determine the scope of the audit. In August/September interim testing was done, which was a sampling of transaction. At the end of November the year end field work was started, which lasted through the end of the year. If there were any issues or questions, discussion could be scheduled for October.

President Smith agreed, stating that was approximately the time Finance & Taxation Committee Meetings were held.

4. Consideration of Formation of a Long Range Planning Commission

Councilman McDonald recommended through motion that the Town Council appoint a Long Range Management Commission, composed of nine people, two of whom would be Council members, one appointed by the Town Council, and one selected by election results in the past election. They would meet at least quarterly to develop five and ten year plans for the Town. The Commission would sunset after one year. The motion was seconded for discussion by Councilman Wyett.

President Pro-Tem McLendon questioned the relation of such a commission to the Comprehensive Plan?

Councilman McDonald replied that the Comprehensive Plan related to property development in the Town, and its function was not long range planning.

Councilman Wyett expressed concern over the logistics of the creation of another commission, as well as the extreme demand on staff. He suggested that staff be given a list of long range interests and compose a report to the Town Council.

President Smith agreed with the suggestion of Councilman Wyett, suggesting that a Town Council workshop could be scheduled to go over the long range plans developed and on hand in each department.

Mayor Ilyinsky agreed that another level of bureaucracy would be outrageous, and considered that any department head could explain the long range plan contemplated.

Councilman McDonald commented that he believed it was the responsibility of the Town Council to be the long range planners, and he did not recall having any long range planning meeting. He was not opposed to the suggestion of a workshop.

On roll call the motion failed 4/1, with Councilman McDonald casting the affirmative vote.

Mr. Ned Barnes, of the Civic Association, commented that he was surprised that public comment had not been called for.

President Smith stated that she would be happy to re-open and re-consider the matter. She noted that she had called the question before he had indicated he wished to speak. At this time she moved that the matter be re-considered. Councilman Wyett seconded the motion. On roll call the motion carried unanimously.

Mr. Barnes commented that the Civic Association did endorse the process of long range planning, whether it be a Council workshop or a commission. He thanked Councilman McDonald for presenting the topic, and stated that it seemed appropriate that communities would benefit from some sort of visioning process relating to issues that would be upcoming in the next five or ten years.

President Smith commented that she hoped that there would be full attendance at the workshop on long range planning.

Councilman Wyett commented that he appreciated the position of the Civic Association, however, he believed a workshop rather than a commission would be appropriate. He suggested that the Civic Association outline some of the areas that they believed should be considered.

Town Manager Doney commented that the Town budget included a five year plan. Every departmental budget included long range plans. If the Town Council wished staff to consider some particular issue, the workshop would help in that regard. He considered it his responsibility, as well as that of all department heads, to do a responsible administrative job, including looking ahead, budgeting and planning for at least five years. He noted that he and each department head came prepared to speak to the issue today.

President Smith replied that she was aware of that, however, she believed that a subject of such importance should have a larger audience, and that was the reason for suggesting the workshop with the full Council, the Civic Association, the Citizens' Association, and the public.

Town Manager Doney expressed concern that some members of the public may not understand that the Town conducted an involved budgeting process and five year capital improvement program, a comprehensive land use plan, and planned for upcoming years.

President Smith replied that she was not unhappy with the department heads and the long range planning that was being done.

Councilman McDonald moved that the topic of a long range planning workshop be placed on the Agenda for the May 12, 1998 Town Council Meeting. President Smith passed the gavel and seconded the motion. On roll call the motion carried unanimously.

5. Consideration of Proposed Consent Agenda for Development Review Items

Councilman Shaw commented that his recommendation was to establish a procedure at the beginning of the Development Review that would allow applications to be placed on a Consent Agenda to be considered as a group. He explained that these would be minor or very basic changes, with very defined hardships, that needed approval by the Town Council. If any Council member or any member of the public had an objection it would then be pulled for a full hearing. Otherwise, the items would be passed as a group.

Director of Planning, Zoning & Building Moore responded that the proposal could be accomplished as far as staff was concerned, however, the public hearing for neighboring properties within 200 feet could not be overlooked. Each item would be read, and each item could be taken off the agenda by a Council member or a member of the public for discussion at a full hearing. It would probably affect a very few number of variances.

Town Attorney Randolph commented that the applications were subject to quasi-judicial hearings, and there must be competent, substantial evidence before the Town Council before it could act. Under the proposal of Councilman Shaw, the competent, substantial evidence would be before the Town Council, however, it would not necessarily be discussed if there were no questions. The application would address all criteria set forth in the ordinance.

Councilman Shaw clarified that the items included on the proposed Consent Agenda would be read item by item, and at any point could be pulled from the Agenda. The applicants would still be required to have representatives present, however, there would not be a presentation by the applicant.

Mr. Moore suggested that when the Town Council Agenda was prepared, minor items could be moved ahead to be heard first under Development Review.

Councilman McDonald moved that minor projects be moved ahead, at the discretion of the Building Department, to be heard first under the Development Review portion of the Town Council Agenda. The motion was seconded by Councilman Wyett. On roll call the motion carried unanimously.

6. Consideration of Flagler Rotary Club Proposal to Fund the Installation of Emergency Call Boxes on Lake Trail and Other Locations in Town

Mr. George Hyam explained that he had requested that this item be moved forward in the Agenda, because some of the people were attending this morning, who would not be able to attend this afternoon.

President Smith explained that it was easier, for the record, if such requests were done in writing, so that the people planning on attending in the afternoon would be aware of the fact that it was going to be changed on the Agenda.

Mr. Hyam advised that the Rotary Club felt that they should participate in civic activities, and one that they thought would be advisable was to have call boxes on the bike trail (Lake Trail). He had spoken with Chief Terlizzese, who had a study prepared indicating 15 locations (13 on the bike trail from the north end to the south end, and 2 on the beach). A company producing the call boxes had been contacted, who had quoted $6,000 per unit. Three individuals had donated a total amount of $18,000, however, Mr. Hyam noted that he had to return the checks because there was not permission from the Town Council, and because the manufacturer was induced to issue the boxes at $5,000 per box. He had been assured that the money from all of the boxes could be obtained, thus, taxpayers would not pay a penny. A committee had been formed of citizens of Palm Beach. Mr. Hyam explained that the importance of the call boxes was that a person who was having trouble on Lake Trail could open the box, which would immediately notify the Police Department; no wires would be required, as the boxes were radio controlled. An amount of $150,000 had been budgeted so that the Town would not be faced with the cost of repairing the boxes, which were guaranteed for over a year. He remarked that many people living on Lake Trail had been annoyed with people asking to come in to use the phone to call the police. He noted that the call boxes were a safety issue, and most importantly, would discourage people coming over the bridge to annoy Palm Beachers.

