

Funds for
Council
offices

Mayor Marix knew there were some offices which needed reorganization, however, to all pile into the Mayor and Town Council's office, when there is a huge table in the back room of the Manager's office which goes virtually unused and she viewed that as a matter of interior reorganization and doesn't require the spending of money. She felt some of the space could be improved as to the way it is used. She asked to give serious thought about what money is not being spent, and that has nothing to do with efficiency and organization.

Mr. Weinberg

didn't believe it would cost a lot of money to make an office for the Council people. Mrs. Wiener felt it would cost money to make the move.

Mr. Doney explained on the memorandum, he had consulted with Mrs. Douthit on the interior improvements and the biggest thing that needs to be done is install blinds. Mayor Marix suggested the windows be coated. Mr. Doney indicated it is not important to him as to whether or not the carpeting is replaced, however, there is a tripping hazard in the outer office which is a concern. He indicated aesthetics and working environment for himself is not an important matter but it is for some other people.

Mr. Heeke believed it was important to have the blinds, especially in this room, as they have daytime meetings. He didn't believe they wanted to be overly miserly as we are the Town of Palm Beach and he believed there was a balance there and he agreed with what was being said by the Mayor and by Mrs. Wiener.

Mayor Marix asked if the blinds were Venetian blinds Mr. Doney responded they are the same as was installed previously. Mayor Marix thought they probably need to consider having the windows coated as it stops the ultra violet rays.

Mr. Elwell stated the privateen backing will be put on the blinds needed in the restrooms.

Mayor Marix indicated she is troubled by the improvements suggested, the architectural borders, the carpeting, etc., as in a few years, someone else would start ripping this place apart to change it once again. Mr. Elwell addressed the Council, indicating what was proposed for the blinds and the initial \$15,000 was budgeted for blinds and since they were able to get a price on the blinds of approximately \$10,000 and with the additional \$5,000, a quote was secured on the carpeting as it is a tripping hazard and they could have that done, so it would be within budget. He indicated the additional \$15,000 for the hallway work is only an idea at this point, and if they don't wish to proceed, the staff will put it on the shelf. Mrs. Wiener noted there were different points of view on this and she felt it was time they stopped looked sloppy. Mr. Ilyinsky believed Mrs. Douthit had a lot to do with this. Mayor Marix agreed everyone has there own point of view but she personally wants to save every cent they can. She felt they had spent millions on Town buildings in the last few years and now is the time to be a little careful on what they spend money on. She doesn't mean they shouldn't fix a tripping hazard, but what she is saying they have to start being conservative on what is being spent.

Money for
MICU

D. MONIES RAISED FOR MICU. Mr. Weinberg indicated the Citizens Association South of Sloan's Curve has raised sufficient monies to buy the MICU and in addition to the dinner itself, he has personally raised \$50,000 and has been promised an additional \$20,000 by two additional donors. Mayor Marix and the Council congratulated him on this tremendous effort.

XVII. ADJOURNMENT. Meeting was adjourned at 3:55 PM.

Grace T. Peters
Town Clerk

TOWN COUNCIL MINUTES OF SPECIAL TOWN COUNCIL MEETING HELD ON MARCH 9, 1990 REGARDING LANDMARK DESIGNATIONS

Call to
order &
roll call

I. CALL TO ORDER AND ROLL CALL: A Special Town Council Meeting was called to order by President Heeke on March 9, 1990 at 9:30 AM to consider landmark designations in the Town Hall Council Chambers. On roll call, the following were found to be in attendance: Mayor Marix, President Heeke, President Pro Tem Ilyinsky, Councilwoman Douthit, Councilman Weinberg and Councilwoman Wiener. Also attending were Mr. Doney, Mr. Moore, Mr. Frank, Mr. Sved, Mrs. Peters, and for portions of the meeting, Attorneys Monaghan and Randolph.

Invocation
& Pledge

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

Approve
agenda

III. PROOF OF PUBLICATION. Mrs. Peters reported the proof of publication has been received on this meeting.

IV. APPROVAL OF AGENDA: Motion was made by Mr. Ilyinsky to approve the agenda. Seconded by Mrs. Wiener. Mr. Heeke advised there are several items to come up under Any Other Matters, two special requests for charitable solicitation permits and one is coming up quite quickly and he requested the meeting be interrupted at 3:30 to consider those two items. The maker and seconder agreed to the addition of the charitable solicitation permit requests. On roll call, the motion carried unanimously.

Procedures
for Public
hearing
RE: Land-
marking

V. PROCEDURES FOR PUBLIC HEARING REGARDING LANDMARK DESIGNATION. Mr. Monaghan explained they have an obligation to provide due process and the procedure will be to swear in the staff and those who will testify during the proceedings. He indicated the staff recommendations will be heard and then the expert witness. After that, the Town Council president will call for other witnesses and public comments; then the Mayor and Town Council may comment and then the appropriate motion to designate or not designate or to defer.

Resol.
5-90

A. Designation Report for 765 Hi-Mount Road - Consideration of Resolution NO. 5-90 - Deferred from Feb. 1, 1990 Public Hearing. Attorney Monaghan read the resolution by caption:

RESOLUTION NO. 5-90 - A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, CLARIFYING 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 III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH AND DOES HEREBY DESIGNATE SAID PROPERTY AS A LANDMARK STRUCTURE PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Mrs. Peters gave the oath to members of the staff who will be presenting testimony and any others who will be testifying on this particular application. Mr. Heeke noted the oath was given to Mr. James Sved, Mr. James Sullivan, Mr. Timothy Frank, Mrs. Jane Volk, Mr. Eloise Macintosh, Mr. William Gublemann, and

Mr. Robert Moore.

Mr. Frank reported this particular item, 756 Hi-Mount Road, and 8 South Lake Trail are being requested to be deferred. He indicated there have been discussions with the owner of the property and they do want to participate in the landmark program, but they have not worked all the details with regards to conditions, as the owner wants to be sure he can do certain things with his property in the future. Mr. Heeke asked if they would grant a waiver? Mr. Moore advised that at the end of this meeting, the Town Council will be setting a date for the next meeting to hear landmarks and he suggested they defer this until the next scheduled meeting of the Council to hear Landmark Designations.

Resol.
5-90

Mrs. Wiener moved that the Resolution No. 5-90 concerning 765 Hi-Mount Road be deferred until the next Special Town Council Meeting dealing with landmarks and the 90 day waiver be a part of that. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

B. Designation Report for 8 South Lake Trail - Consideration of Resolution No. 7-90 - Deferred from February 1, 1990 Public Hearing. Mr. Frank requested that Mr. Sullivan, the Chairman of the Landmark Preservation Commission be heard on this as several attempts have been made to contact the owner of this property and there is no agreement of waiver on this matter.

Resol.
7-90

Mr. Sullivan addressed the Mayor and Council noting at the last time the Council heard designations and after the presentation on 8 South Lake Trail, he met with the attorney after the meeting and he indicated he would be willing to negotiate this and Mr. Sullivan contacted him the following day. He recalled by the next day, his conversation seemed to change in character and the attorney furnished him a five point list of why he couldn't meet with him. Mr. Sullivan indicated he did document that conversation in a letter to him with a copy to staff and the closing paragraph indicated his desire to move forward in a negotiated atmosphere and asked the attorney to contact him when his obstacles were dispensed with and he has heard nothing from the attorney up to this point of time.

Mr. Heeke asked if written notification was given to the attorney of this meeting? Mr. Frank responded the attorney was notified in writing by certified mail. Mr. Moore believed the Council should act upon this, as when the deferral was granted to this meeting, there was an agreement with Mr. Farrish's office and there is no subsequent agreement for a further deferral, he felt they would be in jeopardy if they did not act one way or the other. Mr. Heeke agreed. Attorney Monaghan noted in the Proof of Publication, they were specific in itemizing each property to be designated and he believed that it should be verified on each item that proof of publication has been received.

Mayor Marix asked if they got the green receipt back for the certified mail to which Mr. Moore responded affirmatively.

Mr. Monaghan read Resolution No. 7-90:

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 LANDMARK PRESERVATION COMMISSION THAT THE PROPERTY HEREINAFTER DESCRIBED MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH AND DOES HEREBY DESIGNATE SAID PROPERTY AS A LANDMARKED STRUCTURE PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Mr. Heeke called for public comments and there was none. Mr. Monaghan suggested an abbreviated presentation be made by staff.

Mrs. Douthit moved that the minutes of the February 1, 1990 with regards to this property be made a part of this record. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Mr. Heeke recalled the designation report was also accepted at that time.

(Town Council Minutes of February 1, 1990 with regards to 8 South Lake Trail follow).

F. DESIGNATION REPORT FOR 8 SOUTH LAKE TRAIL, CONSIDERATION OF RESOLUTION NO. 7-90.

Mr. Frank indicated this residence was designed by John Volk in 1938 for Mr. & Mrs. Davis and incorporated an older Spanish style design. He reported staff and the Landmark Commission believed it meets the following criteria for designation:

(a) exemplifies or reflects the broad cultural, political, economic, or social history of the nation, State, County or Town.

(d) it is representative of notable works of one or more master builders, designers or architects, whose individual ability has been recognized to influence their age.

Mr. Sved explained this was designed in 1938 by John Volk and is an early Neo-classical design, and could be termed one of the earliest Regency styles in Palm Beach. He exhibited the north entrance to the building and what is notable is the low parapet wall which hides the hip barrel roof underneath. He believed the hip roof was a part of the original structure and while Mr. Volk chose not to remove it, he did choose to hide it from view.

Mr. Sved stated the formality of the house is preserved for those who enter as the designation report shows the house is designed so that from the east end of the property, there is a long and expansive formal garden and as one enters into the formal area of the house, it can be viewed from the central portion of the house. He stated the west elevation has a curious arcade which shares their basis with the simple pilasters and it is an excellent design especially because of the way it is sited in a difficult spot and is very indicative of this style and worthy of landmark consideration.

Mr. Frank indicated the Landmark Preservation Commission heard some commentary on this property and Mrs. Volk has had some discussions with the owner on the landmarking process.

Attorney Alan Horky addressed the Council representing Mr. & Mrs. Asher who ask them to not approve the Landmarks Commission request to landmark this property.

Mrs. Peters swore in Mr. Sam Holden, who addressed the Council indicating he is a real estate appraiser and gave his educational background, reporting he holds the MAI and SREA designations. He has been asked to look at the property and report on the way it would be affected if it is landmarked. He did not believe at the present time there was anyone who could say it hurts the value as there have not been enough sales of landmarked property and real estate is increasing, however, he did believe landmarking takes away one of the rights of the owner and it does limit the market that is available. He believed some people would shy away

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from buying a landmarked home.

Mr. Heeke asked Mr. Holden if he did any appraisals on residential properties in the Town of Palm Beach. Mr. Holden stated he has not done any lately, although in the past he has done some for the Property Appraiser for the County and he does sit as Special Master for the Taxing problems each year, so he is familiar. Mr. Heeke asked if he was familiar with the transactions on the Anthony Home at 6 South Lake Trail to which Mr. Holden responded negatively.

