

TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES FROM THE SPECIAL TOWN COUNCIL MEETING REGARDING ZONING AND OTHER ISSUES HELD ON FEBRUARY 19, 2002

I. CALL TO ORDER AND ROLL CALL

President William Brooks called the meeting to order at 9:30 a.m. On roll call, the following Elected Officials were found to be in attendance: Mayor Lesly Smith; President William Brooks; President Pro-Tem Norman Goldblum; Councilman Jack McDonald; Councilman Sam McLendon; and Councilman Allen Wyett.

Also attending for all or part of the meeting were: Town Manager Peter Elwell; Town Attorney John Randolph; Director of Public Works Al Dusey; Town Engineer Jim Bowser; Director of Planning, Zoning and Building Robert Moore; Assistant Director of Planning, Zoning and Building Veronica Close; Zoning Administrator Paul Castro; Planning Administrator Tim Frank; and Town Clerk Mary Pollitt.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Town Clerk Pollitt. The pledge of allegiance was led by President Brooks.

III. PROOF OF PUBLICATION

Town Clerk Pollitt verified proof of publication was received.

IV. APPROVAL OF AGENDA

President Pro-Tem Goldblum made a motion to approve the agenda. The motion was seconded by Councilman McDonald and carried 5-0 on roll call.

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V. PROCEDURES FOR COMMENTS BY GENERAL PUBLIC

President Brooks said the general public may comment on any of the ordinances after the ordinances are read by the Town Attorney.

VI. PUBLIC HEARING: SECOND READING AND ADOPTION OF ORDINANCE NO. 1-02, ZONING AMENDMENTS, MODIFICATIONS AND ADDITIONS

Town Attorney Randolph read Ordinance Number 1-02 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 134, ZONING, OF THE CODE OF ORDINANCES AS FOLLOWS: SECTION 134-1473, HEIGHT, WIDTH AND LENGTH LIMIT FOR PROPERTY ADJACENT TO PROPERTIES IN DISTRICTS OTHER THAN R-B BY PROVIDING A SPECIAL EXCEPTION FOR INCREASING THE SIZE OF ALLOWABLE BEACH CABANAS IN THE BEACH AREA ZONING DISTRICT FOR LOTS TWICE THE MINIMUM ALLOWED FOR SAID DISTRICT; SECTION 134-945, SPECIAL EXCEPTION USES, TO ALLOW EXISTING HOTELS IN THE R-C ZONING DISTRICT TO BE PERMITTED BY SPECIAL EXCEPTION APPROVAL; SECTION 134-1609, MULTILEVEL AND SPLIT LEVEL STRUCTURES TO CLARIFY THE NUMBER OF STORIES ALLOWED; SECTIONS 134-2, DEFINITIONS AND RULES OF CONSTRUCTION, BY CLARIFYING THE DEFINITIONS OF BASEMENT AND STORY, AND SECTION 134-1608, BASEMENTS, ALLOWING MORE FLEXIBILITY IN THE USE OF A BASEMENT; SECTION 134-2, DEFINITIONS AND RULES OF CONSTRUCTION, AMENDING THE DEFINITION OF A SUB-BASEMENT; SECTIONS 134-791, 134-841 AND 134-891, ACCESSORY STRUCTURES, PROVIDING CONDITIONS FOR STAFF APPROVAL OF SECOND KITCHENS; SECTIONS 134-843 AND 134-893, LOT, YARD AND AREA REQUIREMENTS-GENERALLY, BY DELETING (C) REQUIRING SPECIAL EXCEPTION APPROVAL FOR LARGER LOTS IN THE R-A AND R-B ZONING DISTRICTS; SECTION 134-843 AND 134-893, LOT, YARD AND AREA REQUIREMENTS-GENERALLY, BY ADDING A PROVISION FOR GREATER SETBACK ON LARGER LOTS IN THE R-A AND R-B DISTRICTS; SECTION 134-1107, PERMITTED USES, AND SECTION 134-1109, SPECIAL EXCEPTION USES, PROVIDING CONDITIONS FOR STAFF APPROVAL OF OFFICES ON THE FIRST FLOOR IN THE C-TS DISTRICT AND SECTION 134-1157, PERMITTED USES AND 134-1159,