President Pro-Tem McLendon asked if property owners in the area had been approached, and in what priority the call boxes would be installed?

Mr. Hyam responded that there was enough money for three boxes immediately, and it was suggested by some property owners that a call box be installed at the Inlet first, and then one near the middle bridge, and one at the south end. The boxes would be colored yellow.

President Smith noted that she had shown the picture of the call box to several property owners who had planned to attend the meeting in the afternoon, and they objected to the appearance in front of their houses. She asked if Mr. Hyam had received permission from property owners who would have call boxes in front of their houses?

Mr. Hyam responded negatively, but offered to change the color if needed. It was planned to have someone make a survey of every property owner from the Inlet to the bridge in the south end of Town regarding permission from property owners.

Councilman Wyett suggested that the Rotary Club review the location of the call boxes.

Mr. Hyam replied that they had followed the recommendations of the Police Department.

President Smith commented that she would like to know specific locations and whether private property owners had given permission to install boxes before any approvals were made.

Mr. Hyam suggested that the Town Council give permission for the project, with the proviso that a box not be installed in front of any house that objected.

Police Chief Terlizzese commented that the call box idea had been discussed over the past 15 years, and had been brought to the Town Council for consideration over the years. He noted that with the advent of cell phones, he questioned the necessity of call boxes. The crime problem along the bike trail was very low, however, he could not take a position of opposition to any kind of communication from the citizens directly to the Police Department. In that respect, he supported the concept, but he had advised Mr. Hyam that the idea had been brought forward several times in the past, and that there had been objection by people living along the Trail.

Councilman Shaw noted that the poles were 16' in height, and suggested that property owners may be agreeable to provide electricity to run the call boxes, which would cut down costs; perhaps there would be a better use of the funds if donated to the Police Department.

Mr. Hyam responded that no digging would have to take place. He indicated that no other projects had been considered to date.

Mr. Moore commented that there may be some zoning issues involved.

President Pro-Tem McLendon asked if power connections could be used from the existing lighting on Lake Trail?

Town Manager Doney noted that discussion had taken place at staff level, and there were many items that would need to be looked into regarding this project.

Fire-Rescue Chief Ken Elmore commented that there was an occasional medical emergency on Lake Trail, however, he did not have current statistics available. He would provide that information at a later date.

Mr. Jesse Neuman, President Palm Beach Chamber of Commerce, commented that he had lived in the north end for 40 years, and that people could come and go from the north dock area without anyone checking them. There were no public phones in the area. He agreed that the boxes should be put only where there was no objection, and recommended the boxes, especially in the north end where the area was isolated.

Councilman Wyett commented that he was concerned with public safety, from a health point of view, rather than a police point of view, and thought it was very admirable that the Rotary wished to make this donation. He suggested that with more study the plan could be improved.

President Smith questioned how an emergency could be verified?

Chief Terlizzese responded that the device worked as a radio–the person using it could talk into it, and it went to the police and emergency medical communication center. When the button was pushed, the dispatcher could talk back to the person.

Mr. Hyam noted that he had talked to some of the members of the Architectural Commission about the boxes, and they said that as long as they were put on private property they would not be involved; it was suggested that the color be changed to Palm Beach green.

Councilman Shaw moved that this item be postponed to the May or June Town Council Meeting in order to investigate issues such as the 16' pole, and alternatives to solar power. President Smith passed the gavel and seconded the motion.

Mr. Stanley Silken, Co-Chairman of the Citizens' Association commented that he had spoken with the Florida Highway Patrol regarding call boxes, such as those on the Turnpike, and they had advised that they would be happy to discuss this with the Rotary Club to explain their system.

Mr. Adrian Winterfield commented that the initiative of the Rotary Club was wonderful, however, it would be necessary to determine whether the call boxes were a Town installation, and if so, these would be municipal structures. In addition, he wondered if it would be possible to send this item to the Public Safety Committee.

Councilman Shaw amended his motion to postpone this item to the June Town Council Meeting, which was agreed to by President Smith. On roll call the motion carried unanimously.

7. Consideration of Draft Environmental Assessment Report for the Extension of Runway 9L-27R at Palm Beach International Airport

Mayor Ilyinsky commented that there were several civic groups wondering why the Town was not becoming more active regarding the Palm Beach International Airport issues. He noted that many people thoroughly enjoyed the position of the airport and its convenience to Palm Beach. He stressed that he and the Town Council had always been opposed to airport expansion, and had always voted accordingly, without exception. He requested that Assistant to the Town Manager David Jakubiak review the chronological order of the efforts made by the Town in this regard.

Assistant to the Town Manager Jakubiak referred to his memorandum of March 2, 1998, wherein a chronology of all activities that had taken place regarding the Palm Beach International Airport was listed. The chronology listed a number of public hearings which Town representatives attended regularly. He noted that he and the Mayor regularly attended Citizens Committee on Airport Noise (CCAN) Meetings, of which the Mayor was a voting member; he had served as the Town representative on the FAR-150 noise study, along with former Town Council President Weinberg.

Mr. Jakubiak advised that a Draft Environmental Assessment Report from URS Greiner, Inc., had been received which proposed an additional 2,000 feet on the existing runway to make it a 10,000 foot runway. There would be a public hearing held on March 19, 1998, concerning this environmental assessment process, and the Town was required to submit any written comments by March 23, 1998. He submitted a draft letter for the signature of the Mayor to send to the airport in regard to the runway extension, which was in objection, as was consistent with the position of the Town. He commented that newspaper articles had suggested that this runway would result in a decrease of noise, which was far from the truth. The County consultants had determined that the runway extension would result in only a 2 decibel decrease in noise. In addition to the letter, the Mayor and he had spoken with members of the City of West Palm Beach who were actively involved.

Mr. Jakubiak explained that it was his understanding that the City of West Palm Beach was proposing that a consultant review the URS Greiner report at a cost of $50,000- $100,000. The very detailed, comprehensive report included two volumes of maps and discussed everything from water quality effects to noise studies.