Mr. Heeke asked if it was a difference of opinion on the part of buyers who may favor landmarking and those who do not, as today several people have voluntarily landmarked their property and perhaps these people may be candidates for future sales elsewhere or further on in their purchasing career? Mr. Holden responded there are always those who will be pro and con, but it is his belief that when one of the rights are taken away, the market is somewhat limited and that is what landmarking does.

Mr. Heeke asked if it was possible it may also make a property more desirable? Mr. Holden stated he hasn't found anyone who would think it was more desirable since the outside cannot be changed, but there may be some who would think it would be more desirable. Mr. Heeke pointed out some who would think it would be more desirable. Mr. Heeke pointed out there were methods of going before the Landmark Commission for modifications of the exterior of a landmarked property.

Mr. Ilyinsky asked if he knew of any houses in Palm Beach whose sales value or actual sales were lower because they were landmarked? Mr. Holden stated there hasn't been at the present time, because market value is increasing and he doesn't believe they have gone down. Mr. Ilyinsky told of people he knew who had a criteria in the purchase of a house that it be surrounded by landmarks.

President Douthit asked when he serves as a Grand Master in the tax matters, has he found that a landmarked house is lower in the appraisal price? Mr. Holden stated he has not.

Attorney Horky asked Mr. Holden if it was possible properties have increased in value despite the landmark designation? Mr. Holden stated they have increased, but it because of today's market as they are still going up.

Councilwoman Wiener felt they were caught in a trap of discussing finances as a result of these last situations we have had and she didn't think that is what this was all about and what she heard earlier today tells her that peculiar thinking on this problem perhaps is not wrong. She believed there was a home landmarked today which a previous owner was not willing to landmark and the new owner was willing. She was not concerned with money, but with the property rights of the people. She believed the house at 8 South Lake Trail is a fantastic house and she would like to see it landmarked, however, since she is not the owner of the house and this Town Council also is not the owner, she believed they should be patient as individual property rights for the most part are a strong and serious concern and wondered how strong the opposition is from the owner and whether or not there could be something worked out.

President Douthit asked if there was any compromise effort made with the owners? Attorney Horky stated there has not, however he is not refusing to enter into discussions with the Town, on behalf of his clients as it would be wonderful if everyone was completely satisfied that their rights and interest have been upheld. He has always viewed the Landmark designation process as an all or nothing situation and perhaps that has been incorrect. He didn't know there was an avenue for compromise and he would like to know what it is.

Mr. Horky agreed with Mrs. Wiener that finances should not be an issue as he could not prove up his objections to this, based upon economics alone. He felt they were talking about the future use of the property. He heard Mr. Heeke's comments on modifying historic structures, but with all due respect, even the avenues for changes would be restricted in light of a landmark designation. He felt the whole thing came down to future use of the property and the rights which Mr. Holden referred to and his clients are apprehensive about losing some of those rights.

Councilman Heeke recalled these were philosophies and discussions that we considered at the time the Ordinance was enacted and he believed there were six cases gone to the Circuit Court on involuntary landmarking and he believed the Town would prevail on all of those. He felt their function as a Town Council is to determine on the merits of the application before them, whether or not, under the Ordinance, the criteria has been met for landmarking. He recalled three years ago, the Town Council considered whether voluntary or involuntary landmarking should be and the direction to the staff was they would seek landmarking of those houses which deserve it, irrespective of whether it was voluntary or involuntary and they are here to interpret the facts of the application under the terms of the Ordinance and not re-enact the Ordinance today.

Mrs. Wiener did not believe what she was talking about was re-enacting the Ordinance as the Town Council should do things in this Town for and with the members of this community in a way that is agreeable to everyone and if by having an avenue of discussion, they can achieve landmarking of this home, they all will be better off because of it. She felt they had an obligation not only to the Ordinance but to the individual and if they don't understand, we should have them sit down with members of Landmarks and staff as there may be room for compromise, but if they haven't had communication, she would like to see that as she views that as part of the Council's function.

Attorney Randolph explained landmarking is not necessarily an all or nothing proposition and indeed in other circumstances, the property owner has dealt with staff and been able to work things out on an amicable basis and if they haven't sought that, it would behoove them to do so and if they wish to do that, he would request they waive the 90 day requirement to act on this matter.

Mr. Horky stated he would waive the ninety day requirement.

Mrs. John Volk addressed the Council and was sworn in by Mrs. Peters. She stated her late husband was the architect on this residence and it is one of the more beautiful Regency houses. She has chatted with Mrs. Asher and believed she was confused about exactly what landmarking is all about as she has a fear of not being in complete control of the property and of the loss of finances and they spoke at length about that. She believed the main thing with Mrs. Asher's disinterest in the property is because it is cosmetically in disarray, however the building and the value is there. She stated as a Landmark Commissioner, she is concerned about the continual postponement and the lack of moving ahead that they may lose these houses as there always is someone waiting in the wings to tear them down, especially on the lakefront. She felt if they wanted to lose the house, they could defer it, but if they wanted to save some of these houses, they should work with the residents and she believed that Mrs. Asher could be worked with on this matter.

Mr. Heeke was concerned about the fact they have lost some nice structures by failing to move ahead on the landmarking and when he hears comments about future use, he thinks of demolition and splitting up the property into lots and that is what the landmarking procedure is to prevent. He didn't believe it meant it was irrevocably prevented, as there always is the opportunity for reconsideration and he has two thoughts,

one to move ahead with the approval of the Resolution but doesn't wish to be precipitous when he hears comments that the people can be worked with, however, would like an assurance and a commitment on behalf of the owner, that they will not take any steps to proceed with any demolition of the property until the matter is reheard nor subdivide the lot.

Resol.
7-90

Mr. Horky believed he could give them assurances, however he believed that Mrs. Asher would have to apply to the Town for a demolition permit? Mr. Heeke responded she would, but he didn't want to get into a quagmire of discussion as to whether this is a landmarked piece of property.

Attorney Randolph was asked by President Douthit that if this should be deferred to give the Ashers and the Landmarks time to get together, would that not mean it was still under consideration? Mr. Randolph stated that was correct. Mrs. Wiener felt if it was deferred it was still in the same state it was and she too thought the house was wonderful but she wanted to afford an opportunity to the owner to be happy with the designation and meet with Mr. Frank and heard about the other homeowners who were willing to have their houses landmarked and some today who had no concerns of any kind, and perhaps Mrs. Asher might change her mind.

Mrs. Wiener made a motion to defer Resolution No. 7-90 and this matter be brought up at the next meeting of the Town Council when it considers if this motion would also include the commitment from the owner to not subdivide or demolish the residence? Mrs. Wiener thought that was automatic.

Attorney Randolph stated this would be deferred subject to the property owner waiving the ninety day rule. Mr. Horky responded he does give that waiver on behalf of his clients.

Ann Perry was sworn in by Mrs. Peters and she stated she was a member of the Landmark Commission indicating she does not know Mrs. Asher but has paid attention to this property for about ten years as she owns property which is adjacent to the Asher property. She agreed the house was in disarray and a gate between her property and the Asher property was falling down and she had a two year old and she was nervous about this because of the Asher swimming pool. She stated she had made numerous calls and wrote her letters and got no response and she felt the property was falling apart and hoped the intention was not for the house to become so bad that it would have to be torn down and the lot cut up. She asked the Town Council to support the Landmarks Commission and give a unanimous vote to protect the house.

Mrs. Wiener pointed out this house would still be on the landmark list, to which Mrs. Douthit agreed. Mr. Horky did not believe a 90 day delay would be harmful to the Town. Mr. Randolph stated this is not a ninety day delay, as the motion is not intended to have this heard within ninety days, as this will be heard at the next meeting of the Town Council when they are considering landmark status. He stated the idea of the waiver is since the Ordinance states once this has come to the Council, it has to be heard within ninety days and all they are doing is waiving that provision.

The motion was seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.
(end of minutes from 2-1-90).

Mr. James Sved addressed the Council indicating he was a Preservation Consultant to the Landmarks Preservation Commission and he gave his background. He indicated this property is on a long and rather narrow lot and is known as a Regency Style House and incorporates a 1921 structure within the perimeters of a newer structure which was designed by John Volk and the building has a large and ornate garden on the east and from the garden you can look straight through the house through a foyer, main salon and another room in the rear to the lake. He indicated this is quite worthy of landmarking.

Mr. Heeke noted it meets Criteria A and D in the Ordinance. Mr. Heeke called for public comment and there was none. Mrs. Douthit moved for the adoption of Resolution No. 7-90 with Criteria A and D having been met, designating the property at 8 South Lake Trail as a landmark. Motion was seconded by Mr. Ilyinsky. Mrs. Peters verified that this was advertised for the first hearing on February 1, 1991 which was adjourned to this particular meeting and it is in order. Mr. Frank advised he had put the property owner on notice and had the return receipt on that particular notice. On roll call, the motion carried unanimously.

C. Designation Report for 5 Middle Road - Consideration of Resolution No. 15-90. Mrs. Peters verified publication has been received on this particular property. Mr. Wilbur Thomas, the property owner was given the oath by Mrs. Peters. Mr. Frank informed the Mayor and Town Council this property meets Criteria 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. Also, it meets Criteria D: representative of notable works of one or more master builders, designers or architects, whose individual ability has been recognized to have influenced their age.

Resol.
15-90

Mr. Sved commented further indicating this property was designed in 1937 by Wyeth King and is a British Colonial building and the massing of the building is reminiscent of the English Renaissance, which means the central bay is flanked by symmetrical smaller bays on either side and these project forward and accentuate the open courtyard. He exhibited slides of the building pointing out the notable features are its actual symmetry with an interesting use of the Palladian window motif as a portico for the front door; and the quoin which is indicative of the Ionic order. He indicated this is an excellent example of the British Colonial style and has been beautifully restored and very worthy of landmark designation consideration. Mr. Thomas addressed the Council indicating he is happen to voluntarily have his house designated as a landmark. He recalled his testimony before the Landmarks Preservation Commission and his only problem with this is the zoning could be changed and he would not have had it restored to the extent he did if he did not believe this was an unique house. He has put a new roof on and found a contractor who does not do that type of work anymore but did it for him. Mr. Moore indicated the voluntary designation as with the proviso that the Town's zoning is maintained as single family residential in that area and staff supports that condition.

Mr. Heeke clarified that by if a future Town Council granted a change in zoning to one lot, specifically the one immediately west of Charlie's Crab, and if that zoning was changed to permit parking or a commercial development, this proviso would come into effect. Mr. Thomas stated that was what he had in mind but also the entire north side of Gulfstream which he thinks is vulnerable due to the south side of Hammon Avenue being all commercial and it is possible due to the way that commercialization has taken place in this Town over the last thirty years. Mayor Marix presumed he meant any change in zoning whatsoever. Mr. Thomas agreed that it would be any downgrading of the current zoning. Mr. Heeke asked if there were any difficulties with that with the Landmarks Commission? Mr. Moore responded negatively, indicating they supported that condition.