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SPECIAL EXCEPTION USES, PROVIDING FOR CONDITIONS FOR STAFF APPROVAL OF OFFICES ON THE FIRST FLOOR IN THE C-WA DISTRICT; SECTION 134-2440, HEIGHT OF SIGNS, PROVIDING CONDITIONS FOR STAFF APPROVAL OF WALL SIGNS ABOVE THE MAXIMUM HEIGHT; SECTION 134-172, HEARING PROCEDURE, BY INCREASING THE NOTICE TIME AND DISTANCE REQUIREMENT OF PROPOSED SPECIAL EXCEPTIONS AND/OR VARIANCES; SECTION 134-328, REVIEW BY BUILDING OFFICIAL, NOTICE OF HEARING, BY INCREASING THE DISTANCE REQUIREMENT FOR NOTICE AND REQUIRING NOTICE FOR SITE PLAN REVIEW; SECTION 134-793, 134-843, 134-893, 134-948, 134-1004, AND 134-1059, LANDSCAPE OPEN SPACE, BY ELIMINATING THE LANDSCAPE OPEN SPACE CREDIT FOR GRASS-CRETE TYPE OF MATERIAL; SECTIONS 134-948, 134-1004 AND 134-1059, LOT, YARD AND AREA REQUIREMENTS-GENERALLY, BY DECREASING THE MAXIMUM LOT COVERAGE AND INCREASING THE MINIMUM LANDSCAPE OPEN SPACE FOR SINGLE-FAMILY AND TWO-FAMILY RESIDENTIAL DEVELOPMENT IN CERTAIN DISTRICTS; SECTIONS 134-943, 134-998 AND 134-1053, ACCESSORY USES, TO ALLOW THE TOWN MANAGER TO ISSUE A PERMIT FOR CHARITABLE SOLICITATIONS; SECTION 134-1728, AIR CONDITIONING AND POOL EQUIPMENT, BY FURTHER CLARIFYING AND REGULATING THE PLACEMENT OF AIR CONDITIONING UNITS AND POOL HEATING EQUIPMENT ON A PROPERTY, BY AMENDING SECTION 134-1729, GENERATORS AND POOL EQUIPMENT, BY RESTRICTING THE PLACEMENT OF GENERATORS AND REGULATING THE PLACEMENT OF SWIMMING POOL EQUIPMENT; SECTION 134-1670, RETAINING WALLS, TO CLARIFY THE MEASUREMENT OF RETAINING WALLS AND SAID WALLS IN COMBINATION WITH FENCES AND WALLS; SECTION 134-1671, RESTRICTIONS, BY PROVIDING CONDITIONS TO ALLOW FENCES, WALLS AND LANDSCAPE MATERIAL ON THE BACK 2.5 FEET OF A PROPERTY BY THE TOWN ENGINEER; PROVIDING FOR A PENALTY FOR A VIOLATION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREOF; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Town Manager Elwell said the approved agenda includes three items that were not on the published tentative agenda previously. He said there would be two resolutions regarding legislative matters and further consideration of the Peruvian Avenue park.

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Zoning Administrator Castro requested that the item in Ordinance 1-02 regarding Air Conditioning Equipment, Generators, Pool Equipment, and AC Units in the Setbacks be pulled from the agenda. He said that staff, after re-considering the language, thought that the language could be reviewed further to insure that no confusion exists nor onerous provisions placed on property owners.

President Brooks clarified that was Section 134-1728 on page 8 of Ordinance 1-02.

Councilman McLendon made a motion to remove Section 134-1728 from Ordinance 1-02 to be considered on second reading. The motion was seconded by Councilman Wyett and carried 5-0 on roll call.

Councilman Wyett made a motion that Section 134-945 regarding hotels be deleted from Ordinance 1-02. He said this was not in the best interest of the Town of Palm Beach or in the interest of the Town Council. He continued that by using a special exception, Donald Trump established his club and by allowing a very good, capable attorney to speak to the issue of a special exception, arguing that the thirteen points for approval have been met, the Town Council would approve a special exception. The Town Council does not have to approve special exceptions; however, a disapproval can go to the courts where a judge can determine if an approval should have been granted.