Councilman Wyett commented that a curfew should be suggested at the airport, with landings and take-offs allowed only in certain time limits, for example between 7:00 A.M. and 11:00 P.M. He expressed concern about the stage 2 aircraft, as well as control of cargo planes, a floor in which planes could land and take-off, and a landing and take off pattern for aircraft.

Mr. Jakubiak responded that there currently was a curfew, with aircraft paying a penalty for violations. The airport had projected the use of total stage 3 aircraft by the year 2000. Regarding a floor in which planes could land and take-off, Mr. Jakubiak explained that the proposed longer runway was supposed to allow a higher floor.

President Smith suggested that the letter from the Mayor be made stronger, incorporation the concerns of Mr. Wyett, and requesting a formal written response.

Mr. Jakubiak commented that he could attach a position paper to the letter to be signed by the Mayor, which addressed many of the issues that Mr. Wyett had raised. The position paper had been formally considered by the Town Council

Councilman Wyett commented that he did not believe that a review of the URS Greiner report would do anything more than create a delay, and that Town efforts should emphasize the effects on the quality of life and the creation of higher standards. He moved that the letter from the Mayor be made stronger, incorporating the comments he had made. The motion was seconded by President Pro-Tem McLendon.

Mr. Frank Benevento, resident on Via Palma, and Vice President of the Palm Beach Neighborhood Association, addressed the Town Council, thanking Councilman Wyett for his support, and commenting that among the points Councilman Wyett had suggested, the establishment of a floor level was most important. He indicated that planes often flew under 500 feet when taking off, creating loud noise, and leaving soot deposits on property. He maintained that he had beren driven off his property, as he could not have windows opened, television was impossible, and conversations on the telephone were impossible.

Mr. Heinz Grunlach, Algoma Road, addressed the Town Council, stating that he was totally against paying a consultant to review the URS Greiner report. He suggested that the Palm Beach County Commission be made aware that citizens in Palm Beach intend to fight back, and preserve Palm Beach. He mentioned that he had the best lawyers in New York advising him as to legal proceedings against the County in this regard.

President Smith replied that the progress of Mr. Grunlach would be followed, and that at the present time there was no interest in having a consultant review the URS Greiner report for the Town.

On roll call the motion of Councilman Wyett, seconded by President Pro-Tem McLendon carried unanimously.

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President Smith explained that earlier in the meeting during discussion of replacement of the middle bridge, the Town Council had granted approval for a resolution. Resolution 18-98 had since been drawn, which Town Attorney Randolph read Resolution 18-98:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RECOMMENDING TO THE FLORIDA DEPARTMENT OF TRANSPORTATION THAT THE ROYAL PARK BRIDGE BE REPLACED.

WHEREAS, the Florida Department of Transportation (FDOT) has determined that the Royal Park Bridge, north section, has severely deteriorated support pilings and that repair may not be practical; and

WHEREAS, the town Council of the Town of Palm Beach has discussed the various alternatives including rehabilitation, tunneling, and replacement of the existing structure and has concluded that a replacement bridge would be in the best interest of the Town of Palm Beach.

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

Section 1. The Town Council of the Town of Palm Beach recommends replacement of the Royal Park Bridge.

Section 2. The Town Council further recommends that the replacement bridge be constructed so that there are no negative long term impacts upon Town businesses or Lake Drive in the Town of Palm Beach.

Section 3. The Town Council further recommends that the clearance height of the draw span over the intracoastal waterway no exceed twenty-five (25) feet.

Section 4. The Town Council further recommends that the FDOT expedite the development, design, and construction phases to complete same as soon as possible.

Section 5. The Town Council directs that the Town Clerk send a certified copy of this resolution to Mr. Rick Chesser, District Secretary, FDOT District 4.

PASSED AND ADOPTED in regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 10th day of March 1998.

Councilman McDonald suggested that the twenty-five (25) feet mentioned in Section 3 be changed to twenty-one (21) feet, as shown on the FDOT plan earlier in the meeting.

Director of Public Works Dusey commented that the only reason the twenty-five (25) feet had been set was in order to give flexibility to go up from twenty-one (21) feet.

Councilman Shaw commented that he believed the issue was not so much the height as the ramping. There were guidelines that the FDOT would have to work with; a bridge at twenty-one (21) feet may open much more often than a higher bridge. He would prefer to see language in the Resolution indicating that any height achieved would not affect the ramping points.

Councilman Wyett moved approval of Resolution 18-98 as read. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

8. Consideration of Request by Miller & Van Eaton, P.L.L.C., for Town to Participate in Funding Program to Oppose Florida Rights-of-Way 1998 Proposed Legislation (House Bill 3291)

President Pro-Tem McLendon moved approval of Town participation in the Funding Program to oppose Florida Rights-of-Way 1998 Proposed Legislation (House Bill 3291). The motion was seconded by Councilman Shaw.

Assistant to the Town Manager David Jakubiak explained that the recommendation came from Nicholas Miller of the law offices of Miller & Van Eaton, P.L.L.C. He had sent a letter to clarify some concern that the Florida League of Cities had regarding this matter, however, the bill was very important and would have significant impact on management of Town rights-of-ways.

Mr. Jakubiak explained that the Florida League of Cities believed that they had done everything they could, that HB 3291 would pass, and that the amendment of Nicholas Miller would not be considered. Mr. Miller had sent an explanation to clarify that he was working on behalf of his clients, apologized for any misunderstanding by the Florida League of Cities, and still requested that funding be approved. Mr. Jakubiak advised that he believed that the money would be well spent <u>if</u> Mr. Miller could defeat the bill. If the Town Council approved funding, Mr. Jakubiak would obtain specific information on what would be done to get the bill rejected. He had heard conjecture that the Florida League of Cities resented the representation of Mr. Miller in Florida, since they were in competition.

President Pro-Tem McLendon withdrew the motion to approve.

Councilman Wyett pointed out that 400 communities were being represented by the Florida League of Cities, who had exhausted possibilities of influencing the legislature in this matter. He questioned the ability of Mr. Miller to be effective enough to reverse the opinion of the legislature.

Town Manager Doney suggested that in order to limit the exposure of the Town, an amount up to $3,000 could be authorized, provided that adequate answers could be obtained from the Florida League of Cities and Mr. Miller that would give some assurance that the money would be well spent.

