TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL MEETING HELD ON FEBRUARY 15, 2005

I. CALL TO ORDER AND ROLL CALL

The regularly scheduled meeting of the Town Council was called to order by President Allen S. Wyett at 9:30 a.m. in the Town Council chambers. On roll call, the following Elected Officials were found to be present:

Mayor Lesly Smith
President Allen Wyett
President Pro-Tem Samuel McLendon *(arrived immediately following roll call)*
Councilman William Brooks
Councilman Norman Goldblum
Councilman Jack McDonald

Others in attendance for all or a portion of the meeting were:

Town Manager Peter Elwell
Assistant Town Manager Thomas Bradford
Town Attorney John Randolph
Russ Bitzer - Recreation Director
Paul Brazil - Public Works Director
Paul Castro - Zoning Administrator
Andrew Cox - Assistant Fire-Rescue Chief
William Crouse - Human Resources Director
George Frick - Patrol Motor Sergeant
Robert Moore - Director of Planning, Zoning & Building
Mike Mason - Law Enforcement Major
Edward Moran - Fire-Rescue chief
Michael Reiter - Police Chief

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Gary Sallenbach - Support Services Major
Jane Skittone - Finance Director
Cheryl Somers - Assistant Finance Director
Mary A. Pollitt - Town Clerk

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Town Clerk Pollitt gave the invocation, and President Wyett led the Pledge of Allegiance.

III. PRESENTATIONS

A. Recognition of Linda Greene, Office Assistant II, Detective Bureau, Upon Her Retirement from the Town of Palm Beach After 26 Years and 3 Months of Service.

Mayor Smith recognized Mrs. Greene for her years of service and presented a gift to her.

B. Recognition of Lesly S. Smith for Service on the Town Council From 1993 Through 2000 and for Service as Mayor From 2000 Through 2005.

President Wyett recognized Mayor Lesly Smith for her years of service on the Town Council and presented a plaque to her.

C. Recognition of Samuel C. McLendon for Service on the Town Council From 1995 Through 2005.

President Wyett presented a plaque to President Pro-Tem Sam McLendon recognizing his ten years of service to the Town.

IV. <u>RESOLUTION NO. 8-05</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Declaring the Results of the Election Held on the 8th Day of February, 2005, Between the Hours of 7:00 a.m. and 7:00 p.m. on Said Date for the Purpose of Electing the Mayor for a Two-year Term. [Mary A. Pollitt, Town Clerk]

Town Council President Allen Wyett read Resolution No. 8-05 by title, as printed above.

Councilman Brooks moved approval of Resolution No. 8-05. The motion was seconded

by Councilman Norman Goldblum, and carried 4/0.

V. SWEARING IN OF NEWLY ELECTED OFFICIALS- The Honorable Chief Judge Edward H. Fine

President Wyett recognized The Honorable Chief Judge Edward H. Fine.

Chief Judge Edward H. Fine administered the oaths of office to the following newly elected officials:

Mayor Jack McDonald
Councilman Denis P. Coleman
Councilman Richard M. Kleid
Councilman Allen S. Wyett

VI. SWEARING IN OF FIRE-RESCUE CHIEF EDWARD J. MORAN- The Honorable Chief Judge Edward H. Fine

Chief Judge Edward H. Fine administered the employee oath to Fire-Rescue Chief Edward J. Moran.

VII. ORGANIZATIONAL ITEMS

A. Election of Town Council President- Pursuant to Section 3.01 of the Town Charter.

After casting ballots, the Town Council elected William J. Brooks as Town Council President.

B. Election of the Town Council President Pro Tem- Pursuant to Section 3.01 of the Town Charter.

After casting ballots, the Town Council elected Norman P. Goldblum as Town Council President Pro-Tem.

VIII. COMMENTS OF MAYOR JACK MCDONALD

Good morning and welcome. It is a pleasure to see so many people in attendance at one of our meetings. Maybe we should do this every six months or so, just change around, just kidding!

I want to thank my predecessor, Mayor Smith, for her many contributions and many days spent on the dais. She was an inspiration to all of us, and I want to thank Sam, because he made me smile many times over the last ten years, and I am going to miss both of them. When you spend ten years with someone, you miss them when they leave you.