Mr. Wyett said the Plaza Hotel could apply for a variance, and the Town Council would probably grant one if one was applied for. Mr. Wyett said there was no need to change the ordinance.

Responding to a question from Mr. Brooks, Mr. Randolph replied the Town Council decided at a previous meeting to re-hear this issue at this meeting.

Mr. Moore added that the Town Council had directed Mr. Moore to notify the applicants who had brought this issue forward regarding the hotels.

Attorney Ron Kolins, representing Ajit Asrani from the Plaza Inn, addressed the Town Council and asked to be heard before the vote on the motion was called.

Mr. Goldblum said he would like to hear the comments from the public before seconding the motion.

Mr. Kolins said this change has been supported all the way along the process but not without comment from various people on the Zoning Commission and Mr. Wyett who have suggested that a special exception is inherently easier to obtain or easier to challenge judicially and hence the hotels who wish to expand should be put to the

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more difficult test of a variance and a test which is also more difficult to challenge judicially. He said the issue is not whether it is easier, whether the standards for a special exception are more generic and thus more susceptible to challenge than the standards for a variance, and he would concede that point. He said if that is the goal of the Town Council, then the zoning change should not be approved, but that misses the point of the zoning change.

Mr. Kolins explained that there were four hotels: the Brazilian Court, the Colony, the Chesterfield, and the Plaza Inn presently in the R-C zoning district. He said these hotels serve a unique and important purpose in the Town—important to the economy and serves as a convenience to the residents and business people. Presently, those hotels are prohibited uses in the Town, and by changing the zoning ordinance, the characterization would be changed from prohibited to permitted under the special exception guidelines.

Mr. Kolins said the question is not whether the Plaza Inn is going to come before the Town Council for variances, but the question is whether there is a reason to consider such hotels 'prohibited' so that new ones cannot open up or if one of the existing ones is destroyed, it cannot be re-built without a variance approval from the Town Council. Mr. Kolins said the idea of expecting new hotels to be built in the R-C zoning district is virtually moot. During the 1980's and into the 1990's, hotels were permitted in the R-C district and none were built. He added that hotels are not being built in this country today because of the lack of available financing due to the impact on tourism. He said the Town Council vote at this meeting carries the message that the hotels are or are not an integral part of the Town.

Mr. Wyett said the community can trust the Council to protect the four hotels in the R-C area; the Town needs and wants affordable hotels as well as expensive hotels, but this request opens Pandora's box. He continued that buildings exist in the Town that could be turned into hotels, and the only reason hotels are not being built presently is the problem with short term financing.

Mr. Wyett said by making these hotels special exceptions, more hotels could be built, and Council would have very little control, because a special exception is very subjective, and a Council refusal would be much easier to go to court with than the present system. He added this could be a very expensive legal procedure for the Town and the taxpayers.

Mr. Wyett said this change would set a bad precedent, and he could not give to one hotel what he would not give to another hotel. Each hotel application should be examined on its merits with consideration of the benefits to the Town and the businesses that each serves. He urged the Council to reject the zoning change and

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rely upon the time tested variance approach which can satisfy all the needs of the applicant for this project.

Councilman Goldblum said he was afraid of what customary, accessory use could expand to and expressed concern as to what that term encompasses.

Councilman McDonald questioned if the motion had been seconded.

Councilman Goldblum seconded the motion made by Councilman Wyett to delete Section 134-945 regarding hotels from Ordinance 1-02.

President Brooks commented that Attorney Kolins concentrated on the present tense and that this was not a prohibited use as it stands and this change is a way of giving legitimacy to the four hotels located in the R-C district. He said, since the four hotels are grandfathered into existence, the Town is not going to condemn them.

Attorney Randolph, responding to Mayor Smith's request to hear his opinion on customary, accessory, commercial uses, stated:

"Those uses would be anything which you would deem accessory to a hotel use, i.e. parking, parking lots, swimming pools, restaurants, spa—anything that is typically customary to a hotel as a commercial use. That would be included in that."