Councilman McDonald moved that funding up to $3,000 be approved for legal fees of Miller & Van Eaton regarding HB3291, provided that adequate answers could be obtained from the Florida League of Cities and Mr. Miller. The motion was seconded by Councilman Shaw. On roll call the motion carried unanimously.

9. Consideration of Review of Worth Avenue Sign Ordinance

Councilman McDonald suggested that the Worth Avenue Sign Ordinance be referred to the Ordinances, Rules, and Standards (ORS) Committee for review and updating if necessary.

Director of Planning, Zoning, & Building Moore noted that the sign ordinance was part of the zoning ordinance, and therefore, would need to go to the Zoning Commission, and would not be able to be amended by the ORS Committee.

Councilman McDonald asked if ORS could review and make recommendations to the Zoning Commission, as the Zoning Commission would not be meeting again until November?

Mr. Moore replied that the sign ordinance was already on the list of study items for approval of the Town Council in May.

10. Consideration of Holding One Additional Zoning Meeting Per Year

Councilman McDonald moved that discussion take place regarding the Town Council instructing the Zoning Commission to hold one additional meeting per year, in April or May. He explained that when the meeting in November ended, the meeting would be adjourned to April or May, so that it would not need to be advertised again, in order to consider three things:

1. What the Town Council did in terms of their recommendations.
2. Any items that were deferred by the Town Council.
3. Any new items that had come up since the last meeting.

Councilman Wyett seconded the motion.

The matter would be discussed at the April 14, 1998, Town Council Meeting. Mr. Moore would contact Chairman of the Zoning Commission, Mr. Wood, to be present for the discussion.

On roll call the motion carried unanimously.

XIV. COMMENTS OF THE TOWN COUNCIL MEMBERS

President Pro-Tem McLendon requested approval to attend a technical seminar on water resources in Fort Lauderdale in early April, with reimbursement of the registration fee of $75.

Councilman McDonald moved approval.

After discussion, Mr. McLendon withdrew his request for reimbursement.

Councilman McDonald withdrew his motion.

Councilman McDonald recommended that the Police Department provide an officer at the intersection of Royal Palm Way and South County Road when the middle bridge was out of order, in order to divert traffic.

XV. APPROVAL OF CHECK REGISTERS FOR FEBRUARY 1998

Councilman Shaw moved approval of the Check Registers for February 1998. President Smith passed the gavel and seconded the motion. On roll call the motion carried unanimously.

XVI. DEVELOPMENT REVIEWS

A. Major Matters Previously Considered by the Architectural Commission at Its Meeting of February 25, 1998 - Minutes Available in Town Manager's Office

The Major Matters were:

PROJECT REVIEW:

A65-97 Application by Dr. Marvin Rosenberg, 101 Nightingale Trail, for revised front entry and North Ocean Blvd. property wall - approved.

B2-97 Application by Brazilian Avenue Villas of Palm Beach, 230 Brazilian Avenue, for new two-story villa skylights - approved.

B106-97 Application by Mr. and Mrs. Charles Henderson, 231 Via Las Brisas, for new one story residence - approved.

B108-97 Application by Mrs. Lita Fromstein, 238 Via Las Brisas, for new one story single family residence - approved.

B1-98 Application by The Breakers, One South County Road, to remove space and construct addition - demolition approved - beach club project deferred.

B5-98 Application by K. Peter Knudsen, 593 Island Drive, for new one story residence - deferred.

B6-98 Application by Jack McDonald, 2258 Ibis Isle Road, for new single story residence - approved.

B7-98 Application by Wittmann Building Corp., 110 Clarendon Avenue, for new two story Mediterranean style residence - approved.

B8-98 Application by Jack and Cathy Flagg, 249 La Puerta Way, for demolition of an existing house and construction of a two story Italianate home - approved.

B9-98 Application by Mort Brous, 150 Brazilian Avenue, for new addition - approved.

B10-98 Application by American Farm Investment Corp., 231 El Vedado Road, for second floor addition and roof material change - approved.

B11-98 Application by Arturo Burrigato, 6 Via Vizcaya, for additions and alterations to existing residence - deferred.

B12-98 Application by Conrad M. Black, 1930 South Ocean Blvd., for demolition of a tennis pavilion and replace with a new two story guest cottage, replace the mansard roof at the service wing with a hip roof, replace the windows and change the roofing material - approved.

B13-98 Application by William Koch, 974 South Ocean Blvd., for construction of a new two story residence in the British Colonial Caribbean style - approved.

B14-98 Application by Verbec Investments, 351 Crescent Drive, for demolition of existing residence - approved.

B15-98 Application by Australian Estate, Inc., 360 Cocoanut Row, for demolition of existing buildings and construction of two attached Mediterranean style townhomes - demolition approved; construction project deferred.

The Major Matters considered by the Architectural Commission (ARCOM), and the report of the ARCOM meeting held on February 25, 1998 were approved through motion of Councilman Shaw, seconded by Councilman McDonald. On roll call the motion carried unanimously.

B. Appeals

1. Appeal of the Architectural Commission Regarding Item No. B100-97, 306/314 Chilean Avenue, Euro Homes

Town Clerk Pollitt administered the oath to all those who would be speaking to the Development Review issues.

Ex-parte communication was declared by Councilman Shaw with Attorney Kolins in discussion of the appeal, by President Smith via telephone with Attorney Kolins, by President Pro-Tem McLendon with Attorney Kolins, by Councilman Wyett with Attorney Kolins, and Architect Eugene Pandula.

Attorney Ron Kolins, representing Euro Homes, addressed the Town Council, requesting that all of the matters that had been presented to the Architectural Commission (ARCOM) and the Town Council regarding this application be incorporated as part of the record. He recalled that the Town Council had discussed this matter at its February Town Council Meeting, and remanded it to ARCOM in order for the Commission to see all of the data submitted at the Town Council Meeting.

Attorney Kolins advised that the material had been shown to ARCOM at their monthly meeting, and the size of the structure had been reduced 362 sq. ft. In addition a new front elevation was presented in order to give ARCOM an alternative as to the appearance of the front of the structure. Approval had not been granted at ARCOM, with the remaining issue that of square footage of the structure. He noted that he had conversed with Mr. Brisson, who had discovered two mathematical errors that were made, which had been corrected. He presented documents reflecting the correction, and the reduction of 362 sq. ft. He pointed out that the neighborhood was a very eclectic neighborhood, zoned for multi-family. It was difficult to make comparisons of structures when the area was in transition as to the types of structures present. This was not an area where the normal 200 foot comparison could be made easily.