Mr. Sullivan addressed the Council on behalf of the Landmark Commission stating they concur in every aspect to Mr. Thomas' request and were enthusiastic in their gratitude for his voluntary designation and felt his proviso was an extremely prudent one.

Attorney Monaghan read the Resolution No. 15-90.

Resol.
15-90

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 III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH AND DOES HEREBY DESIGNATE SAID PROPERTY AS A LANDMARK STRUCTURE PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

He read Section 2: The landmark herein designated, pursuant to the provisions of Ordinance 2-84 and the provisions of the Town Code described herein, is located at 5 Middle Road, conditioned upon an agreement that there will be no opposition to de-landmarking this property, if in the future, the zoning on Gulfstream and/or Middle Roads is changed to a lower level, and is legally described as follows: Singer Island Lots 35, 37, 38, and 39.

Mayor Marix asked if they should add "use" as she could see someone allowing other uses on some of those roads, without necessarily changing the zoning. Mr. Heeke didn't think that could happen without a Special Exception. Mr. Monaghan felt the uses would be those permitted by the Code.

Mr. Thomas stated he too thought about this but he doesn't believe there is anything he could do to protect himself with regards to parking on the street pointing out on the north side of Gulfstream, there are permit parking spaces for seven cars but he didn't think there was anything he could do about this. Mrs. Wiener asked if they could tie up future councils as if this zoning is changed a future council must agree to this de-landmarking. Mr. Monaghan did not think there was a problem as they had the authority to make these policy decisions and agreements. Mr. Heeke stated this is a condition of our granting the landmarking. Mr. Moore stated the language could be modified to reflect a direct statement which would say that any change in the zoning would declare this agreement and this process null and void.

Mr. Moore indicated the Council's intent is very clear and it is if the zoning in the future is changed the intent is Mr. Thomas would not be precluded from de-landmarking his structure.

Motion was made by Mr. Ilyinsky that the Designation Report for 5 Middle Road be part of the record. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Motion was made by Mr. Weinberg, seconded by Mr. Ilyinsky to adopt Resolution 8-90 on 5 Middle Road which meets Criteria C and D in the Ordinance. On roll call, the motion carried 4-0 with Mr. Heeke abstaining due to a conflict.

Resol.
22-90

D. Designation Report for 61 Middle Road - Consideration of Resolution No. 22-90. Mrs. Peters confirmed this has the proper proof of publication. Motion was made by Mrs. Douthit to receive the Designation Report as a part of the record. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Attorney Gus Broberg was given the oath by Mrs. Peters. Mr. Broberg addressed the Council on behalf of I. C. Hemmings, the owner of 61 Middle Road. He attempted to explain to the Landmarks Commission, this is a lovely house built by Marion Sims Wyeth in the late twenties or early thirties, however, since the initial structure was built, there have been many modifications. He stated his client would be willing to landmark the west facade of the building as this is the only part of the structure that has not been changed. He reported his client has a contract to sell the property as of yesterday, however he is still willing to voluntarily offer the west facade for designation. He understands from the real estate broker that the purchaser is willing to have the entire structure designated, once he obtains title to the property, however, he will leave it up to the Council as to which route they wish to take. It was the consensus of the Council that they should go with the voluntary designation of the west facade. Mrs. Wiener noted the attorney had the authority to landmark the west facade and the new purchaser has agreed to the west facade, but if the new purchaser would like to give us the whole thing and the deal is completed, why can't Mr. Hemmings landmark the entire building? Mr. Gus Broberg explained there is no conveyance of title at this time and for various reasons, sometimes contracts fail to close and although he knows of none, the new purchaser does not own the building at this time.

Mr. Frank explained this residence is on the east side of Middle Road and is a prominent estate and staff believes it meets Criteria A - exemplifies and reflects the broad cultural, political, economic or social history of the nation, state, county or Town; Criteria C - embodies distinguishing characteristics of an architectural type, or is a specimen inherently valuable for the study of a period, style, method of constructions or use of indigenous materials or craftsmanship; also Criteria D, representative of the notable works of one or more master builders, designers or architects whose individual ability has been recognized to have influenced their age.

Mr. Sved reported the building was designed in 1924 by Marion Sims Wyeth as his own residence and these buildings designed by architects are the purest forms of the architect's design inasmuch as they are not restrained or under the contract of the whims of their clients. He stated this building is more specifically a Spanish building inasmuch as the central feature of this building is an inner courtyard. He stated this offers the street facade a fortress like elevation which is devoid of ornamentation in the Spanish tradition. He stated there is a pecky cypress door and has cast stone details along the door entrance.

Mr. Moore indicated the staff feels it is acceptable to have the west facade landmarked and then the subsequent owner can come back to us on a voluntary basis for the other portions of the building. Mr. Heeke pointed out Mr. Broberg does not represent the prospective owner and can't really be in a position of making a representation on behalf of that individual. Mrs. Douthit asked if the Town could write the new owners asking them to voluntarily landmark the remainder of the building. Mr. Heeke believed they had enough presented to them to landmark the entire structure. Mr. Moore responded the original proposal was for the entire structure.

Mr. Ilyinsky reminded the Council the house on the corner of Via Marila at the last meeting, they landmarked two facades. Mrs. Wiener asked how long the Hemmings have owned this home to which Attorney Gus Broberg responded approximately eight to ten years. Mrs. Wiener stated she was concerned about landmarking something that has been recently renovated in the last eight to ten years. She stated she was not sure where those additions fitted in to these criteria. Mr. Broberg responded the additions are not visible from the street. Mrs. Wiener did not feel they should be worthy of landmarking and that is what Mr. Broberg's client is asking us not to landmark and has voluntarily offered the west facade.

Mr. Sullivan addressed the Council felt they should take what was voluntarily offered. Motion was made by Mrs. Douthit that the property's west facade at 61 Middle Road be designated as a landmark in the Town of Palm Beach as it meets Criteria A, C and D. Mrs. Douthit hoped the new owner would voluntarily offer the rest of the building for designation.

Mayor Marix thought the Town Attorney stated the wording needs to be changed in the Resolution. The motion was seconded by Mr. Ilyinsky.

Resol.
22-90

On roll call, the motion carried 4-1 with Mr. Weinberg voting against the motion. Mr. Weinberg felt the new owner should present his case here rather than anticipate what he is going to do.

E. Designation Report for 1768 South Ocean Boulevard - Consideration of Resolution No. 23-90. Mrs. Peters confirmed the proof of publication has been received on this property. Motion was made by Mr. Ilyinsky, seconded by Mrs. Wiener that the Designation Report be a part of the record. On roll call, the motion carried unanimously.

Resol.
23-90

Mr. Heeke explained he takes exception to the way something is phrased in this report referring to paragraph six the phrase: "which had come to symbolize the financial irresponsibility that plagued the social circles pre-depression era." He felt this phrase was entirely uncalled for and had no basis on the architectural merit or study. Mrs. Wiener agreed.

Mr. Frank reported this was designed by Trainor and Fatio and staff believes it meets Criteria A, C, and D. Mr. Sved reported the property was designed in 1937 by Maurice Fatio and is known as "The Four Winds". He stated this was designed for E. F. Hutton and it is a Bermuda Style House with notable stylistic elements of the very low roof line, a single story residence and the stucco is scored to represent stone across the facade and it has an unusual use of a semi-circular portico. He stated this is an ocean-to-lake Estate and is worthy of landmarking.

Mr. Frank noted there have been no letters of opposition received on this property.

Attorney Monaghan read the Resolution No. 23-90 by title:

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

Motion was made by Mrs. Wiener, seconded by Mr. Weinberg that Resolution No. 23-90 be adopted which designates as a landmark 1768 South Ocean Boulevard as it meets Criteria A, C and D. On roll call, the motion carried unanimously.

F. Designation Report for 152 Wells Road - Consideration of Resolution No. 24-90. Mrs. Peters advised verification of publication has been received. Motion was made by Mrs. Douthit, seconded by Mr. Ilyinsky that the Designation Report be received as part of the record. Motion carried unanimously on roll call.

Resol.
24-90

Mr. David Baker was given the oath by Mrs. Peters. Mr. Baker explained he represents Mr. & Mrs. Winston Guest and before the Landmark Preservation Commission meeting, he requested and received approval for the elimination of a portion of the structure in the rear of the lot which includes the garage. He stated this has been substantially modified. Mrs. Wiener noted it is covered in Section 2 of the Resolution 24-90.

Designation Report on 1860 South Ocean Blvd. be accepted and made a part of record was made by Mr. Ilyinsky. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Mr. Frank advised this property does meet Criteria A, C and D. He mentioned that since this was heard by the Landmarks Commission, Mr. Willis duPont and his representatives have approached the staff and now wish to have certain conditions considered. Mr. Sved reported this building was designed in 1937 by Treanor and Fatio and is a Neo-Classical style as it is a one story building and the low roof and the quoining reflect that style. He noted this building is entirely made of brick, even the quoins, which is unusual. He stated the center portion of the building is the finest use of the historic Doric order in Palm Beach and what has been done is the architect has taken the proportions and the design as noted by the classics. He noted this building is quoined and this roof looks like a slate shingle from the street, and this is an ocean to lake estate and is worthy of landmark consideration as it is probably the only type of its kind in Palm Beach.

Mayor Marix noted the comment "overblown excesses of the Mediterranean style, which had come to symbolize the financial irresponsibility that plagued the social circle's pre-Depression era." and she thought it was repetitive and each property ought to stand on its own merits and shouldn't be boiler plate.

Mr. Heeke agreed. Mrs. Wiener noted on the next page it states part of the reason that Fatio was given a large number of commissions in the Town was that he was good looking and charming, and she objected to that. Mr. Moore noted their criticisms and indicated they will adjust the tenor of the language and the subject matter in the future.

Mr. Frank reported many of these statements come from books as listed in the bibliography. Mr. Heeke noted there were no quote marks which would indicate they were quotes. Mrs. Douthit knew this house and she agreed it was quite lovely, but these ridiculous statements don't make them fit together.

Mr. Moore indicated Mr. DuPont has sent a letter dated 2-28-91 which requests the following conditions:

1. Eliminate the free standing garage at the rear of the property which is of recent construction and below street level view.
2. Eliminate the clay tennis court.
3. Eliminate the garden area in the rear of the property.

Mr. Moore reported there were two other garages attached to the main house and these would be included in the designation. He stated staff has no objection to these conditions Mr. DuPont has requested.

Motion was made to adopt Resolution No. 25-90, subject to reading by the attorney, excluding the free standing garage at the rear of the property, the clay tennis court and the rear garden area by Mrs. Southit, stating also that the property at 1860 South Ocean Boulevard meets the Criteria a, C, and D as set out in the Ordinance. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Resol.
25-90

Attorney Monaghan read the Resolution:

Resol.
25-90

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 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 III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, AND DOES HEREBY DESIGNATE SAID PROPERTY AS A LANDMARK STRUCTURE PURSUANT TO ORDINANCE 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

On roll call, the motion carried unanimously.