Mayor Smith said this issue is not a new subject, and this issue comes up every four or five years before every Council, and previous Councils were concerned enough about intrusions in the residential area. She said she was not speaking about the Plaza Hotel, because they border on the commercial area, and more or less stand alone, but her concerns are with the Chesterfield and the Brazilian Court which are within a half a block of each other on Australian. If additional advertising and everything that goes with it is allowed, the Town might as well donate the entire 300 block of Australian to those two hotels where the residents are currently subjected to valet parkers, an overabundance of cars, and a service entrance for the Chesterfield.

Mayer Smith continued that the current hotels would be seeking additional residential properties for parking lots, advertising restaurants, bars and hairdressers. She said this was absolutely a mind-boggling concept of what this change could bring into that tiny neighborhood. She reiterated this had been considered by previous Councils, and the Plaza Hotel can request changes before the Town Council just as the Heart of Palm Beach Hotel has recently requested changes that would let it expand, but she is 100% opposed to this requested change.

Attorney Kolins responded that although the four mentioned hotels are grandfathered

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as hotels, if the hotels were damaged by hurricanes or needed renovations that exceeded 50% of the value, the hotels could be put out of existence if the Town Council did not approve renovations. He said one of the issues is the hotels want the right to stay in the Town should major devastating events occur.

Mr. Kolins said that within the confines of the zoning requirements, if the hotels had room on properties to expand such as swimming pools, etc., they should be able to do so without coming to the Town Council. He said if the hotels were a permitted use, they would be entitled to the customary hotel facilities—a banquet hall, additional rooms, swimming pool or other customary hotel uses, and the variance process would still be in place as protection for the Town.

Mr. Kolins stated that the request before the Town Council merely legitimizes the request for a hotel on any of the discussed properties, but it has nothing to do with expansion. If one of the four hotels wished to expand, permitted use or not, it can expand so long as it does not require a variance or as long as the expansion does not take it beyond the physical limitations of the Town's Code. If the expansion does go beyond the physical limitations of the Town's Code, then variances are required whether or not it is a Special Exception permitted use or it is a prohibited use.

Attorney Randolph said he may have a disagreement with Mr. Kolins' remarks, and the hotels, as they currently exist, are grandfathered, and as a result they would be precluded from expanding into that residential neighborhood. He said it was his understanding of the change, that by making them a permitted use by virtue of Special Exception that they would have the ability to expand by purchasing adjacent residential properties and by virtue of obtaining a Special Exception, provide a Unity of Title, and expand into that residential area with a parking lot or something else that is a customary accessory use to the hotel. He said the staff understood that change as he understood it.

President Brooks requested the question be called.

On roll call, the motion to remove Section 134-945 regarding hotels from Ordinance 1-02, carried 3-2 with Councilman McLendon and Councilman McDonald casting negative votes.

Attorney Kolins, referring to the amendments of Sections 134-948, 134-1059, and a third section regarding the lot coverage allowed for single family homes and duplexes in the R-C zoning district, Section 15 in Ordinance No. 01-02, addressed the Mayor and Town Council. He said this change would reduce the lot coverage in the R-C zoning district from 35% to 30% and it would increase the landscape requirement from 30% to 35% or it would take away 5% from lot coverage and give

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it to landscaping. Mr. Kolins said he was appearing on behalf of four developers/builders in the Town of Palm Beach, Ed Curry, Zack Ciomek, Bill Elias, and Paul Whitman.

Mr. Kolins said, in his opinion, the critical statement of purpose for this proposed change is: the proposed changes would accomplish two goals—over time it would create more landscape area for this type of development in the midtown area and would also allow more area for the percolation of storm water run off, drainage. Mr. Kolins continued that while drainage is clearly a major issue in the Town, although the R-C district is not the area most affected by the drainage problems, the Town Council is trying to find ways to deal with the drainage problem. He said the Town is looking at the issue from a global viewpoint, but not that many new homes are built in the R-C district where the requirement is a lot size of 13,333 square feet for duplexes, and the amount of pervious area this change would add would be so slight as to have at most an extraordinarily negligible impact on the Town's drainage situation. He continued that the price to be paid for that change is too high, because the homes that would be built in the center city area would be less imaginative than they are presently because the houses would be on such a small portion of the lot. This restriction would hamstring the architects and the builders who would be trying to build something that is attractive and functional. He said he did not think that was the kind of housing the Town would want, and the buyers who have achieved some form of financial success demand a certain lifestyle and a certain kind of house. The more restrictions placed on the architects and builders do not encourage the affluent buyers the Town needs. Mr. Kolins suggested the benefits to be gained by the changes would be negligible; the change is unnecessary; accomplishes would be little or nothing.