Attorney Kolins displayed color-coded charts exhibiting the types of structures in the area.
He noted that a residence and two commercial properties on Peruvian had been included in the analysis, which had not been included on the analysis of Mr. Brisson in his 200 foot analysis.

Attorney Kolins explained that the 362 square footage reduction had resulted in a total square footage of 9,475 for the total structure or 4,812.5 for each side. Town Code entitled 10,938 square feet.

Architect Eugene Pandula addressed the Town Council, stating that in order to mitigate the mass of the building, both ends of the building had been eroded significantly, replacing some of that square footage above the garage. Mr. Pandula displayed two exhibits of summaries of areas where square footage had been lost. Set backs were identified and defined.

Attorney Kolins commented that it was important that the neighbors would not have a problem with what was being presented; he therefore introduced into the record a petition signed by all neighbors in support of the project. He specified that the project satisfied all Code restrictions. The appearance of the building was not "visibly, excessively dissimilar," as compared in a chart comparing the structure to the Brazilian Avenue structures that ARCOM had requested be used as a frame of reference. He referred to a "Duplex

Analysis" document in which comparisons were also made. He asserted that there was criteria that must be followed by ARCOM, and that the project satisfied that criteria. He urged that the Town Council approve the appeal.

Director of Planning, Zoning & Building Moore pointed out that the Australian Avenue properties that were not included in the 200 foot survey could not be included by Mr. Brisson because they were not provided to him by Mr. Kolins. The Peruvian Avenue properties were not to be included because of the 90% commercial nature, and they would not reflect in a good comparison to the project. ARCOM had indicated that all of the rest of the 200 foot radius must be used, which had not been provided to ARCOM or to the Town Council at the appeal last month, or today. Mr. Moore stressed that he wanted to make it clear that Australian Avenue had not been used as a result of the applicant's decision not to use it.

Mr. Moore continued that the purpose for ARCOM criteria in looking at square and cubic footage in the comparison of structures was in order to address the mass of proposed structures, as similar or dissimilar to other structures within a 200 foot radius. The issue of mass was how the structure was perceived from the street by the public, as well as by the neighbors. Mr. Brisson had been asked to create an unbiased report in analyzing these figures, and the critical information was found on page 6 of his report, which discussed the similarity in terms of cubic content, which was bulk/mass. Mr. Brisson had been able to compare only those properties that he had been given, and in his analysis he showed that 70% of the cubic content ratio (CCR) that he considered were 4.4 or less; 80% had a CCR of 5.1 or less. On page 6 of the report it was stated: "It is our opinion, looking only at the statistical data of the foregoing table that the structure proposed at 306/314 Chilean, with a CCR of 7.2 is too dissimilar in pattern of structures within the general vicinity. In order to fit within the established character of the area, we feel that the CCR should fall somewhere between the range of 4.4 and 5.1." Mr. Brisson had been informed that there were other criteria taken into consideration both by the applicant and ARCOM, and he had looked at the other duplexes in the area, some within the radius of 200 feet and some outside that radius. He had concluded that "the data in the table above indicates the proposed structure is generally in line with the characteristics of the four other approved duplex structures. Presumably, each of these four duplex structures was approved after comparison with other structures within a 200 foot radius. If these duplex structures were as dissimilar in gross floor area and CCR in their surroundings as they are at 306/324 Chilean is to its surrounding area, then the above comparison could provide a valid basis for approving the proposed structure at 306/314 Chilean." Mr. Moore explained that Mr. Brisson was saying that the proposed structure was out of context in mass on Chilean, without benefit of looking at Australian. He was also saying that the duplexes that had been approved prior to this were not out of order in that area.

Attorney Kolins commented that this was a quasi-judicial hearing, and thus he was entitled to cross examine witnesses. Mr. Brisson was not in attendance for questioning, and Mr. Kolins stated that he did not believe his report should be part of the record, or considered by the Town Council.

Town Attorney Randolph commented that hearsay documents were not precluded from being considered in quasi-judicial hearings, however, the Town Council could not rely solely on a hearsay document in making a decision. He did not believe that the report should be precluded from being considered part of the record.

Councilman McDonald moved that the report of Mr. Brisson be included as part of the record. The motion was seconded by Councilman Wyett. On roll call the motion carried unanimously.

Attorney Kolins commented that the only basis upon which the report of Mr. Brisson suggested that the project was not consistent was with the established area related to CCR calculations. The CCR now was not 7.2, but was 7.06. Secondly, the CCR calculation was not a required calculation in the R-C Zoning District. The only reason the CCR data had been provided was in order to be helpful to ARCOM, however, it did not have to be provided, and should not even be considered in an R-C Zoning District application. The CCR data should bear no weight whatsoever in terms of approval. He referred to the words of Mr. Brisson, "established character of the area," and suggested that there was no established character of the area, since there were duplexes, multi-family, single family, commercial, two story, one story, and six story structures. It was imperative to understand that the standard was "visibly, excessively dissimilar." Referring to page 6 of the Brisson report–"It is our opinion, looking only at the statistical data, that the structure is too dissimilar," Mr. Kolins asserted that judgment could not be made based only on numbers, because the standard included "visibly." Mr. Brisson had conceded that from a gross floor area basis, the project was okay.

Director of Planning, Zoning & Building Moore replied that the 200 foot radius was the standard that was being used. He referred to page 5 of the Brisson report where similarity in terms of gross floor area was addressed: "The gross floor area of the proposed structure is more than twice that of the structures for which data has been supplied, and only two structures are larger than the subject. Statistically, the proposed structure is significantly dissimilar in relation to structures located within the general vicinity, however, any two story structure on this parcel, even if built at a lot coverage equal to the lowest lot coverage recorded above 26.7% would still be significantly dissimilar. A problem with comparing the absolute size of the proposed structure with other structures in the nearby area is that the subject property is larger than any other single property within the 200 foot radius. Further, every one of the thirteen properties within the 200 foot radius are conforming with respect to the minimum lot size for the R-C District. Consequently, one would normally expect the proposed structure to be larger than most other existing buildings in the area."