Resol.
26-90

H. Designation Report for 174 Via Del Lago - Consideration of Resolution No. 26-90. Mrs. Peters confirmed the proof of publication is on file for the record. Motion was made by Mr. Ilyinsky to accept and Designation Report on 174 Via Del Lago as part of the record. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Mrs. Douthit noted the same language to which we referred to previously is in this report also.

Mr. Frank reported this property at 174 Via Del Lago meets the Criteria A, C and D. Mr. Sved reported this building was designed by Wyeth & King in 1934 and is a Colonial Revival Style building, however, the ornate iron work on the facade and other portions of the property are indicative of a New Orleans style of architecture and is a good example of same. He stated this is a lakefront estate with the front entrance being recessed and at the center of the entry way is a specimen tree. He advised there is an ornate entrance-way which features Ionic columns and set within a frame flush with the wall surrounding it. He stated this building has been expertly renovated and many of the details are historic from the original design and is worthy of landmark consideration based on this criteria.

Mr. Frank reported no letters of opposition have been received.

Mayor Marix objected to the statement in the report which states: "Its' \$125,000 construction cost serves to reflect the enormous wealth and immunity to general economic realities that existed in Palm Beach." Mrs. Wiener felt these were young students who are here doing a responsible, serious job and it is not a time and wondered why they couldn't hire someone who was more mature who would have a little bit more finesse. Mr. Moore responded this is State Grant money which means they must hire intern type students, however, they are not using their own commentary and it is the commentaries of others which are being drawn upon. Mayor Marix asked that the reference material be looked at more closely, to which Mr. Moore agreed.

Motion was made to approve Res. 26-90 after being read by caption by the attorney, landmarking 174 Via Del Lago as it meets Criteria A, C and D by Mrs. Wiener. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Attorney Monaghan read the Resolution No. 26-90 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 III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH AND DOES HEREBY DESIGNATE SAID PROPERTY AS A LANDMARK STRUCTURE PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Resol.
27-90

I. Designation Report for 115 Via La Selva - Consideration of Resolution No. 27-90. Mrs. Peters confirmed the Proof of Publication has been received on this property. Motion was made by Mr. Ilyinsky to receive the Designation Report for 115 Via La Selva. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Mr. Frank explained this property was designed by Maurice Fatio and meets Criteria A, C and D. Mr. Sved explained this is the only building which fronts on Via La Selva and was designed in 1927 by the architectural firm of Treanor and Fatio and is a Mediterranean Revival Design with Florentine features and its most notable feature is the large central tower and the ornate rusticated door at the base of the tower. He noted there is a heavy use of quoining in this building and a large amount of iron grille work on this house and most of the windows are original and are in excellent condition and the building is very worthy of landmark designation.

Mr. Monaghan read the resolution 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 III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH AND DOES HEREBY DESIGNATE SAID PROPERTY AS A LANDMARK STRUCTURE PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Motion was made by Mrs. Douthit to adopt Resolution No. 27-90 to designate as a landmark 115 Via La Selva, which meets Criteria A, C and D. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

J. Designation Report for 158 South Ocean Boulevard - Consideration of Resolution No. 28-90. Mrs. Peters confirmed the Proof of Publication was on hand. Mrs. Douthit moved for acceptance of the Designation report into the record. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Mrs. Peters rendered the oath to William C. Davis, III, the owner of the property.

Mr. Frank reported this house lies on the north side of Clark Avenue adjacent to the ocean and it meets the following criteria: A, C and D. Mr. Sved advised this home was built approximately in 1917 and the architect was unknown at that time and was a large wood frame house and the Clark Avenue elevation still reflects that. He stated it has been stuccoed over. He noted the most notable feature of the original facade and the corresponding facade on the other side is the use of third floor eye brown windows, which are very much indicative of those type houses being built. He noted it does incorporate a full brick chimney with a stylized top and a unique circular window placed within the center of the chimney. He noted in 1931, Howard Major, architect extensively renovated this house converting it from a simple wooden house into a British Colonial style ocean front property by adding onto and replacing the original porch and an arcade on the first floor. He noted this house is very interesting and expertly renovated and very worthy of landmarking.

Mr. Davis addressed the Council noting he originally was doing the work himself and brought in architects and finally a contractor to finish it up. He has tried to restore everything that needed to be restored, however he doesn't see the historical relevance of the home as it was done in three separate stages, 1917, 1930's and 1988. Mr. Heeke shared his concern but for landmarking purposes, it has had a generation of modifications.

however, it does occur to him personally the arches revert to the Major era and design and that alone would be worthy of landmarking, however, the rest of the house he doesn't know about and asked for an explanation as to how it met the criteria. Mrs. Douthit believed a lot of the work was done by Howard Major and the recent restoration is beautiful. Mayor Marix agreed what he has done is fantastic, however, she was inclined to agree with him and perhaps the archway was worth while but had a problem of thinking of the house as a landmark. Mrs. Wiener didn't believe they could just mark the arches and recalled there were other things in Town which have been built by Mr. Major and believed if they were going to landmark anything, it should be the whole facade. Mr. Heeke suggested perhaps they could preserve the first floor facade. Mrs. Wiener did not agree. Mr. Heeke indicated he would like to preserve the columns so a future owner could not remove them and he would like to have the first floor on the east preserved.

Resol.
27-90

Mr. Weinberg didn't believe there was an overall historical reference on this home as there have been on several we have landmarked already.

Mr. Sullivan indicated this is a situation which is a little rocky as they have instituted a new policy this year and they wish to work to having these designations being offered voluntarily by the owners. He stated this was unique in a number of ways in the extent to which he as a property owner took a home and restored it quite nicely. Secondly, it was unique by the charm and humor which he addressed the Commission in January and thirdly, it was unique because in his presentation made before the Landmarks Commission, he was uncertain about the landmarking process as he is unsure as to whether or not this should be offered. He believed he wants his home to be a landmark and needs reassurance from any one of them as to how he would fare before the Commission if he should come back with a major revision.

Mrs. Wiener stated she is hearing there has been major renovation done to the facade in the past year and she becomes very concerned and when the homeowner appears before them stating he has done this work and is not interested in having his property landmarked, she wonders why they are landmarking something that has been redone within the last year. She didn't believe that this house was suitable for landmarking, although it is beautiful for it has recently been renovated.

Mrs. Jane Volk addressed the Council on alteration and changes noting there hardly is a house in this Town that has not been changed and they realize they explore the changes which have been made to see if they are appropriate and in the feeling of the original architecture. She indicated most of the houses have been cleaned up and there are many buildings which are not the original buildings. She felt he has restored a wonderful old house and they are pleased to see it looking as it does and they should perpetuate that by having it landmarked.

Mrs. Wiener asked if she considered this a special house? Mrs. Volk responded affirmatively. Mrs. Wiener noted in the Classification of the houses, it states this is a good Bermuda House although it is nice and it is good, but she thought they were going too far and it weakens other homes of beautiful tradition when they merrily grab at something like this.

Mr. Heeke stated he does have restoration going through his mind and perhaps they should limit it to the pure restoration which would be the east facade. He noted the rest of the house is quite gorgeous also.

Mr. Davis indicated he would have no opposition to them preserving the arches. Mr. Moore advised if they only landmarked the arches, any work to be done on the second floor and/or the roof but one of the things they are desperately trying to avoid and that is to have the reports going through two layers of bureaucracy, which would be counter productive as a portion of the house would be subject to the Landmarks and another section subject to the Architectural Commission. Mr. Heeke stated he had a problem with landmarking the second floor and also recognizes the south facade has been restored, which he suggests being left out of the motion and asked if this could be sent to one or the other of the two committees. Mr. Moore indicated he would like to say "Yes" but he did believe it is within the Council's power to say since they are landmarking a portion of the building that it be conditioned on the jurisdiction for any other changes be sent to Landmarks Commission. Mayor Marix felt if only the arches are landmarked, any changes to anything else which did not apply to the arches, that should go to ARCOM. Mr. Moore stated that would be the case but what may be aesthetically pleasing and architecturally significant to one group may not be to the ones which are preserving the rest of the structure by way of the Landmark ordinance, so it could be a possible conflict and the owner would also be put in peril.

Mr. Heeke thought the south side should be landmarked and the reason he isn't to do that at this time is to change the roof would mean he would have to come before Landmarks and he knows what Mr. Davis has done with the restoration and has confidence in him and is not concerned about how it will look architecturally and he doesn't think he will mess up a good job. He felt the landmarking should be limited to the arches as if he can't get the tiles for the roof, he has a problem. Mr. Moore advised it was his opinion that the Landmarks Commission is the one who should have jurisdiction for the entire property.

Motion was made by Mr. Ilyinsky that the property at 150 South Ocean Blvd., the first floor east facade be designated as a landmark and that the jurisdiction for further architectural changes repose solely in the Landmarks Preservation Commission and the reasons for landmarking is it meets Criteria A, C and D. Seconded by Mrs. Douthit. On roll call, the motion carried 4-1 with Mrs. Wiener voting against the motion who stated she felt it was a mistake when we don't do at least an entire facade and when they start picking bits and pieces, they are going in a bad direction.

Lunch break was taken.

President Heeke called the meeting back to order at 1:30 PM.

Mr. Heeke indicated he has received a request from Mrs. Polly Earl of the Preservation Foundation who wishes to address the Council. Mrs. Earl advised the Preservation Foundation commends and supports the atmosphere of calm, courteous, rational conciliation that has characterized much of the landmark designation process throughout the season on both the part of the Landmark Commission and the Town Council and they endorse the Commission's efforts to safeguard all of the architectural styles which typify the different pieces of Palm Beach history.

K. Designation Report for 79 Middle Road - Consideration of Resolution No. 29-90. Mrs. Peters confirmed the Proof of Publication had been received on this property. Motion was made to receive the Designation Report for 79 Middle Road as a part of the record by Mr. Ilyinsky. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Resol.
29-90

Mr. Frank advised 79 Middle Road meets criteria A, C and D. Mr. Sved reported this building was built in 1927 by the architectural firm of Trainor and Fatio and like the building at 61 Middle Road, this building looks inward and has a central courtyard plan. He indicated this occupies a large corner lot and the large corner tower looms over the property and it is a three story tower looking down over a one story entrance facade. He noted the most notable features of the entrance facade are the use of cast stone with decorative

Resol.
29-90

details and the doors which are heavy pecky cypress with large brass bolts. He stated what they have done with the window treatment is use cast stone at the base of the lentil and above they have used pecky cypress. He noted there is also a two story section which uses pecky cypress beams and English half-timbering Tudor style design. He felt this was a striking building and unique and worthy of landmarking.

Mr. Frank reported there has been no letters of opposition. Motion was made by Mrs. Douthit that Resolution No. 29-90 (upon being read by the attorney) designating 79 Middle Road be adopted on the grounds it meets the Criteria A, C and D. Seconded by Mrs. Wiener.