Mr. Moore responded this particular study item was brought forward by the Mayor and Town Council. He said the feeling was that the lots were being over-built in terms of lot coverage, and these changes, as discussed by the Zoning Commission, reflect the standards of the R-B zoning district. Mr. Moore said he was not sure the Town had a problem with the building of single-family homes, but the changes would affect the duplexes more than the single-family homes.

Mayor Smith questioned a remark made by Mr. Kolins stating the Town was considering having all of the drainage retained on the site.

Mr. Kolins replied that "all" may have been incorrect, but one of the items being considered is to have a lot retain all of the water it did before any changes were made.

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Councilman Wyett said that Mr. Kolins' appeal stated drainage was the only issue; however, another issue is the midtown area of Palm Beach is beginning to look like a city—not Palm Beach. He said the issues of reducing the size of the houses and increasing the landscaping will retain a suburban look. He suggested there was no need to have the over-crowded look that has evolved in the central part of Palm Beach.

Attorney Randolph said the appropriate thing to do at this point would be to have a motion if the Town Council wanted to make a change. If no change is to be considered, no motion is necessary.

Councilman Goldblum made a motion to accept Section 16 change.

Councilman McDonald asked for a clarification of the motion.

Councilman Goldblum replied "that we accept the changes."

Councilman McDonald asked if the motion was to withdraw R-C?

Councilman Goldblum responded, no, that was not the intention.

Mayor Smith said no motion was needed.

Councilman Goldblum withdrew his motion.

Attorney Kolins said it was clear his proposal was not going anywhere, but if the porches and trellises were not included in lot coverage, that would be very helpful to the builders.

Councilman McDonald replied that made sense to him, and he was receptive to not including trellises in lot coverage.

Mr. Moore added that, currently, a 3% bonus is in place for those particular items but not trellises.

Mr. Randolph said that porches could not be done at this meeting as they would have to be a study item.

Mayor Smith questioned if a definition had been developed for a trellis? She suggested the definitions for pergolas, trellises, and arbors should be studied.

Mr. Wyett said the Zoning Commission could study those items and make adjustments.

Mr. Kolins said the constant changes to the Zoning Code over the years have made it harder

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for developers and builders and suggested the formation of an ad hoc committee to include three or four builders, three or four architects, and the appropriate members of the Town Staff to study an agreement to present their findings to the Zoning Commission or the Town Council.

Mr. Moore responded that the developers, architects, or builders can confer with the Planning, Zoning and Building Department presently, and for a minimum fee of \$40 can submit requests for changes to the Zoning ordinance. These requests are heard publically by the Zoning Commission and through two readings of the ordinance by the Town Council.

President Brooks replied this issue is an administrative detail not an action for the Town Council at this time. He recommended the proposal go to the PZ&B department and if that department sees fit to send the issue to the Town Council, then it will be heard at that time.

Mr. Kolins said he would work with Mr. Moore and Mr. Elwell.

Tom Scott, Attorney for the neighbors adjacent to the Clarke house referred to in Section 1, said the request is owner-driven, and the neighbors are concerned of the effects of that change.

Mr. Scott said he has suspended the neighbors' objections after discussing the issue with Attorney Doyle Rogers based on: the Clarke's have agreed to comply with the beach area restrictions and to keep the neighbors informed as the design goes forward.