Mr. Lowry Bell, member of ARCOM, addressed the Town Council, stated that the numbers presented today proved, without doubt, that the proposed building was too dissimilar. The summary on page 6 of the Brisson report indicated that the range should be between 4.4 and 5.1. Using a 4,000 square foot per unit would bring it up to 5.6 CCR. Originally, when it came before ARCOM they were around 4,500 square feet per unit, which was requested to be reduced. When they came back they came back with 4,900 square feet per unit. He stated that ARCOM believed the project was out of proportion to other units in the area, was too large, and too dissimilar. Including Brazilian Avenue was not a criteria that should be addressed; he was not sure why the Chairman of ARCOM even suggested it, other than perhaps the style of the buildings.

President Smith responded that Mr. Bell could not speak for the Chairman of ARCOM as to what she meant; she had compared the project to Brazilian, and any applicant had to go on the basis of what was said to them.

Attorney Kolins stressed that the buildings had been changed many times in attempts to satisfy ARCOM. When the square footage was increased to 4,900 square feet: ARCOM wanted the corners of the building reduced from two stories to one story. In order for the house to be functional it needed the space that it had. In order to accommodate, Architect Pandula took the second story corners off the house and replaced part of that square footage on top of the garage, so that the two sides of the house had a perceived mass that was much less. In doing that, the square footage of the house essentially did not change, but because the rooms were now above the garage, there had to be hallways and access areas created in this new configuration. Thus, there was square footage that was added to do that. No additional rooms were added. Rooms were not made bigger. This was not taken as an opportunity to make the house bigger so you could get more money for it. Subsequently, the house was reduced further from that number, and there had been no intent of spite when the square footage had been increased.

Attorney Kolins pointed out that to now make the house smaller would essentially destroy it. None of the rooms in the house were of extraordinary size, and each one of them was a three bedroom house with a servant's quarters on the first floor. Taking out a bedroom would make it a two bedroom house, which is less than one could expect it to be for the kind of family that would live there. The only other room in the house besides the living room, dining room, and kitchen, was a library. All of the rooms were essential, and anything significantly less would destroy the house.

President Smith asked if there had been any objections to the design of the house?

Sally Gingras, ARCOM member, replied that there were no objections to the style of the house.

President Smith replied that it appeared that the basic overall concept of the building was fine with ARCOM.

Ms. Gingras responded that the only thing that she could agree with was the style. She advised that they had been asked to take away mass from the corners, however, they chose to bring the mass all the way forward to the street, so that now there was a two story mass sitting above the garages. She had asked Mr. Pandula if there was any way he could do something other than an 11 foot ceiling height in the garage, and he had replied negatively. She pointed out that a small amount of square footage had been cut out, however, it was in the back, where it would not affect the perception of mass.

President Smith noted that her comment at the last Town Council meeting had been that there should be a reduction–she had not discussed where to reduce it. She would not say that they deliberately went against what she had said. Unless someone had specifically told them to take it out of a certain room, she could not say that they had not reduced the size of the house, nor did she believe ARCOM could say they had not reduced the size.

Ms. Gingras responded that the issue had always been the perceived mass, they had reduced the size, however, the perceived mass had not changed at all.

Councilman Wyett asked which design was more preferable?

Ms. Gingras replied that what had been expected was that they would take a little off the corners, but not be adding that total amount of square footage right up on the street. If there was any way that some of the garage element mass could be taken off, it would be more desirable.

President Smith responded that the question of similar or dissimilar was being considered, and the criteria that was used to turn down the application. The design of the project was not the issue.

Planner/Projects Coordinator Timothy Frank corrected the presentation of Mr. Kolins, wherein a three bedroom house was presented–the house was really a four bedroom house. He had pointed out that there was servant's quarters on the first floor, however, it was a full bedroom and had the facilities of a bedroom.

Mrs. Ethel Kinsella, ARCOM member, commented that it had been suggested that consideration be given to a different style for the project. She noted that the street scape chart had not been seen, and if the street scape was reviewed, it would be noticed that the structure was too massive for the street.

President Smith noted that the street scape had been seen last month.

Attorney Kolins read from the minutes of the December ARCOM meeting: "It was felt that the project was still too massive, even though the plate height was lowered, which was a great improvement. It was suggested to create one story elements on either end of the building, or cut down on the total square footage." He maintained that the sides of the building had been cut down, consistent with what had been requested.

Director of Planning, Zoning, & Building Moore commented that there had been comments made by some members of ARCOM concerning the style: one wanted a completely different look other than Mediterranean, others felt that the architecture was too similar to other duplexes, however, the majority of the group felt that the architecture was not a problem, in his opinion.

In response to Councilman Wyett, Town Attorney Randolph advised that there was argument as to whether an action by a committee or commission came within the parameters of the Harris Act. There had not been a case that he knew of that had gone to court that had determined whether the type of action taken by ARCOM or the Landmarks Commission was an action as defined in the Harris Act. If a Zoning Ordinance was amended, subsequent to the date set forth in the Harris Act, and that down-zoned a particular piece of property, the Act would apply. Whether the Harris Act applied in this situation remained to be seen. Because there was criteria within the ordinance that existed prior to the adoption of the Harris Act that allowed determination of whether a building was visibly excessively dissimilar in regard to square footage or cubic footage, he advised that he did not believe there would be a Harris Act problem.

Councilman Wyett noted that the neighborhood was in transition, and suggested that there may be some area of compromise in this situation. He recommended that the total height of the building be reduced by one foot.

President Smith asked Town Attorney Randolph what the next step would be if the Town Council upheld the decision of ARCOM?

Town Attorney Randolph replied that if the Town Council upheld the decision of ARCOM, then the decision would rest with the applicant as to what his choice would be: to either go back to ARCOM or to file a Petition for Writ of Certiorari in the Circuit Court. If the Town Council overruled the decision of ARCOM the applicant could apply for a building permit.

Mr. Moore pointed out that the reduction of one foot in height would essentially be a reduction of 10,000 cubic feet within the structure.

Councilman Wyett moved that the structure height be reduced by 1 foot, which would reduce the bulk of the house; take 1.5 feet off the rear of the house where the staff bedroom was, and move the house back by the equivalent amount of footage lost so that the appearance of the house in the front would be slightly reduced; that the issue be remanded back to ARCOM with the instructions that the house must be accepted at 9,400 sq. ft., and they could make any aesthetic decisions.

Councilman Shaw seconded the motion, asking for consideration of one change: he recommended that the only option that ARCOM would have would be to choose Plan A or Plan B.

Councilman Wyett accepted that amendment to the motion.

Mr. Moore clarified that the ceiling plate height, not the roof, was what would be reduced in an effort to reduce the mass of the building.