Mr. Monaghan read the resolution 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 III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH AND DOES HEREBY DESIGNATE SAID PROPERTY AS A LANDMARK STRUCTURE PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16 ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

On roll call, the motion carried unanimously.

Resol.
30-90

L. Designation Report for 255 Via Bellaria - Consideration of Resolution No. 30-90. Mrs. Peters reported verification of publication has been received. Motion was made by Mrs. Douthit that the Designation Report be made a part of the record. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Mr. Frank reported there have been a number of letters to our Town attorney on this property requesting deferrals as the property was being redesigned by Architect Kemp Kaler who has since passed away and there was some uncertainty as whether they would continue on with those plans and they have been notified of this meeting and we haven't heard anything from them.

Mr. Sullivan clarified that Mr. Henley is a neighbor of his and at the conclusion of their discussion with them at the time the home was recommended for landmarking, he had expressed some concerns Mr. Sullivan advised him he would discuss these concerns with him and has made several attempts to contact him by phone and ten days ago wrote to him reassuring him that he was ready to talk with him in the event he had any concerns which may preclude him from granting the landmarking voluntarily and he has heard nothing from him. Mr. Heeke agreed a diligent effort has been made to contact the owner without any response.

Mr. Frank reported this property meets Criteria C and D. Mr. Sved summarized the details of the house noting it was designed in 1935 by Marion Sims Wyeth, noting this is a Regency style and/or British Colonial. He indicated it has a tight composition with a large central bay and flanking side wings. He noted the building does have a symmetry from every facade and there are smooth guoins which take the forms of pilasters at the corners of the wings.

Mrs. Wiener moved Resolution No. 30-90 be adopted which concerns 255 Via Bellaria and make it a landmark home in the Town of Palm Beach, which meets Criteria C and D. Seconded by Mr. Ilyinsky.

Mr. Monaghan read the Resolution No. 30-90 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 III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, AND DOES HEREBY DESIGNATE SAID PROPERTY AS A LANDMARK PURSUANT TO ORDINANCE 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

On roll call, the motion carried unanimously.

Resol.
31-90

M. Designation Report for 130 Barton Avenue - Consideration of Resolution No. 31-90. Mrs. Peters reported proof of publication has been received. Motion was made to accept the Designation Report as part of the record by Mrs. Douthit. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Mr. Frank reported this building meets Criteria A and C. Mr. Sved reported the architects were Frances Hoppins and Terrance A. Koen. He stated this was built approximately in 1920 and is the second finest Beaux-Arts style in Palm Beach, second only to the Flagler Museum. He stated there is a three bay design with a semi-octagonal center portion containing a double door set between Tuscan-Doris columns. He noted the architects have used for detail Chinese Chippendale railing in the parapet. He stated this house does have a Widow's Walk and the use of a full cornice and full entablature on the perimeters of the building unify the complexly massed facade in addition to introducing strong horizontal elements to this tall, monochromatic design. He pointed out there is a large Palladian window on the first floor.

Motion was made by Mrs. Wiener to adopt the Resolution No. 31-90 which pertains to 130 Barton Avenue, to make this house a landmark structure in the Town of Palm Beach as it meets Criteria A and C. Seconded by Mrs. Douthit.

Attorney Monaghan read the resolution 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 III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, AND DOES HEREBY DESIGNATE SAID PROPERTY AS A LANDMARK STRUCTURE PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES IN THE TOWN OF PALM BEACH.

On roll call, the motion carried unanimously.

Resol.
32-90

N. Designation Report for 142 North County Road - Consideration of Resolution NO. 32-90. Mrs. Peters confirmed the proof of publication has been received. Motion was made by Mr. Weinberg, seconded by Mrs. Douthit that the Designation Report become a part of the record. On roll call, the motion carried unanimously.

Mr. Frank advised this property does meet Criteria A, C and D. He reported a letter has been received by the attorney on behalf of Monsignor Bernard McGrenahan which agreed to voluntary designation. Mr. Heeke noted under Criteria B, he felt this church has numerous well-known personalities worship there and asked if that was given any consideration? Mr. Frank responded they believe it does qualify under this criteria but they have not created a case for that.

Mr. Sved advised this was built in 1926 by Mortimer Dickinson Metcalfe, a well known architect from New York City and he did two buildings in the Town, one being this structure and the second being the Palm Beach Hotel. He stated this is Mr. Metcalfe's interpretation of Mediterranean Revival and he chose to use the Spanish Mission Style of the American Southwest and New Mexico. He indicated the notable features of the facade are the highly stylized stone entrance-way in the Baroque and the unequal towers on the corners and the scored nature of the entire facade. He noted the detailing on the towers shows the ballustrading and the heavy scrolls, noting one is slightly less decorated than the other and this structure has a full cornice at the top of each tower. He stated the front of the building does represent the Spanish Mission style, the sides of the structure more closely resemble an English Renaissance church. He stated to the north of the building is the Italian Renaissance Rectory which also evokes some of the Spanish Mission architecture. He stated this is a one-of-a-kind structure in Palm Beach and should be landmarked.

Resol.
32-90

Attorney Monaghan read Resolution No. 32-90 by caption:

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND DETERMINING 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 III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, DOES HEREBY DESIGNATE SAID PROPERTY AS A LANDMARK STRUCTURE PURSUANT TO ORDINANCE 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Mrs. Douthit moved that Resolution No. 32-90 be adopted which landmarks 142 North County Road as it meets Criteria A, B, C and D. Mr. Moore noted staff did not include B, but they have discussed it and if they feel it is relevant, the Council has it within their power to do so. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

O. Designation Report for 105 Clarendon Avenue - Consideration of Resolution No. 33-90. Mrs. Peters confirmed the proof of publication has been received. On motion of Mr. Ilyinsky the Designation Report was made a part of the record. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Resol.
33-90

Mr. Frank reported the property at 105 Clarendon Avenue meets Criteria A, C and D. He stated during the designation process, they did receive a letter from an attorney asking for a deferral and they were granted the deferral but through verbal discussions, the owners of the house were satisfied with the landmark designation. Mr. Sved stated Vita Serena was built in 1936 by the architectural firm of Wyeth, King and Johnson. He noted this is a Mediterranean Revival house with a high Italian Renaissance composition. He stated the architects attempted to provide a visual identity of a square symmetrical house and he believed what they were after was something similar to the Villa Rotondo and/or Villa Capra. He noted on the entrance facade what has been done to have the use of cast stone to imitate the carved stone details and they are very unique. He felt while they have a visual idea of a symmetrical square building originally, the architects have taken advantage of the large lot in front and the ocean view and extended the building with the recessed portion to gain extra space without losing their original presentation in the rear, as the eye is foiled to think this is a square building, but in fact it really isn't. He stated the well laid out design and the exquisite stone work make this worthy of landmarking.

Mr. Monaghan read the resolution 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 III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, AND DOES HEREBY DESIGNATE SAID PROPERTY AS A LANDMARK STRUCTURE PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Motion was made by Mrs. Wiener to adopt Resolution No. 33-90 which pertains to 105 Clarendon Avenue that this house become a landmark seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously. Mr. Heeke noted staff has not presented information on item "b", but Council has discussed this and it is thought this also would meet that criteria. On roll call, the motion carried unanimously.

P. Designation Report for 124 Via Bethesda - Consideration of Resolution No. 34-90. Mrs. Peters confirmed proof of publication has been received. The oath was given to Mr. Henry McIntosh by Mrs. Peters.

Resol.
34-90

Mr. Frank reported the residence at 124 Via Bethesda meets the Criteria A, C and D. Mr. Sved reported this property was built in 1930 by Howard Major and is a French Creole type of architecture, with notable elements of design which are the relatively low flat roof, which gives that impression, heavy rustication at the corners and the relatively mild front entrance door. He felt one of the most striking aspects is that this is designed completely of Cuban stone, which is the cousin of our quarried keystone which was quarried in the Keys by Addison Mizner. He found that the renovations done in 1965 were renovation of omission rather than addition at least to the main structure. He noted in the original plan by Howard Major, there was relatively high walls and it closed off the patio from the swimming pool and in 1965, the wall was removed to make the pool more visible from the house. He stated a couple of exterior buildings were added but the whole plan of the structure remain unchanged and it virtually has been the same since 1930 and is an excellent example of this type of architecture.

Mr. McIntosh indicated he had no argument relative to the landmark status of this property and he wholeheartedly supports the statements made earlier by Mrs. Earl. He is a member of the Landmarks Commission but he speaks today as the landowner whose ox is being gored. He stated if this house was demolished, they would not be able to rebuild it, as it is today, so the value is clearly within the house. He stated his problem is that there is something that he doesn't understand fully as here is a concept which should be to the citizens of Palm Beach a source of great pride, but as a result of the coverage in the Shiny Sheet of his comments to the Landmark Preservation Commission, he has received many phone calls from people who have somehow cast him as a champion against landmarking and that is not the case. He stated he has a sense of fear and resentment on the parts of a number of people that something is being taken from them without either due process or adequate compensation. He felt more public relations needs to be done and more effort should be given to bring the public up to speed on this matter and changing it from a source of fear to a source of pride.

Mr. Heeke believed this was an issue which will constantly surface and resurface before the Council as who should do the promotion of this the Preservation Foundation, the Town or a combined effort, and he believed there was a booklet being prepared trying to explain this and he believed this would be an ongoing subject and the people in the Town need to be aware of this matter. Mrs. Douthit reported she knows of no case where the sale of a landmark property lessened the economic picture.

Resol.
34-90

Mayor Marix followed up what Mr. McIntosh said as she believes that some of the things which get into the newspaper aim towards readership as opposed to correct statement of facts and it is distressing and she felt they all needed to combat it as best they could and perhaps a Letter to the Editor might be appropriate from Mr. McIntosh. Mrs. Wiener reported she read the minutes of the last Commission meeting where Mr. McIntosh addressed the Commission and she agrees with much of what he said, but she wanted to point out that what is before them today is a lot different than what was presented to the Council in the past, as there is an understanding being reached with Home-Owners and she thought as people realize there is a tremendous lack of desire on their part, they will be heard fairly. She felt the Landmarks Preservation Commission was moving in a good direction to a great degree based on the work they have done in the past few months.