Mr. Scott submitted the following for the record:

1. A beach house may contain a bathroom but not a kitchen or any sleeping rooms, and may not be used as a dwelling unit. §134-2(b) *Definitions*. No kitchen or sleeping rooms shall be constructed *or used* in a beach house. §134-1758.
2. A beach house may consist of one story only, may not exceed 16 feet to the highest point of the roof, may have dimensions no greater than 20 feet by 25 feet [Ordinance 1-02 provides that structures of up to 2,000 square feet with a maximum A1A frontage of 45 feet may be approved as a special exception. §124-1474(b)], ocean vistas must be preserved along 50% of the lot width [Ordinance 1-02 requires that the grant of any special exception expanding the beach house size shall also require an ocean vista of 75% of the lot width §134-1473(a)(2)], and no parking will be allowed in the Beach Area district. §134-1473(a).
3. Not more than one beach house structure shall be erected on property under single ownership. §134-1474(a).

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4. No beach house or structure shall ever be used for any purpose other than private bathing purposes incidental to the ownership thereof. §134-1474(b).

Mr. Scott requested Section 1 be clarified where the expansion of a beach house is allowed to 2,000 square feet from the existing requirement of 500 square feet. He said he believed the intent of the section was to expand the vista and setback requirements; however, the wording is "the maximum size of a beach house may be increased to 2,000 square feet provided; however, that.." and it lists the expansion requirements. Mr. Scott requested clarification or a text change to show that an increase of over 500 square feet would trigger the requirements.

Zoning Administrator Castro replied he did not think it was necessary to modify the language. The Code states that the 50% vista has to be maintained, and the Special Exception allows the building size to be increased, the width as well as the setbacks and the issues under Subsection (a) 1 through 4, but the vista requirements as well as the beach vegetation requirements of the beach area district have to be met, unless a variance is approved from those provisions.

Mr. Scott said his question was: "Is it the intent of the Council to increase the vista requirement if someone applies for and achieves a 600 square foot beach house?"

Mr. Moore responded that item number 2 is the criteria to go to the 2,000 square feet.

Mr. Castro added that would increase from 50% to 75%.

Mr. Scott replied the wording does not say that but says if you go to 2,000 square feet, these things come into play.

Mr. Randolph said the point was are the four criteria going to be the four criteria that apply to a 600 square foot or a 700 square foot beach house.

Mr. Castro concurred that was correct; that anything over the minimum requirement would require a special exception with the maximum ceiling being 2,000 square feet, but anything above the 500 square feet would be required to meet any of the criteria as set forth in the ordinance along with the requirements for granting a special exception in Section 134-229.

Mayor Smith suggested the wording be amended to read "increased up to 2,000 square feet".

Mr. Castro said he would make that change.

Mr. Wyett asked if another reading would be necessary if that change were made?

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Mr. Randolph responded a third reading is necessary because of the changes made at this meeting; although, that in and of itself would not require a third reading.

President Pro-Tem Goldblum made a motion to accept the change in Section 1 of Ordinance No. 1-02, Section 134-1473(a)..increased up to a maximum 2,000 square feet. The motion was seconded by Councilman McLendon and carried 5-0 on roll call.

Mr. Randolph advised a motion should be made to approve the second reading of Ordinance No. 1-02 with a third reading necessary.

Councilman Wyett made a motion to approve the second reading of Ordinance No. 1-02 as amended with the third reading at the March 12, 2002, Town Council meeting.. President Pro-Tem Goldblum seconded the motion. The motion carried 5-0 on roll call.

VII. PUBLIC HEARING: SECOND READING AND ADOPTION OF ORDINANCE NO. 2-02, RE-ZONING LOT 33, BLOCK F, ROYAL PARK ADDITION

Town Attorney Randolph read Ordinance No. 2-02 by title:

AN ORDINANCE BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, FLORIDA, APPROVING AN APPLICATION FOR A ZONING CHANGE FOR .5+/- ACRE PIECE OF REAL PROPERTY LOCATED ON THE SOUTH SIDE OF ROYAL PALM WAY, EAST OF SOUTH COUNTY ROAD FROM A DESIGNATION OF C-TS, COMMERCIAL TOWN SERVING, TO C-B, COMMERCIAL ZONING DESIGNATION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

No one from the general public addressed the Ordinance change.

Attorney James Brindell, representing the Heart of Palm Beach Hotel, explained the problem is the hotel exists in two zoning districts, and this change will place the entire structure in the C-B zoning district.

Mr. Castro commented that the staff recommends approval of the second reading and this change will unify the building in one zoning district.