This is a new job for me, and I need your help to continue to make this Town the place that we want to live. It is important to get off to a quick start, and I am happy to announce that yesterday Peter and I met with Congressman Shaw. We discussed all of our on-going shore protection projects.

We also have meetings scheduled this month County Commission President Tony Massilotti and West Palm Beach Mayor Lois Frankel.

I welcome new members Denis Coleman and Richard Kleid. I look forward to working with them.

I want to publically recognize the following departments: Chief Reiter, if you would stand up; Chief Moran, your first duty since being sworn in and you are going to be praised; and Public Works Director Paul Brazil. I want to congratulate the three of you for the outstanding job that all of your departments did during, before, and after the Trump wedding. Truly, the eyes of the world were on you, and you performed brilliantly. I thank you and applaud you for that. That was an incident that is rare in this Town in terms of the media coverage and all of the people coming here. You handled it very, very well. Thank you.

Paul Brazil, if you will stand up again, I want to recognize you for a lightening response and your leadership during a dune washout, last week, at the Ambassador Hotel, and your quick action turned what could have been a very serious event into one that was manageable, and I publically thank you for that. Thank you, Paul.

As a candidate for election, you receive a tremendous amount of information from the voters, and the Council will consider two ordinances today for second reading that I do not think meet the expectations of the voters or the residents. Ordinance No. 23-04 deals with hours of construction and makes permanent construction hours between 8:00 a.m. and 5:00 p.m. which includes Saturdays.

The message I would like to pass to the Council is that during the season, residents want to enjoy being at home over the weekends without continuous noise. In legal terms, some quiet enjoyment, and I would encourage the Council to look at prohibiting all but urgent work on Saturdays, giving the entire weekend to our residents.

Ordinance No. 24-04 dealing with construction parking requires a more creative solution and reviewing the ordinance along with President Brooks' letter and Mr. Randolph's response, I urge the Council to take immediate action to improve this problem. In addition to President Brooks' recommendation, I ask the Council to also reconsider a proposal made at a Council meeting a few months ago to limit the number of permits issued on a street, perhaps adjusted for the street, that would force – it would not force owners to delay any projects, but it would require them to make other arrangements regarding parking on the street such as either parking entirely on the property, providing transport, or delaying the project until they could obtain the parking permits. This would give the property owner the choice of commencing the project when they want to, and at the same time, tightly controlling the parking on the street.

My condolences to President Brooks who has lost the pretty lady he sat next to for the last three years – you get me. Finally, we are all committed to working diligently and making progress with all the challenges we face. So, all aboard and full speed ahead.

IX. APPROVAL OF AGENDA

The following changes were made to the agenda:

ADD Item XII. B.8, Waiver of Facility Usage Fees at the Recreation Center by the Society of the Four Arts;

Motion made by Councilman Wyett, seconded by President Pro-Tem Goldblum to add Item XII. B. 8., to the agenda. On roll call the motion carried unanimously.

DEFER Item XXII. C.2.f.Variance No. 10-2005, the application of Vivian P. Dorris at 155 Brazilian Avenue, to the March 8, 2005, Town Council meeting.

Councilman Wyett moved approval of the deferral of Item XXII. C.2.f., Variance No. 10-2005, to the March 8, 2005, Town Council meeting. The motion was seconded by President Pro-Tem Goldblum, and carried unanimously on roll call.

Motion made by President Pro-Tem Goldblum, seconded by Councilman Kleid, to approve the Regular Agenda as amended.

X. COMMUNICATIONS FROM CITIZENS- 3 MINUTE LIMIT PLEASE

Dr. Sten Lilja, 1330 North Ocean Boulevard, spoke in opposition to the proposed pressurized off shore gas line through the Inlet; the disastrous FDOT design of the Bradley Place intersection at the Flagler Bridge; and the need for a 65 foot high bridge to replace the existing Flagler Bridge.

Rosemary Reder, 106 Hammon Avenue, congratulated Mayor McDonald and presented a plaque to him.

Connie Gasque, 167 Root Trail, spoke in opposition to the proposed pipeline through the Inlet.

Dr. Sanford Kuvin, 149 E. Inlet Drive, provided details regarding safety issues related to the proposed pipeline and suggested it should be relocated.