Mr. Monaghan read the Resolution 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 III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, AND DOES HEREBY DESIGNATE SAID PROPERTY AS LANDMARK STRUCTURE PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Mrs. Douthit moved the Designation Report be made a part of the record, and Resolution No. 34-90 be adopted which makes a landmark of 124 Via Bethesda which meets the Criteria set out in the Ordinance, A, C and D. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Resol.
35-90

Q. Designation Report for 357 Seabreeze Avenue - Consideration of Resolution No. 35-90. Mrs. Peters reported the Proof of Publication is a part of the record on this property. Motion was made by Mr. Ilyinsky that the Designation Report be a part of the record. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Mr. Frank explained this is a two and one half story house at 357 Seabreeze Avenue and is a shingle style design which meets Criteria A and C. Mr. Sved explained this was designed approximately in 1900 and the architect is unknown and this is being called a Queen Anne/Shingle Style house as it incorporates elements of both of these styles. It seems to be totally clad in shingles but some of the elements represent the Queen Anne. He believed the early visitors to Palm Beach brought these styles of architecture with them from New England and the Carolinas and the coastal towns and this is a cruciform type of house which means it has two gabled roofs. He pointed out in the exhibit at a time when architectural details were not available to the craftsmen who were here, they did make use of the simple two by fours to make decorations along the house. He noted there are screened in windows and the vents on top were designed for before air conditioning when the houses were cooled by the flow of wind inward and the flow of hot air out of the attic. He stated it is a monochromatic orange color and this is a fine example of this early style and is in good shape and as a representation of early Palm Beach is worthy of landmarking.

Mr. Frank reported there has been no official opposition to this designation.

Mr. Lou Gartner, owner of the house was administered the oath by Mrs. Peters. He addressed the Council noting he has lived in the house for 18 years and is wonderful for his needs and he has been told by many real estate people that the property is that of value and not the house and he doesn't understand why they wish to landmark as he believes it will then be unsellable for him. He recalled he was quoted at the meeting before the Landmarks Preservation Commission that he was delighted with the fact they were going to landmark his house and that simply is not true.

Mr. Heeke noted the front footage is on Seabreeze Avenue and this may not be a buildable lot under the present zoning. Mr. Moore agreed it was an undersized lot, but a variance could be sought. Mr. Heeke believed the point was whether or not the Council really thought this was the type of structure they wished to landmark. Mrs. Douthit felt this was a piece of our local history and unfortunately there are very few of them left. Mr. Ilyinsky recalled Seagull Cottage has been landmarked. Mayor Marix asked Mr. Moore if it would be possible to move a house of this size to another location? Mr. Moore responded it would depend on its structural stability and that is always considered a viable option.

Mr. Sullivan addressed the Council stating there are two issues he wished to discuss - one, a feeling on the part of the owner that if this house would be landmarked it would not be salable and he hoped it was obvious that this was not the case as this is a fine, well-kept bungalow and is an extremely valuable commodity in the real estate market. He stated his second point is to address the importance and the need of landmarking homes such as this. He will be the first to admit that not every home in Palm Beach should be landmarked, and he doesn't believe that every single home built by Mizner or Fatio or Wyeth should be landmarked as with any type of professionals, they did good work and then there was some less than good. He felt there were two major types of structures which merit landmarking, the first would be the great and the grand which today they have seen fine examples of and these are landmarked because they are outstanding and are examples of magnificence in architecture and they are examples of taking a profession to the very zenith of its capability, particularly in the residential sector. He stated another reason is because they represent a way of life and the way we were and it probably could not be re-created again and that is precisely the reason why a home of well-maintained examples of architecture such as this also need to be landmarked. He agreed not all of them needed to be landmarked, but a few fine examples of this type do merit our Town's landmarking as they represent the beginnings of this Town and especially in this section of Town. He thought a few of these were needed.

Mr. Ilyinsky asked if this should be postponed? Mayor Marix wondered if the statement of Mr. Gartner had been checked out with regards to the value being the property and not the home? Mr. Heeke did not think that was germane to the issue which is whether it should be landmarked. He thought that perhaps they should be selective about which particular one they would want to choose of this particular style and let it only be one or so which would be landmarked. Mayor Marix wanted to get back to her question as Mr. Gardiner has obviously been told that this land is all that is worth anything and if that could be shown it is only one person's opinion, he may voluntarily allow this house to be landmarked.

Mr. Moore believed there was no question there are scare tactics used and there is no question that on large parcels of land that in the event of a demolition of a structure, there is a possibility of the subdivision of property and it is more profitable to sell a piece of property that could be subdivided. He cannot answer the Mayor's question as to what the value would be on the property without the house but he could tell any purchaser that if there is more than 25% lot coverage, which he believes is the case here, a new home would not be able to be built at that lot coverage, so what is there now could not be reproduced. He felt this is a decision which the property owner has to wrestle with and he is being advised by the real estate community that it would be more beneficial not to have the home landmarked.

Mrs. Douthit believed on this property there was a second structure at two stories, which is a second building on the lot which also could not be replaced if this was demolished. Mrs. Wiener pointed out when they

talk about landmarking, they are not always talking about demolishing and she has yet to see two identical buildings standing next to each other, one landmarked and one not landmarked and she doesn't know how great the return would be on either. She didn't believe anyone really knows and these are independent situations and if everyone thought about it the only way the test could be met is if there were identical homes next to each other, one being landmarked and one not landmarked. She didn't like to get into the situation of value and she didn't think that was what this was all about.

Resol.
35-90

She recalled some time ago the Preservation Foundation went to great expense to move Seagull Cottage and they did a magnificent job in restoring it and moving it and the question is how many of these particular structures are necessary for them to landmark, and how many structures built by a certain architect should be landmarked and she felt there should be an overall plan as to what exactly they want. She felt a decision needed to be made if a house of this type is truly worthy of landmarking especially if the owner is objecting.

Mr. McIntosh addressed the Council wondering if they wished to landmark a property which doesn't meet today's building criteria which could be sub-standard or does that have nothing to do with it? Mr. Moore responded it doesn't have anything to do with it and it wouldn't be sub-standard. Mayor Marix stated a lot of it has to do with zoning as if it doesn't have the proper setbacks, it means he couldn't rebuild that house at where it is now. Mr. Heeke stated it would serve no useful purpose for anyone to tear this down thinking they could have automatically construct something on a lot which would require a variance as first of all, they wouldn't meet the test of having a hardship that was not self-imposed; and the likelihood of anything happening to this house was reasonably remote, taking into consideration the site of the lot and the disposition of this and prior councils in zoning matters. He didn't think it needed to be landmarked in order to have the preservation.

Mr. Weinberg indicated he was impressed with Mr. Sullivan's statement which hit him in the head but Mr. Gartner hit him in the heart and he thought when it comes to history versus human beings he will have to vote for the human beings, as it is a hardship for Mr. Gartner and he supports his problem. Mr. Heeke indicated he would approach it a slightly different way as the Ordinance already protects the house as the same result can be accomplished under the existing Zoning Code.

Mrs. Winifred Anthony Stearns addressed the Council indicating she lives in Hanover, N. H., and did live in a house in Palm Beach and wished to point out this is a wooden structure and they do wear out and the land may be very valuable for the potential of a neighbor, and the Zoning Code does protect it, but the day may come when the house may be worn out and a neighbor chooses to buy the lot and tear down the house, that should be allowed to happen.

Mr. William Gubelmann, a member of the Landmarks Preservation Commission wished to tell the Council that landmarking does one thing for the house and that is if the owner wishes to change the external appearance, he would not appear before the Landmark Preservation Commission if it were not landmarked.

Mr. Heeke asked if there is no action taken on this, the recommendation will die and he thought there were other options for a motion, one would be to adopt Resolution No. 35-90; or reject the Resolution 35-90 and the third would be to terminate discussion and go on to the next item on the agenda. Mr. Weinberg moved to discontinue discussion on this matter and move on with the agenda. Seconded by Mr. Ilyinsky. Mr. Weinberg withdrew his motion.

Mayor Marix asked why this not be deferred to the next meeting of the Council on landmarking. Mr. Weinberg moved that Resolution No. 35-90 be rejected. Seconded by Mrs. Wiener. On roll call, the motion carried 3-2 with Mr. Ilyinsky and Mrs. Douthit voting against the motion.

R. Designation Report for 116 Seabreeze Avenue - Consideration of Resolution No. 36-90. Mrs. Peters confirmed the proof of publication has been received. Motion was made by Mrs. Wiener to make the Designation Report a part of the record. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Resol.
36-90

Mr. Frank noted this was also a shingle style house and meets Criteria A and C. Mr. Sved advised this as built approximately in _____ and the architect is unknown. He stated this building is a true shingle style building and the detailing shows that while it looks like a clabber structure, but they are all wooden shingles tied very close together. He stated one of the most notable aspects is that despite the height of the building, its overall horizontality. He pointed out there is a long broad look of an enclosed area and this house is one lot off of the ocean and was originally an ocean front house. He noted the carpenter's details which accentuate this house around the entrance and around the perimeters, a low lying cornice. He believed with the shingle style the United States is bringing to the world its own type of architecture as this was the first type of architecture that was imported the other way over the Atlantic and incorporated into Europe from the United States.

He stated this building is a great example of that and worthy of landmarking.

Mr. Heeke asked if they determined if Mr. Volk had done any renovations of this property? Mr. Sved responded Mr. Volk did some renovation of this property.

Mr. Frank stated a letter has been received from Attorney Michael Connors, attorney for the owner of the house to the Landmark Preservation Commission advising they wish to preserve any rights and remedies available to them with respect to challenging the proposed designation and asked the letter be a part of the record.

Mr. Heeke noted this is different than the preceding case as this is a buildable lot under the zoning. Mrs. Wiener asked if any of the Commissioners had contact with these people? Mr. Sullivan responded they have no phone and he visited the house on two occasions but the house was empty but service has been recorded received. Mrs. Wiener wondered if they could be reached. Mr. Heeke noted there has been a lot of repair work but he believed it was interior. Mr. Weinberg asked if this house was occupied? Mr. Sved responded he did work on the 1988 survey the Town did and when he surveyed the building then, it looked exactly as it does now, with the possible exception of the shutters being painted a darker color. Mr. Heeke indicated he lives a few doors away and he didn't believe there was any exterior work done. Mr. Moore noted it is a wonderful example of this style of house.

Mrs. Wiener asked if this could be deferred? Mr. Heeke asked if someone could make a call to the attorney and put this matter over to the end of the agenda and see if they will grant a waiver to the next meeting.

Mr. Heeke noted they will now go to the two charitable solicitation permit applications which need to be addressed today due to the timing.

Resol.
36-90

No. 298-90 - National Italian American Foundation. Mrs. Peters explained the applications have been received and everything is in order but it has not been recommended by herself and Mr. Doney due to the fact they were late in submitting the application and if approved, a waiver of the advertising is needed. Attorney Kenneth Marra addressed the Council and thanked them for considering the application. He explained the application was late due to the fact the Foundation is Washington-based and the Washington staff arranged for the dinner this evening at the Breaker's. He indicated the Foundation was unaware of the need to file the application for the permit. He assured the Council there was no intent to circumvent the Town Council's authority in this matter but the application was not submitted timely and they request an exception be made and the permit be granted. Mr. Heeke thanked the attorney for his presentation and for the letter which came from his office explaining the circumstances.

Mr. Heeke stated since he is in the area he is aware of the ordinance and how the Council feels about it as it offers some degree of protection to the citizenry, however, there were some comments made in the press which flaunted the Ordinance, in his opinion and that is what he personally took offense since he believed it stated they would hold the event anyway, although the attorney's letter did not reflect that. Mr. Marra indicated he is not aware of the comments to which Mr. Heeke referred, however, he has been advised the leadership of the Foundation that the intent expressed in the letter is in fact their intent and good faith and he believed that everything submitted has been found to be in order and although the technical requirements of the ordinance may not have been met, the intent and the essential purpose of the Ordinance has been satisfied.