President Pro-Tem Goldblum made a motion to approve the second reading of Ordinance No. 2-02. The motion was seconded by Councilman McLendon and carried

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5-0 on roll call.

VIII. SECOND READING AND ADOPTION OF ORDINANCE NO. 4-02, MODIFYING CHAPTER 2, ADMINISTRATION

Town Attorney Randolph read Ordinance No. 4-02 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE III, OFFICERS AND EMPLOYEES, AT SECTION 2-136, OFFICERS SPECIFIED; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

No comments were made by the general public.

Town Manager Elwell explained that this item and some of the changes that are in Ordinance No. 5-02 address the distinction between the Building Official as a statutorily created position with more technical responsibilities and the Director of Planning, Zoning and Building as the Department Head. He added that the language, traditionally, has been integrated, and these changes separate those two positions.

Councilman Wyett made a motion to approve the second reading of Ordinance No. 4-02. President Pro-Tem Goldblum seconded the motion. The motion carried 5-0 on roll call.

IX. PUBLIC HEARING: SECOND READING AND ADOPTION OF ORDINANCE NO. 5-02, MODIFYING CHAPTER 18, BUILDINGS AND BUILDING REGULATIONS

Town Attorney Randolph read Ordinance No. 5-02 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 18, BUILDINGS AND BUILDING REGULATIONS, OF THE TOWN CODE OF ORDINANCES AT ARTICLE II, ADMINISTRATION; RESCINDING ARTICLE IV AND ADOPTING A NEW ARTICLE IV ENTITLED FLORIDA BUILDING CODE 2001, INCLUDING THE FLORIDA BUILDING CODE 2001, THE NATIONAL ELECTRIC CODE

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1999 EDITION, THE COASTAL CONSTRUCTION CODE, THE PALM BEACH COUNTYWIDE UNIFORM AMENDMENTS TO THE FLORIDA BUILDING CODE AND THE NATIONAL ELECTRIC CODE; AMENDING ARTICLE V, COASTAL CONSTRUCTION CODE, AT SECTION 18-281, STRUCTURAL REQUIREMENTS FOR MAJOR STRUCTURES; DELETING ARTICLE VI, ELECTRICAL CODE; DELETING ARTICLE VII., PLUMBING CODE; DELETING ARTICLE VIII, GAS CODE; DELETING ARTICLE IX, MECHANICAL CODE; DELETING ARTICLE X, ENERGY EFFICIENCY CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE

Town Manager Elwell said that the changes made to Ordinance No. 4-02 were housekeeping changes; however, the changes made in Ordinance 5-02 differentiate between those two types of responsibilities and are more substantive as to the adoption and modification of the various codes administered by the department.

No members of the public commented on the ordinance.

Councilman McLendon made a motion to approve the second reading of Ordinance Number 5-02. President Pro-Tem Goldblum seconded the motion, and the motion carried 5-0 on roll call.

X. SECOND READING AND ADOPTION OF ORDINANCE NO. 6-02, MODIFYING CHAPTER 46, FIRE PREVENTION AND PROTECTION

Town Attorney Randolph read Ordinance No. 6-02 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 46 FIRE PREVENTION AND PROTECTION, AT ARTICLE III FIRE PREVENTION CODE, TO INCLUDE NEW SECTIONS 46-80 AND 46-81; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

There were no comments from the general public.

A motion was made by Councilman McLendon to approve the second reading of

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Ordinance No. 6-02. The motion was seconded by President Pro-Tem Goldblum and carried 5-0 on roll call.

- XI. Resolution No. 15-02** - A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Urging the Florida Legislature to Approve the Creation of the Citizens Property Insurance Corporation [Peter B. Elwell, Town Manager]

Town Attorney Randolph read Resolution No. 15-02 by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
PALM BEACH, PALM BEACH COUNTY, FLORIDA, URGING
THE FLORIDA LEGISLATURE TO APPROVE THE CREATION
OF THE CITIZENS PROPERTY INSURANCE CORPORATION

Mr. Elwell explained the backgrounds for Resolutions No. 15-02 and No. 16-02 resulted from a letter from State Representative Jeff Atwater to Palm Beach County municipalities requesting support for two legislative initiatives that have direct impacts on the Town of Palm Beach. He said Resolution No. 15-02 related to the insurance pools regarding wind storm coverage, and Resolution No. 16-02 related to beach nourishment projects.