Heinz Gundlach, 150 Algoma Lane, addressed the issue of underground wiring and introduced an FPL District Supervisor to the Council.

Town Manager Elwell responded that this matter would be discussed in great detail at the next Town Council meeting scheduled for three weeks from today, on March 8, 2005. He explained that staff was making good progress in creating a proposed game plan for consideration at that meeting.

The owner of Coco's, Mr. Kaye, requested permission for outside dining for his restaurant.

Eric N. Gilbertson, 151 Chilian, congratulated the new Mayor and Council and said the Sunoco gas station should be retained.

Gail Ameche, Palm Beach Shores, urged Palm Beach to join Palm Beach Shores in the pipeline fight. She stated Palm Beach Shores has hired an attorney to oppose the project.

XI. CONSENT AGENDA

A. MINUTES: JANUARY 5, 2005
APPROVAL OF TOWN COUNCIL MEETING MINUTES FOR THE TOWN COUNCIL HEARING TO DISCUSS PLANNING AND ZONING COMMISSION RECOMMENDATIONS.

B. MINUTES: JANUARY 11, 2005
APPROVAL OF TOWN COUNCIL MEETING MINUTES FOR THE REGULAR TOWN COUNCIL MEETING.

C. MINUTES: JANUARY 18, 2005
APPROVAL OF TOWN COUNCIL MEETING MINUTES FOR THE SPECIAL TOWN COUNCIL MEETING TO CALL THE ELECTION.

D. MINUTES: JANUARY 20, 2005
APPROVAL OF TOWN COUNCIL MEETING MINUTES FOR THE SPECIAL TOWN COUNCIL MEETING REGARDING REQUEST FOR FIREWORKS BY DONALD TRUMP.

E. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL REVIEW COMMISSION AT ITS MEETING OF JANUARY 26, 2005.

F. RESOLUTIONS

1. RESOLUTION NO. 9-05 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the State of Florida Subgrant Agreement with the Town of Palm Beach Police Department for Interoperable Public Safety Communications Equipment and Authorizing the Mayor to Execute the Same on Behalf of the Town.
[Michael S. Reiter, Chief of Police]

2. RESOLUTION NO. 10-05 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Execution of an Agreement Between the City of West Palm Beach and the Town of Palm Beach for Payment of Certain Watermain Improvements Within the Work Area in Connection with the Old South Ocean Boulevard Roadway Restoration. [H. Paul Brazil, Director of Public Works]

3. RESOLUTION NO. 11-05 A Resolution of the Town of Palm Beach, Urging Members of the Florida Legislature to Support Growth Management Issues During the 2005 Legislative Session.
[Sarah E. Hannah, Assistant to the Town Manager]

4. RESOLUTION NO.12-05 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida Authorizing the Mayor to

Execute Disaster Relief Funding Agreements for Federal and State Assistance for Hurricane Charley.
[Jane Skittone, Director of Finance]

5. RESOLUTION NO. 13-05 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida Authorizing the Mayor to Execute Disaster Relief Funding Agreements for Federal and State Assistance for Hurricane Frances.
[Jane Skittone, Director of Finance]

6. RESOLUTION NO. 14-05 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida Authorizing the Mayor to Execute Disaster Relief Funding Agreements for Federal and State Assistance for Hurricane Jeanne.
[Jane Skittone, Director of Finance]

7. RESOLUTION NO. 15-05 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving Amendment No. 4 to a Previously Approved Grant Agreement, FDEP Contract No. 00PB1, Between the State of Florida Department of Environmental Protection and the Town of Palm Beach under the Florida Beach Erosion Control Program for the Project Known as the Palm Beach Island Beach Restoration Project, and Authorizing the Town Council President to Execute Same on Behalf of the Town.
[H. Paul Brazil, Director of Public Works]

8. RESOLUTION NO. 16-05 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Application for Funds from the Palm Beach County Emergency Medical Services Awards Program to Be Used for the Improvement and Expansion of EMS Services for the Town and Helping Meet State EMS Goals. Such Funds Shall Not Supplant Existing Ems Budget. [Edward J. Moran, Fire-Rescue Chief]