Mayor Marix agreed that the letter was fine, however, the comments made to the press definitely were upsetting, as it intimated the Ordinance was in effect to simply annoy people, and she hoped that the Ordinance will be tightened and have more teeth in it, as the State is doing less with charitable organizations and it is up to the Town government to protect their people, as that means we need the time to look into it. She didn't want this to set a precedent as that would mean every Council meeting we would have people wanting to get permits for their events to be held that evening.

Mrs. Douthit stated she realized the lateness of the filing for the permit is a misunderstanding and lack of knowledge, however, she resented the comments printed in the paper and was curious if this meeting wasn't held today, what would they have done? Mayor Marix believed they would have held the event. Mrs. Douthit felt this is why they should put teeth in the Ordinance.

Mr. Weinberg moved the National Italian American Foundation be granted the authorization to have the charitable solicitation permit and there be a waiver of the advertising rule. Seconded by Mr. Ilyinsky.

On roll call, the motion carried unanimously.

Mr. Heeke believed the Ordinance, Rules & Standards Committee will probably be asked to look into this matter further with regards to whether or not sanctions can be imposed on organizations.

Charitable
Solicitation
permit
#299-90

Charitable Solicitation Permit Request for Jewish Arts Foundation, No. 299-90. Mrs. Peters indicated this organization also was late in submitting the application, however, all of the other materials are in order. She stated the chairman of the organization, Mr. Rubenstein was under the impression that due to the fact the charitable event was being held in a private home, there was no need for the permit and explained she has heard that from several other organizations also.

Mr. Heeke believed there was also some change in the internal planning of this event also.

Motion was made by Mr. Ilyinsky to grant the Charitable Solicitation Permit to the Jewish Arts Foundation, with a waiver to the advertising rule. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Mr. Heeke made the comment that this will probably be the last time he will be voting for the waiver of the advertising rule.

Resol.
36-90

R. 116 Seabreeze Avenue. Attorney Monaghan reported he spoke with Bob Crane, who is the attorney for the owner and Mr. Crane indicated he will be willing to waive the time frames in the Ordinance and this matter could be deferred. Mr. Heeke reported this particular house is wooden in structure and beautifully maintained and shows no sign of aging, and he personally does not buy the idea that wooden structures wear out. Mr. Moore explained this house was built in 1915. Mrs. Wiener moved that Res. 36-90 on the designation of 116 Seabreeze Avenue be deferred until the Town Council Meeting on landmark designation is held, since the appropriate waiver of time has been granted. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Resol.
37-90

S. Designation Report for 318 Australian Avenue - Consideration of Resolution No. 37-90. Mrs. Peters confirmed the proof of publication has been received. Motion was made by Mr. Ilyinsky to receive as a part of the record, the Designation Report on 318 Australian Avenue. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Shannon Sadler, the owner of 318 Australian Avenue was given the oath by Mrs. Peters.

Mr. Frank reported this particular house meets Criteria A and C. Mr. Sved reported this was designed and built approximately in 1920 by an unknown architect and is a bungalow style. He believed this looks similar to a house that Sears, Roebuck & Co. sold for \$825. He exhibited a slide of the house at 318 Australian and a slide of a Sears house entitled "The Argyle". He noted the only difference is there is one portion of Mrs. Sadler's house that has been enclosed. He was sure they were wondering why a bungalow style cottage of this type would be on the list for designation and he exhibited a catalogue of the type of homes which were offered by Sears. He recalled in the 1940's Sears was not only the place to fill the American Home but also offered approximately 450 different styles of manufactured homes, which were sent by rail and were meant to fill the need for sturdy, inexpensive and specially modern homes complete with indoor plumbing and electricity. He stated they provided pre-cut lumber when power tools were unknown and provided full instructions on how to assemble. He reminded the Council this Town was founded on a railroad and those things that came in by rail were quite popular at this time. He stated there was a lot of pride which goes along with these houses and to many people, these houses represented their first homes and it was a wholly American building type from Coast to coast and the reason it became quite popular here is because it was possible to have it shipped by rail in one complete package. He felt this was part of the history of Palm Beach as it

touches on the railroad traditions that founded the entire eastern coast of the United States and is worthy of landmark consideration.

Resol.
37-90

Ms. Adler stated philosophically she agrees and supports the Landmarks Preservation Commission's efforts and their goals and congratulates them on their stamina as well as the Town Council on their perseverance, but subjectively, she disagrees with them on the landmarking of her particular house as it is a prefabricated two-bedroom wooden house made by Sears Roebuck by the hundreds of thousands would really refute the fact that this has any reasonable character for the Town, historically or currently. She has studied this and finds it difficult to say whether the value of the house is increased or decreased by having it landmarked, but she has purchased this home as an asset and a safe place to raise her child as a single working mother and her daughter is now 15 and her educational needs will change and this house is her one asset and although over a decade or more, the property may increase in value, but short term it hampers the owner in being able to liquidate quickly and this would be the case for herself, personally.

She loves this Town and her house and is proud of it and would like for it to be preserved and as long as she is there, it will be preserved, but cannot see it having any essential bearing on the well being and the character of Palm Beach.

Mr. Heeke noted it is a house on a 50' lot and asked what the houses were like on either side of her house? Ms. Adler stated they are both similar in terms of bungalow styles. She indicated one is one and one half stories, the other is one story. She stated one is plaster and the other is frame, but it is difficult to notice the difference between the three unless they are examined very closely.

Mrs. Douthit wondered if this met the Code with regards to green space and could the lot be built on if this house was demolished? Mr. Moore on this particular house there is a rental unit and it would need a variance to rebuild. Mayor Marix asked if the rental unit was a prefab? Mr. Moore indicated they were confident that the design was close enough to the pre-fab style, however pre-fabrication is not a dirty word, it simply means the materials are pre-cut and assembled on site, but more importantly, the density could not be reproduced if she were to sell to a developer or something of this kind.

Mr. Heeke stated unless two lots were put together or a variance was granted, there would not be a buildable lot there.

Mr. Sullivan addressed the Council reporting that staff and the Commission in the course of their discussion at the hearing last month attempted to explain that landmarking in this case has demonstrable benefits for Mrs. Sadler, inasmuch the active landmarking grandfathered the additional dwelling on the property and thereby makes it more valuable.

Mrs. Wiener thought that the fact that the house was there already would make it grandfathered. Mr. Moore responded she was correct, however, if there was an attempt to amortize out rental properties that did not conform, this would preserve this property. Mr. Sullivan apologized for using the word "grandfathered" stating he should have stated landmarking would protect it or guarantee it. Mr. Wiener did not believe they ran around knocking things like this down. Mr. Moore felt landmarking would cement it into place and that would be a quarant to the property owner, and it has been pointed out that even in packaging properties, the density of the existing units in the same area would be too great to reproduce today.

Mrs. Wiener recalled there has been a couple of large parcels which came before the Council with a house on them and the concern there was the house would be demolished and a huge house would replace it, and in her mind she starts translating this as if every little lot was under consideration, the owner would immediately tear the house down and that is why we want to landmark it and she felt that was not germane. She didn't believe any of the houses they talked about today would have come under that situation as that situation will occur in circumstances where there is a piece of property large enough to be subdivided, and here we are talking about an entirely different matter.

Mr. Heeke felt this resembled the Seabreeze Avenue property as the property owner would be foolish to tear it down thinking they could build something better, thereby, there is some degree of protection to the Town for the preservation of this type of structure. Mrs. Sadler reiterated she has no intention of tearing down this residence and she is trying to provide any future owner with any options they may wish to have. Mr. Heeke agreed with Mr. Sullivan that she may be in a better position if this were landmarked. He personally didn't see the need for landmarking in order to preserve the property under the existing zoning laws. Mrs. Wiener agreed.

Mr. Ilyinsky believed this may be the only time they may run into something like this as he did believe in this case there might be such a thing as a hardship, and agreed with Mr. Heeke that it would be a disaster to tear this house down and therefore, he moved that the Town Council reject the passing of Res. No. 37-90 and reject landmark status for the house at 318 Australian Avenue. Seconded by Mrs. Wiener. On roll call, the motion carried 4-1 with Mrs. Douthit voting against the motion to reject.

T. Designation Report for 345 Brazilian Avenue - Consideration of Resolution No. 38-90. Mrs. Peters confirmed the Proof of Publication has been received. Motion was made by Mrs. Wiener to have the Designation Report on 345 Brazilian Avenue be made a part of the record. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Resol.
38-90

Mr. Frank reported this house does meet Criteria A and C. Mr. Frank reported there have been no letters of opposition received on this property. Mr. Sved advised this property was designed in 1910 and the architect is unknown and while this building has bungalow elements in the battered piers on the front of the structure, this is more appropriately considered a shingle style cottage and has an overall horizontality and is completely clad in shingles. He stated on the two ends of this building the shingles have been left in their natural state, however on the front the shingles have been painted white. He reported the porches in the period before air conditioning were used as outdoor living rooms on the hottest days of the year. He believed it contained nearly all of the original windows and the addition of the picket fence along the sidewalk adds to this picturesque property and this is a fine example of the shingle style cottage in Palm Beach and is the only one that has the complete incorporation of all the right elements to make it worthy of landmarking.

Mr. Sullivan explained the young couple who bought this home did all of the restoration work themselves and are interested in voluntarily having it landmarked.

Mrs. Douthit made a motion to approve Resolution No. 38-90, after being read by the Town Attorney, to landmark 345 Brazilian Avenue as it meets Criteria A and C under the Landmark Ordinance. Seconded by Mr. Weinberg.

Attorney Monaghan read the resolution by title:

Resol.
38-90

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 III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, AND DOES HEREBY DESIGNATE SAID PROPERTY AS A LANDMARK STRUCTURE PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

On roll call, the motion carried 4-1 with Mrs. Wiener voting against the motion stating she was voting against it because she believed the fact that someone gives permission doesn't mean it deserves landmark status, and Mrs. Douthit felt it was significant in that particular era.

U. Designation Report for 195 Via Del Mar - Consideration of Resolution No. 38-90. Mrs. Peters reported the Proof of Publication has been verified. Motion was made to accept the Designation Report into the record by Mr. Weinberg. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Mr. Frank reported this meets Criteria A, C and D and there is a possibility of meeting Criteria B, since they have developed information as it is identified with historic personages. Mr. Sved advised this home is known as Casa Della Porta and was designed by Trainor and Fatio in 1928. He stated it is a Mediterranean Revival building and is completely clad on the exterior in quarry keystone. He stated it is an unbalanced composition with a large central bay and a one story wing on one side and a three story tower on the other side. He reported the door is the obvious focal point of this building. He noted it has carved details with the grotesque of the Byzantine era. He stated at the cornices, there is a very unusual use of brick with nicely balanced stone cornices and a carving which is intricate. He stated on the tower there are long skinny spindrels evocative of the Byzantine period and the building shows the versatility of the architects.