Councilman McLendon moved approval of Resolution No. 15-02. The motion was seconded by President Pro-Tem Goldblum and carried 4-0 on roll call as Councilman Wyett was temporarily absent from the room.

- XII. Resolution No. 16-02** - A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Requesting the Florida Legislature to Take Action to Facilitate Permitting and Continue Funding for Beach Nourishment Projects. [Peter B. Elwell, Town Manager]

Town Attorney Randolph read Resolution No. 16-02 by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
PALM BEACH, PALM BEACH COUNTY, FLORIDA,
REQUESTING THE FLORIDA LEGISLATURE TO TAKE
ACTION TO FACILITATE PERMITTING AND CONTINUE
FUNDING FOR BEACH NOURISHMENT PROJECTS.

Councilman McLendon made a motion to approve Resolution No. 16-02. The motion

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was seconded by President Pro-Tem Goldblum.

Mayor Smith asked what Resolution No. 16-02 would accomplish?

Mr. Elwell responded the resolution will be supportive of efforts that Representative Atwater and others are making to ensure the dedicating funding source adopted a few years back by the Legislature is not eroded during the current economic situation, but that it remains available for current and future beach restoration projects. At the same time, he noted efforts are underway to streamline the permitting processes in an attempt to proceed with projects such as the Town's more quickly than the current regulatory environment allows.

Mayor Smith suggested a letter accompany the resolution to the various legislators addressing Palm Beach's projects.

Mr. Elwell replied the resolution will be sent to all Palm Beach County legislators, and Mr. Atwater will hand carry copies to the appropriate persons in Tallahassee.

President Pro-Tem Goldblum added that perhaps Town residents could also write letters to Tallahassee in support of this resolution.

Mr. Elwell said the media present at this meeting could provide support and a news release could be sent.

On roll call, the motion to approve Resolution No. 16-02 was approved 5-0.

XIII. Continued Consideration of Revised Design for Peruvian Avenue Park [Albert P. Dusey, Director of Public Works]

Public Works Director Dusey reported that Architect Richard Brooks met with the Garden Club and other Town groups including the Civic Association, and the purpose of those meetings was to receive input to further define the plans for presentation at this meeting.

Mr. Brooks provided a hand out to the Mayor and Town Council showing park features that included: benches, trash bins, pavement, fountain design, trees, and the ability to add trellis structures in the future. He noted the plan regarding the trees is conceptual, and a final plan will be developed upon approval of the conceptual plan.

Councilman Wyett commented that at the meeting of the Civic Association, the teak benches were not the choice, but an alternate plan for concrete benches was suggested with no tables for a major eating area that would create a build-up of trash in the park. He added the group wanted to see a slightly larger fountain than shown in the plan.

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Mayor Smith commented on the time restrictions Mr. Brooks faced regarding presenting a plan at this meeting. She requested Mr. Brooks submit a redrawn plan with the spatial requirements for adding pergolas later at the March 12th Town Council meeting.

Mr. Elwell requested a clarification by the Town Council regarding the planning for future pergolas—if they should be part of the general scheme presented at the February 12th meeting or the original plan presented several months ago that included an additional segment of walkway leading back to the northwest corner of the park.

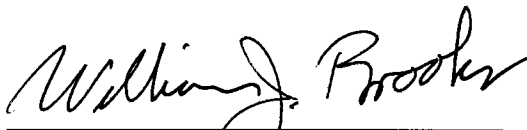
After discussion regarding the spatial requirements for the plan to be presented at the March 12th Town Council meeting, the Town Council agreed the plan should include: making room for the future pergolas (as shown in the more recent plan); removing tables; retaining teak benches; and retaining the design of the fountain.

XIV. ANY OTHER MATTERS

There were no other matters.

XV. ADJOURNMENT

The meeting was adjourned at 10:55 a.m.



William J. Brooks, President



Mary A. Pollitt, Town Clerk