Attorney Kolins commented that the motion was acceptable, with one caveat. Apparently, he had misspoken earlier– the square footage was currently 9,624. Whatever it would come down to through adherence to the motion would be acceptable.

Councilman Wyett replied that the house should then be no more than 9,600 square feet.

Councilman Shaw clarified that the plate was presently at 22.6'; the tie beam would be taken from 22.6' to 21.6'.

President Smith requested that Mr. Kolins display Plan B, mark it as Plan B, and that Director of Planning, Zoning & Building Moore initial it, so that there would be no confusion.

Mr. Lowry Bell, member of ARCOM, stated that he was a little chagrined by the remark of Mr. Kolins that the Architectural Commission sat in wait for him, and believed that it was totally out of context. He noted that Mr. Kolins had apologized to him, and suggested that he apologize publicly. He stated that he supported the motion; ARCOM had tried to solve the situation numerous times, however, Mr. Kolins constantly wanted to come before the Town Council.

President Smith noted that Mr. Kolins was not on board at the beginning of the project.

Attorney Kolins remarked that he appeared before ARCOM with reasonable frequency. They were fine people, and tried to do a good job. In this case he believed they had made a mistake, and he apologized for his remarks.

President Smith clarified that if the motion carried, it would go to ARCOM at the next meeting, March 25, 1998, and would be moved on at that meeting for approval of either design A or B.

Town Attorney Randolph commented that the remand was specific, and as a court would do in a remand, the lower court would have to do what was remanded.

On roll call the motion carried 4/1, with Councilman McDonald casting a dissenting vote.

C. Time Extensions

1. Consideration of Request for a One(1) Year Time Extension for Special Exception No. 4-97 with Variance, 333 Peruvian Avenue, by Mr. Peter S. Broberg

Councilman Shaw moved approval of a one (1) year time extension for Special Exception 4-97 with Variance, 333 Peruvian Avenue. The motion was seconded by Councilman McDonald. On roll call the motion carried unanimously.

D. Variances, Special Exceptions, and Site Plan Reviews

<u>Old Business</u>

1. <u>VARIANCE NO. 2-98</u> - El Vedado Way, Inc., 328 El Vedado Road; located in the R-A Zoning District; to allow construction of a 2nd story addition providing a 9.7' side yard setback in lieu of 15' required, and to allow additional height (5.5') to be added to an existing 2-story portion, providing a 9.7' side yard setback in lieu of 15' required, thereby requiring a variance from the required front yard setback of 49', in lieu of 30' existing. *(Deferred from*

January 13, and February 10, 1998)

This item was deferred to the April 14, 1998, Town Council Meeting per motion earlier in the meeting.

New Business

2. VARIANCE NO. 8-98 - Sidney Kimmel, 1020 & 1030 N. Lake Way; located in the R-B Zoning District; to allow construction of a 4' high fence on grade 4' above Lake Trail, to provide an adequate pool enclosure resulting in an 8' high retaining wall and fence structure within the required 25' setback from Lake Trail, in lieu of 4' maximum allowed.

Mr. Jim Martindale, of Worth Builders, representing Mr. Kimmel, addressed the Town Council, stating that the property in question had been filled by a previous owner, and the property was approximately 3.5' above the bike trial, which left a 6" concrete wall in front of that. It was desired to install a fence structure. Although the Building Code specified 4', he suggested that safety issues required a higher wall and fence.

Director of Planning, Zoning & Building Moore commented that staff had no objections. The north/south portion along the trail would not be required for swimming pool protection, but for security purposes. The Town Manager had commented that the applicant should supply justification for the variance. He suggested that the fence be hedged and site screened on top of the section that ran north/south along the trail.

Councilman Shaw moved approval of Variance 8-98. The motion was seconded by President Pro-Tem McLendon.

Councilman Wyett suggested that this was a bad continuation of a recent precedent. On this particular piece of property the lake front wall had been raised in order to keep the lake out at a particular point. If a high wall was allowed on the east side of the bike path, the impression of a valley would be created, with a closed in feeling. He pointed out that every house on the lake front property had a 4' wall, and on top of it most people had erected very thick Ficus coverage, which was thick enough for privacy. He maintained that there was no need for the high walled-in situation. If this was approved, every resident on the lake trail would want to raise walls.

Mr. Moore commented that when homes on the bike trail were constructed and the property raised, it would not be possible to put a fence up under the current Zoning Ordinance; there would be no ability to declare a hardship, since the situation was self-created. That would be the basis for denial.

Councilman Wyett suggested that the zoning should be upheld. There was no security or safety problem solved by the erection of the fence.

President Smith commented that when the fence had been allowed previously on a property it was to keep the children from falling out.

Mr. Moore mentioned that, with a swimming pool, there was a requirement under Town and State legislation to fence in the pool.

Mr. Martindale commented that a child could fall through a hedge.

Councilman Shaw clarified his motion: Approval to erect a fence on top of the wall, screened with a thick Ficus hedge which would be maintained in perpetuity as long as the chain link fence was there. The hardship was the fact that the land had been raised for FEMA requirements by a prior owner, and that it was a safety issue.

On roll call the motion carried 3/2, with Councilmen Wyett and McDonald casting dissenting votes.

3. VARIANCE NO. 9-98 - Jay R & Filomena Jacknin, 288 Via Marila; located in the R-B Zoning District; to allow construction of a second floor addition providing a 32.8% lot coverage in lieu of 30% maximum allowed.

Architect Eugene Lawrence, representing Mr. and Mrs. Jacknin, addressed the Town Council, stating that the proposal was to make an addition over the garage of the house to the rear, adding a bedroom and a sitting room. The house now conformed as a one story house, which allowed for a 35% land cover. When the two story addition was made, it would go to 30% allowable land cover.

Director of Planning, Zoning & Building Moore commented that there was no objection; he suggested that Mr. Lawrence address the balcony portion of the project.

Mr. Lawrence replied that the proposed balcony was across the east side at approximately 175 sq. ft., that would allow an area to overlook the pool. He offered that it could be reduced if desired.

Councilman Wyett moved approval of Variance 9-98 as presented. The motion was seconded by President Pro-Tem McLendon. On roll call the motion failed 2/3, with Councilman Wyett and President Pro-Tem McLendon casting affirmative votes; President Smith, Councilmen McDonald and Shaw casting dissenting votes.