9. RESOLUTION NO. 17-05 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Urging Members of the Florida Legislature to Support Municipalities in Their Quest to Place Overhead Utility Lines Underground.
[Sarah E. Hannah, Assistant to the Town Manager]

G. OTHER

1. Approval of General Fund Contingency Allocation for Professional Services to Provide a Dock for Police and Fire-Rescue Boats. [Thomas G. Bradford, Assistant Town Manager]

2. Approval of General Fund Contingency Allocation for Purchase of Replacement Fire Hose. [Edward J. Moran, Fire-Rescue Chief]

3. Approval of Leisure Service Enterprise Fund (LSEF) Contingency Allocation for Evaluation of Town Dock Concrete Pilings. [H. Paul Brazil, Director of Public Works]

4. Authorization of Construction to Order Pumps for the D-8 Stormwater Pump Station at Country Club Road. [H. Paul Brazil, Director of Public Works]

5. Waiver of Facility Usage Fees for Use of the South Fire-Rescue Station Meeting Room by the Citizens' Association of Palm Beach. [Peter B. Elwell, Town Manager]

6. Acceptance of 2005 FCC Rate Filings from Adelphia. [Thomas G. Bradford, Assistant Town Manager]

Motion made by President Pro-Tem Goldblum, seconded by Councilman Wyett, to approve the Consent Agenda. On roll call the motion carried unanimously.

XII. REGULAR AGENDA

A. Old Business

None

B. New Business

1. Review of Sunshine Law and Procedures for Town Council Communications. [John C. Randolph, Town Attorney and Peter B. Elwell, Town Manager]

Town Manager Elwell commented that often at a moment of transition there would be substantive time spent discussing the Sunshine Law and other procedural matters, however, in this particular instance, it had been possible to prepare the two new Council Members who had joined the Town Council, and it would thus not be necessary to spend additional time in this regard today. He noted for the record that any he would welcome any suggestions from any of the Council Members regarding methods and procedures that may improve the function of staff during the transition over the next few months.

Town Attorney Randolph invited each Council Member to contact him in regard to any questions in reference to the Sunshine Law, and briefly noted that following the Sunshine Law was extremely important, as difficult as it might seem. State law required that any and all business done related to the business of the public, must be done at public meetings, where minutes were taken, and where a transcript was made. He cautioned all to abide by the Sunshine Law, to not speak to each other about public business outside of a public meeting, and to follow that as diligently as possible. The same would apply to memoranda received and transmitted in regard to public business.

2. Request by the Recreation Advisory Commission to Include the Town's Parks Division Under the Auspices of the Recreation Advisory Commission. [Peter B. Elwell, Town Manager]

Town Manager Elwell stated that it was important for the Recreation Advisory Commission to be involved in the planning stage of any recreational facility, including those that were adding an amenity to an existing Town park facility, when those park facilities were upgraded to include an active recreational facility. Rather than structurally changing the reporting alignment, staff would ensure that it would go to the Advisory Commission when planning for a recreational facility early in the planning stages.

Recreation Advisory Commission Chair Gail Coniglio addressed the Town Council, stating that in the pursuance of open green space, and the need for additional recreational facilities, the Town Council allow the Recreation Advisory Commission to advance new or better opportunities that would serve the residents.

There was no further action taken by the Town Council.

3. Review of Fireworks Ordinance (Sec. 46-79 of the Town Code). [Edward J. Moran, Fire-Rescue Chief]

Fire-Rescue Chief Moran requested that staff return next month, after doing a thorough review of the numerous items concerning the Fireworks Ordinance.

Councilman Coleman commented that the liability bond amounts may need to be increased; President Pro-Tem Goldblum commented that the tradition of not allowing fireworks on land should be continued.

After discussion, it was determined that once definite parameters were established, it would be appropriate for staff to approve any firework requests.

Mr. Ted Walker addressed the Town Council, stating that he was the Mayor of the Village of Biscayne Park in Dade County, and that he was also very active in the fireworks business. He suggested that he work with Fire-Rescue Chief Moran to help develop appropriate regulations.