Mr. Frank explained there is no written opposition to this landmarking. Mr. Heeke found it noteworthy that the home was built for the President and owner of the Hudson Motor Car Company.

Attorney Monaghan read the Resolution 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 III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH AND DOES HEREBY DESIGNATE SAID PROPERTY AS A LANDMARK STRUCTURE PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Mr. Weinberg moved that Resolution No. 39-90 be approved which will landmark 195 Via Del Mar as it meets Criteria A, B, C and D. On roll call, the motion carried unanimously.

Resol.
40-90

V. Designation Report for 135 El Vedado Road - Consideration of Resolution No. 40-90. Mrs. Peters confirmed the proof of publication has been received. On motion of Mr. Weinberg, seconded by Mrs. Wiener, the Designation Report for 135 El Vedado Road was received. On roll call, the motion carried unanimously.

Mr. Frank advised the property at 135 El Vedado Road meets Criteria A and D. He reported no letters of opposition were received on this designation. Mr. Sved reported this house was built in 1919 by Howard Major and the entrance is off the main street and as you enter the property you come onto a motor court to reach the front door, which is cast in stone. He felt the most notable feature is the wavy cornice, which is to remind us of the ocean and Mr. Major has used this in several other houses in the Town. He indicated this is a Spanish Colonial Revival and the most striking feature is the large two story porch. He felt this was a house worthy of landmarking.

Mr. Sullivan indicated the owner was a little uncertain about landmarking his house, however, he is now voluntarily designating it.

Motion was made by Mrs. Douthit to recommend approval of Resolution No. 40-90 to designate 135 El Vedado Road which meets Criteria A and D, and possibly B. Seconded by Mrs. Wiener.

Attorney Monaghan read the resolution by caption:

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

Mayor Marix commended the Landmarks Preservation Commission as shw felt they had done a fantastic job on all of these designations and the salesmanship they have put forth to convince people to voluntarily landmark their properties, to which the Council wholeheartedly agreed.

Resol.
22-90

D. RESOLUTION NO. 22-90 FOR 61 MIDDLE ROAD. Mr. Monaghan noted the change has been made to this resoluion and it is ready for signature and he read the resolution 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 III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, AND DOES HEREBY DESIGNATE SAID PROPERTY AS A LANDMARK STRUCTURE PURSUANT TO ORDINANCE 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Mr. Ilyinsky moved the revised Res. No. 22-90 be approved. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Resol.
25-90

G. RESOLUTION NO. 25-90 - 1860 SOUTH OCEAN BOULEVARD. Attorney Monaghan stated the language on this has also been revised and read the resolution by caption:

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 III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, DOES HEREBY DESIGNATE SAID PROPERTY AS A LANDMARK STRUCTURE WITH THE EXCEPTION OF THE FREE STANDING GARAGE AT THE REAR OF THE PROPERTY, THE CLAY TENNIS COURT AND THE GARDEN AREA IN THE REAR OF THE PROPERTY, PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Resol.
25-90

Motion to adopt the revised Resolution No. 28-90 as just read by the Town Attorney was made by Mrs. Douthit, seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

VI. CONSIDERATION OF DATE FOR NEXT SPECIAL TOWN COUNCIL PUBLIC HEARING ON LANDMARK DESIGNATIONS. Mr. Moore explained April 20, 1990 is the last meeting for this season of the Landmarks Commission and they need about thirty days to prepare for the meeting for the Town Council to consider their recommendations and it is anticipated there will be ten or eleven items plus the Town Hall Square District and he recommended late May or early June. After discussion, it was decided the next meeting of the Town Council to consider landmark designations be June 11, 1990 at 9:30 AM.

VII. ANY OTHER MATTERS: Mr. Doney explained there is an emergency matter to be considered by the Town Council with regards to the removal of the gates and fences at La Puerta and El Pueblo. Mr. Heeke observed there is a problem with the beach at the north end of the Island as the gates have been removed and these were intended to protect young children from having access to the beach area. He read into the record a letter received from Attorney Thomas Mettler: "I understand this morning Mr. Medlen removed the gate on the ocean side of El Pueblo Way, together with most of the protective fencing. This action of Mr. Medlen presents a clear danger to those persons who use this means of beach and I would strongly urge the Town reinstall the gate immediately in order that the safety of those people using that access to the Beach, particularly children, can be assured. I live at 1150 N. Ocean Way, Palm Beach, FL. Thank you very much for your consideration of this request."

Any other
matters

Remove
gates &
fences at
La Puerta
and El
Pueblo.

Mr. Heeke recalled an incident in his neighborhood when a child drowned. Mayor Marix reported very recently she almost hit a child running across the road. Mr. Heeke stated there are a number of possible solutions to this problem and he believed that Mr. Medlen was not going to cooperate in any respect and we are spending a lot of staff time and our police and he didn't believe this problem was going to disappear. He asked Attorney Randolph if he thought it was possible to proceed with a Declaratory Judgment and have the Court resolve the matter about the gates, as he felt if they were able to be opened but were childproofed, they should be replaced.

Mr. Randolph recalled this matter relates back to 1973 when a law suit was filed by Palm Beach County to remove certain gates and obstruction from what they felt were public rights-of-way and the particular street that is addressed here, which was La Puerta, was specifically named in the complaint at that particular time. He stated the Court, in its final judgment, which was sustained on appeal before the 4th District Court of Appeals held that a municipality may not maintain an obstruction in a public right-of-way and ordered certain obstruction on gates which were maintained by the Town to be removed, reasoning that private property owners were not made a party to the lawsuit and since these gates were maintained by private property owners and not by the Town, the Court could not order those gates removed. He felt if those gates had been maintained by the Town, they would have had to be removed as the Court maintained structures which block a public right of way must be removed. He believes the gates at LaPuerta are maintained and have been maintained by private property owners and now they have been removed by Mr. Medlen. He felt the distinction that may be involved in these particular cases is whether or not there is a public hazard as result of not having the gates there. He stated complaints from private property owners in the area have been received about the removal of these gates and there is one person in the audience who wishes to address the Council on this issue.

He thought that despite the final judgment, where there is a legitimate public interest and a legitimate public safety problem, that an unlocked gate might not be in violation of the judgment. He doesn't know the answer to that and thought that is perhaps the issue that is involved and if Council sees fit, they may want to have the Court enter a Declaratory Judgment in that regard. He thought the interim issue is whether or not the Town should take any action in regard to that public right of way, if it is a public right of way at this point.

Mr. Heeke clarified that the approach the Town would take in theory would be that unlocked gates could be installed with a "child-proof" mechanism on it that would prohibit a toddler from inadvertently opening it. Mr. Randolph agreed stating the gates have never been locked and have been there and not intended to keep anyone out and anyone has been able to use them or go through them in the past. He commented there is a gate there and it is there to protect the children and older people because the beach is so narrow at that point that when they do walk off the beach, they are immediately onto the highway and there is a safety problem.

Mr. Wade Byrd addressed the Council noting the two street involved are El Pueblo and La Puerta and at the end of each of these streets there is a strip of land that is perhaps 40' deep and 20' wide. He advised the fences and gates that were there until today were placed there by the propertyowners in that area. He indicated he has lived there for many years and to his knowledge these gates have never been locked. He stated the gates were put there to protect young children and others who would be in that strip against getting killed or injured as they stepped onto Ocean Blvd., which is right there along this very narrow strip. He asked what will the Town do, if anything as we can all agree that it is a proper purpose of which they have been exercising on the Town's behalf in providing these gates and fences; and if they agree on that, the Town can put up a fence and a gate under its police power, because of the fact that Ocean Blvd. is so close there to the beach. He felt they should do that as the lawsuit heard in 1972 never addressed that issue. He believed the streets that were not on Ocean Blvd. were the ones addressed in 1972, Merrain being one of that which had a sign on it stating it was private and there was no trespassing. He felt they should make a finding today that there is an immediate threat to the health, welfare and wellbeing of the people using the access and the fence should be put there.

Chief Terlizze addressed the Council indicating the gates were right adjacent to the roadway and with the foliage and underbrush there, if someone were to dart out, the motorist would have little forewarning. He stated this has been a very time consuming and troublesome thing for his Department and they have been going from one end of the Town to the other with this individual and it does cause problems, not only for the police, but for the residents and everyone else concerned and he too would like to see some kind of a judicial determination made in this thing, once and for all.

Mayor Marix wondered if there wasn't some kind of legal steps that could be taken that would settle this matter. Mr. Heeke asked the Town Attorney if it was possible, from what has been heard today, to instruct the Town to put up the fences and the gates and simultaneously, file an injunction against Mr. Medlen to

Remove
gates &
fences at
La Puerta
and El
Pueblo

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

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

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

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

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

On roll call, the motion carried unanimously.

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

Dedicate
Town Hall

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

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

Grace T. Peters
Town Clerk

TOWN COUNCIL MINUTES OF MARCH 13, 1990

Roll call
and call
to order

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

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

Invocation
& pledge

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

Approve
minutes

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

Approve
agenda

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

Swearing
in of Mrs.
Douthit

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

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

Donation
of Mobile
Intensive
care unit

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

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

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

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME HELTE BERNARD ALLEN		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Town Council - PB	
MAILING ADDRESS 124 SEABREEZE AVE		THE BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY	
CITY PB	COUNTY PB	NAME OF POLITICAL SUBDIVISION: T of PB	
DATE ON WHICH VOTE OCCURRED 3-9-90		MY POSITION IS: ☒ ELECTIVE ☐ APPOINTIVE	

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes. The requirements of this law are mandatory; although the use of this particular form is not required by law, you are encouraged to use it in making the disclosure required by law.

Your responsibilities under the law when faced with a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

ELECTED OFFICERS:

A person holding elective county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his special private gain. Each local officer also is prohibited from knowingly voting on a measure which inures to the special gain of a principal (other than a government agency) by whom he is retained.

In either case, you should disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

A person holding appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his special private gain. Each local officer also is prohibited from knowingly voting on a measure which inures to the special gain of a principal (other than a government agency) by whom he is retained.

A person holding an appointive local office otherwise may participate in a matter in which he has a conflict of interest, but must disclose the nature of the conflict before making any attempt to influence the decision by oral or written communication, whether made by the officer or at his direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You should complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes.
- A copy of the form should be provided immediately to the other members of the agency.
- The form should be read publicly at the meeting prior to consideration of the matter in which you have a conflict of interest.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You should disclose orally the nature of your conflict in the measure before participating.
- You should complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Bernarda Heek, hereby disclose that on March 9, 1990:

(a) A measure came or will come before my agency which (check one)

☐ inured to my special private gain; or

☒ inured to the special gain of Wilmer Thomas, by whom I am retained.

(b) The measure before my agency and the nature of my interest in the measure is as follows:

W

3-9-90
Date Filed

Bernarda Heek
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317 (1985), A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$5,000.