Councilman Shaw moved approval of Variance 9-98, on the basis that the balcony was reduced to ½ the size presently shown on the drawing submitted, not to exceed 5' from the house at any given point. The motion was seconded by Councilman McDonald. On roll call the motion carried unanimously.

4. SPECIAL EXCEPTION NO. 6-98 - Palm Beach Hotel, L.P., 230 Sunrise Ave.; located in the C-TS Zoning District; to allow outdoor restaurant seating (24 seats) in the front arcade of the building, in accordance with Section 6.61 of the Town Zoning Code.

Ex-parte communication was declared by Councilman Wyett with Mr. Palmer about the restaurant operation.

Attorney Ray Royce, representing the applicant, addressed the Town Council, explaining that outdoor restaurant seating (24 seats) in the front porch of the building was being requested. He noted that there would be no increase in seating–the restaurant currently had 150 seats inside the restaurant, and it was proposed to have the ability to take 24 of those seats out on the front porch, and be able to bring them in when the weather was inclement. He exhibited two drawings of the area in question, indicating the six tables that would be moved in and out. The porch itself was approximately 13 feet wide and had a roof over it, existing light fixtures, and ceiling fans.

Mr. Palmer addressed the Town Council, stating that many customers had requested the ability to dine outside. The restaurant noise level would not change, nor the lighting level.

Director of Planning, Building & Zoning Moore commented that the Town-serving issue must be addressed, as well as the valet operation.

Councilman Wyett commented that the current valet service was a benefit to the street, however, he had observed very poor valet service at night, especially returning the car to the patrons. Because the building was on the north side of a two-way street the valet parkers were bringing cars illegally to the wrong side of the street, which was potentially creating more problems on the street. He then suggested that there may also be a valet/traffic problem with patrons leaving if the tables were in the front porch area. He also suggested that the tables and chairs be taken in by 11:00 P.M. if the Special Exception was granted. He commented that the people across the street had complained and considered that the 24 seats could be granted on a seasonal basis (May through October) to see how it would work. If there were no objections, it could then be extended.

Councilman McDonald moved approval on the following conditions:

That the valet parking situation be corrected.
That serving stop at 11:00 A.M. on the porch area with the 24 seats.
That the Special Exception with conditions be granted for a three-month period initially.

Councilman Shaw seconded the motion for discussion. He suggested that the doors should be closed at 11:00 P.M., and that a closing time be established, and that consistency be used in establishing guidelines for this restaurant, as with all the others in the Town.

President Smith expressed concern for the block in general. Patrons stood in line to get in to the 251 Restaurant, and she was concerned that people would sit on the terrace at Aquaterra while they were waiting. She was fearful of a mob scene on the street. She stated that she believed the request for 24 seats outside was excessive.

Attorney Royce commented that over 200 notices had been sent out, and no one was present to object. Noise complaints had not been received, and the restaurant had not presented a problem to the area. Town Code required that a Special Exception such as this one be renewed annually, and in any event the 24 seats would be on a trial basis. The porch was enclosed, covered with a roof, set back a good distance from the street and the sidewalk, and the patrons of the restaurant could be accommodated by the 24 seats without a problem.

Mr. Moore commented that staff was trying to address any potential problems, and residents must be considered in any deliberation.

Councilman Wyett pointed out that there had been two letters of objection received, which would be made part of the record.

Mr. Palmer responded that one of the residents who had written a letter had an apartment directly over the 251 Restaurant, and that he did not think the complaint related to the restaurant at the Palm Beach Hotel.

Councilman McDonald re-stated his motion:

Approval of Special Exception 6-98 with a three month probationary period; the valet parking problems would be resolved; nothing would be served after 11:00 P.M. outside.

On roll call the motion failed 2/3, with Councilman McDonald and President Pro-Tem McLendon casting affirmative votes; President Smith, Councilmen Shaw and Wyett casting dissenting votes.

Councilman Wyett moved that Special Exception 6-98 be approved, with a three month probationary period; the valet parking problems would be resolved, northing would be served after 11:00 P.M. outside, and the outside French doors would be closed at 11:00 P.M. The motion was seconded by Councilman Shaw.

Mr. Palmer objected to precedent being set with Aquaterra because there was a problem down the street.

Councilman Shaw replied that The Ginger Man Restaurant was not permitted to have its doors open at all; 251 Restaurant doors closed at 11:00 P.M.; Doors and windows at E.R. Bradley's were closed at all times. He explained that the Town Council was trying to be consistent.

Mr. Palmer stated that he understood that the Town Council was saying that if Aquaterra wanted seating outside, the rules that already exist would be changed for Aquaterra. Right now the doors remained opened.

President Smith noted that Aquaterra was asking for a change in the original conditions of approval.

Councilman Shaw stated that the Town Council had a right to put conditions on those changes to protect the residents. The restaurant would have the opportunity to come back in 3 months.

President Smith explained that the Town Council was trying to go from a starting point, which was the same thing that had been done with all of the other restaurants in Town. Certain hours were approved, and when the restaurants came back with no problems the hours were modified and/or extended.

Attorney Royce astutely clarified that the outdoor dining was a Special Exception in itself. He hoped that the conditions attached to it were conditions related to the outdoor dining, not necessarily the original Special Exception relating to indoor dining. He asked if the Town Council would have the opportunity to terminate the Special Exception at the end of the three month probationary period. He questioned the opportunity of the applicant to have the same option at the end of the three month probationary period–to go back to what they had before?

Town Attorney Randolph replied that would be the case. If they chose not to have outdoor dining, then the conditions would not apply and they could go back to the way they had been operating.

Mr. Palmer commented that emphasis had been put on one night a week called "Absolutely Wednesday". He requested that closing be at 2:30 A.M. on Wednesday.

Councilman Shaw recommended that the motion include the condition that last call for the bar on Wednesday night would be at 1:30 A.M., with all guests to leave by 2:30 A.M. All other nights the last call for the bar would be at 1:00 A.M., with all guests leaving by 2:00 A.M.

Mr. Palmer agreed with that condition.

On roll call the motion carried 4/1, with President Smith casting a dissenting vote.

XVII. ANY OTHER MATTERS

There were none.

XVIII. ADJOURNMENT

The meeting was adjourned at 8:05 P.M.

Mary A. Pollitt, Town Clerk

Prepared by:
Susan Eichhorn
3/27/98
980310.TCM.WPD