4. Southern Boulevard Traffic Circle Reconfiguration.
[H. Paul Brazil, Director of Public Works]

Public Works Director Paul Brazil reported that staff had been working with the Florida Department of Transportation (FDOT) in order to consider a new configuration for the Southern Boulevard traffic circle at A-1-A. He referred to the sample plan, which had been provided as agenda back-up, indicating the proposed configuration that would be most appropriate. He noted that although FDOT was willing to fund and construct the new circle, funding was not available for landscaping or irrigation improvements. He requested that an expenditure of up to $5,000, from the Capital Improvement Contingency Plan, be approved in order to prepare a landscaping plan for presentation to the Landmarks Commission, and eventually to the Town Council for final approval. He noted that staff would work with the Garden Club in this regard, and provide copies of the plan to the Bath & Tennis Club, and Mar-A-Lago.

Ms. Nancy Murray, of the Garden Club, addressed the Town Council, stating that she had met with staff from the Public Works Department at the traffic circle in question, and that if there were any questions concerning the configuration, the Garden Club had earmarked funding to donate for landscaping on the Southern Boulevard Traffic Circle, and would be happy to make a donation towards a traffic consultant if there were any questions as to the proposed configuration.

Mayor McDonald commented that there was also a letter from Mr. Grace, raising the issue of perhaps a Town traffic study, and suggested that the Town Council should perhaps consider having such a study done. He noted that the proposal for the Southern Boulevard Traffic Circle would involve a tremendous change, and suggested that more detail be provided.

Mr. Brazil noted that when FDOT evaluated the circle, it was intended to provide a higher level of service, by creating a more traditional traffic circle. The current traffic circle was an anomaly, and was not typically done, nor was it a common design.

Councilman Kleid commented that he had always been concerned at the Southern Boulevard traffic circle, since the traffic slows considerably there, and he suggested that careful analysis be given to whatever was done. He endorsed the request to hire a traffic consultant to review the plans.

Councilman Wyett commented that hiring a consultant would also cause a delay, and that the current plan was about the best that could be done.

Councilman Coleman commented that he was in favor of hiring a consultant.

President Pro-Tem Goldblum commented that he had discussed a traffic circle at the Mar-a-Lago Pavilion and having cars come in off the road and down to that pavilion, in order to get the traffic off of Southern Boulevard.

Mr. Brazil responded that he would review what had occurred in that regard.

Ms. Wendy Victor, 208 Via Tortuga, commented that the Landmarks Commission had reviewed this issue several times, because the round-about was landmarked, and the discussion that the Southern Boulevard Bridge may go from two to four lanes. She also noted that there was a bike path of concern as well. She stated that she was hopeful that full discussion of all elements would take place before reconfiguration.

Town Manager Elwell suggested that a proposal be obtained by staff, of costs for an independent analysis of how the traffic flow could be improved at that intersection. Staff would present results of that either on March 8, 2005, or at the April 12, 2005 Town Council Meeting.

Mayor McDonald suggested that additional information be included as to how the relationship of the circle to automobile accidents.

Director of Planning, Zoning & Building Robert Moore commented that the Mar-a-Lago was currently in the approval process of the traffic circle on its property.

Police Chief Reiter commented that traffic accidents had been studied for the years 2000-2003, and there had been 20 accidents at the traffic circle on Southern Boulevard during that time period. That was significant for the Town, however, for FDOT it was not.

5. Storm Damage Repairs and Related Improvements at the North Fire-Rescue Station. [H. Paul Brazil, Director of Public Works]

The Town Council approved $350,000 from the Capital Improvement Fund to fund the storm damage repairs and related improvements at the North Fire-Rescue Station.

Public Works Director Paul Brazil reported that the North Fire-Rescue Station had sustained severe damage during the recent storms; roof repairs were anticipated to cost $119,250; interior restoration was anticipated at $118,931. He noted that some of the work would be eligible for Federal Emergency Management Agency (FEMA) reimbursement, however, staff was not optimistic about FEMA reimbursement for the entire cost of roof placement because of the age of the roof. There were also some work items within the building that would be much more economical to repair now, than in the future. Those items included build-out of six private dormitory rooms, which would cost $35,281; additionally phone and cable system improvements would cost $30,000; building security improvement would cost $10,000; miscellaneous work on the second and third floors to improve functionality would cost $14,487. He requested authorization of an expenditure of $350,000 from the Capital Improvement program funds that had been set aside for the Town Hall renovations, as that program was currently on hold.

Town Manager Elwell commented that by the nature of the Fire-Rescue operation being a 24-hour per day operation, it was now the opportune time from both a cost and functional perspective to do the work while the building was empty.

President Pro-Tem Goldblum moved acceptance of the recommendations of staff for expenditure of $350,000 from the Capital Improvement program fund, in order to bring the north fire station up to the standards of the other fire stations in Town.

In response to Councilman Wyett, Town Manager Elwell explained that there was not funding in place for this purpose, and the Capital Improvement fund contingency would be significantly depleted if funding was taken from that. Staff believed that, since the Town Hall work would not be undertaken this year, the funds would now be available to be redirected for this purpose. Some of it would be replenished from FEMA reimbursement, and the Town Hall issue would need to be addressed in toto in the future.

Councilman Brooks commented that there had been some confusion as the current placement of temporary trailers housing fire personnel, and noted that the property would remain as green space, and that the new fire station was not going to be built in that location.

The motion of President Pro-Tem Goldblum was seconded by Councilman Wyett. On roll call the motion carried unanimously.

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The luncheon recess was taken at 12:15 p.m.

The regular Town Council Meeting of February 15, 2005, was reconvened at 2:00 p.m.

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6. Parking Permits for Former Town Council Members Who Have 6 years or More of Service.
[Allen S. Wyett, Town Council Member]

Councilman Wyett commented that any Mayor leaving office received a parking permit in order to encourage future participation, and he considered that it was appropriate to recognize long serving members of the Town Council to also encourage them to continue their support of Town activities. He made a motion that the parking permits be extended to Town Council members who had served six or more years, beginning with the current year.

The motion died for lack of a second.

7. Planning and Zoning Commission Appointments.
[Robert L. Moore, Director of Planning, Zoning, and Building]

After casting ballots, the Town Council appointed the following members of the Planning and Zoning Commission:

Full Members:	Alternate Members:
Lowry M. Bell, Jr.	Alan S. Golboro
Elizabeth Murphy	Stanley G. Mortimer III
Susan Markin	

8. Waiver of Facility Usage Fees at the Recreation Center by the Society of the

Four Arts

Ms. Marion Bevin, and Ms. Deborah Ryan, of the Society of the Four Arts, addressed the Town Council, requesting the use of the Recreation Center for the Palm Beach Follies, which would be staged at the Society of the Four Arts on April 7, and 8, 2005. Other arrangements had been made for rehearsals, however, none were large enough.

Recreation Director Russ Bitzer reported that there had always been a very nice working relationship with the Society of the Four Arts. He noted that any time there was a change, it had historically required Town Council approval, and Recreation Center fees were subject to Town Council approval. He also noted that the Recreation Facilities were now included in the Enterprise Fund, with the goal of them paying for themselves. The fees had not been waived historically, because there were so many worthy agencies, however, the facility would be available with the exception of Monday nights. The room fees ranged from \$40-\$60 per hour. After hour supervision was \$20 per hour, and funding was not included in the operating budget for that expense. Based upon two hours per day for six weeks, three or four days per week costs would approximately \$3,000-\$4,000. The after hour supervision, which was not included as a budget item for the department, would be \$720, based on three days per week, and \$960 based on four days a week.

Town Manager Elwell noted that staff had learned of this request yesterday, and had not had the opportunity to do proper staff coordination. He explained that Town Engineer Bowser had advised that the Society of the Four Arts had offered the use of its facilities for Town Council Meetings during the renovations planned for the Town Hall Building. The staff recommendation was for approval of the request.

In response to the suggestion of the use of the Palm Beach Day School auditorium, by President Pro-Tem Goldblum, Ms. Bevin explained that there was no staffing available to open and close the building at this time, however, she planned on meeting with school representatives on Friday, February 18, 2005.

Councilman Kleid commented that he was in favor of granting the request.

Councilman Coleman commented that he was a director and would abstain.

Councilman Wyett moved approval of the request of the Society of the Four Arts to use the Recreation Center for Palm Beach Follie rehearsals. The motion was seconded by President Pro-Tem Goldblum, and carried 4/0 on roll call, with Councilman Wyett, President Pro-Tem Goldblum, Councilman Kleid, and President Brooks casting affirmative votes; Councilman Coleman abstaining

XIII. ORDINANCES

A. Second Reading

1. ORDINANCE NO. 23-04 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 42, Environment at Section 42-199, to Amend Hours of Construction Work; Providing for Severability; Repealing All Ordinances or Parts of Ordinances in Conflict Hereof; Providing for Codification; and Providing for an Effective Date.
[Robert L. Moore, Director of Planning, Zoning, and Building]

Town Attorney Randolph read Ordinance No. 23-04 by title, as printed above.

Mayor McDonald commented that this ordinance, by itself, was probably proper to pass, however, he raised the issue of the possibility of also prohibiting non-emergency essential work on Saturdays.

Director of Planning, Zoning & Building Robert Moore advised that the ordinance was intended to eliminate the competition of construction vehicles for parking spaces for office and governmental vehicles, allowing construction vehicles to enter the Town at 8:00 a.m., rather than waiting until 9:00 a.m. He recommended that the ordinance be passed today, since it was actually being permitted now, and it would create a traffic problem if stopped at this point.

President Pro-Tem Goldblum moved adoption of Ordinance No. 23-04. The motion was seconded by Councilman Coleman. On roll call the motion carried unanimously.

2. ORDINANCE NO. 24-04 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Chapter 118, Traffic and Vehicles, at Article III, Parking, Stopping and Standing, Section 118-89, Parking of Trucks, Commercial Vehicles Limited; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date. [H. Paul Brazil, Director of Public Works]

Town Attorney Randolph read Ordinance No. 24-04 by title, as printed above.

Town Manager Elwell summarized that this ordinance had first been heard at the October

Town Council Meeting, however, it had not been brought back at the November Town Council Meeting as a result of time factors. It was now being brought back for second reading at this time. He noted that discussions of last summer had contemplated that there would be a follow along resolution that would amend the Town's Right-of-Way Manual in a way that would buttress this ordinance with some stricter regulations regarding parking. In further examination, staff had concluded that attempting to regulate on-street parking, without an absolute prohibition, would be more likely to be successful for the Town. He suggested that additional direction was necessary.

Town Manager Elwell clarified that the ordinance would prohibit on-street parking of commercial vehicles in residential areas, with certain explicit exceptions, such as delivery vehicles, maintenance vehicles, etc. He explained that the question now was if the Town Right-of-Way Manual regulations should be made more stringent in relation to permits for on-street parking for construction projects.

Councilman Kleid commented that the proposed ordinance was clearly modified by the Right-of-Way Manual, and he suggested that discussion take place, at a future meeting, regarding modification of the Manual, and whether permits should be allowed for construction vehicles on the streets.

President Pro-Tem Goldblum commented that construction vehicle parking is not being enforced, and that there had to be some way to get enforcement control.

Director of Planning, Zoning & Building Robert Moore commented that currently every construction project is required to park construction vehicles on site. There was a problem when some of the sites could not hold all of the vehicles, which resulted in the Right-of Way permit for no more than four vehicles. The Public Works Department analyzed the sites on an individual basis to make a determination as to how many, if any, permits should be issued. He noted that an enforcement problem would need to be addressed by the Public Works Department, the Police Department, and the Building Department, to ensure that permits had been issued. He explained that adopting the ordinance now would enable staff to go forward, modify, and bring back discussion on how much restriction should be done on the streets.

Councilman Wyett commented that enforcement was difficult, as many of the streets were narrow, and others had no parking allowed.

Councilman Coleman commented that he was in favor of the proposed ordinance, and in looking to see what could be done to improve upon it.

In response to Councilman Coleman, Public Works Director Brazil advised that the Public Works Department did not receive that many phone calls about this issue, although responsibility for enforcement of this type of issue currently belonged to the Public Works Department.

Former Mayor Marix, 1570 North Ocean Blvd., addressed the Town Council, providing a history of the parking situation, stating that parking had been instituted on a public safety basis. She explained that the parking was often then taken by construction vehicles, and an ordinance had been then passed eliminating construction vehicle parking. She stated that it had worked well. She suggested that the police would have no trouble at all if the Town went back to no parking of construction vehicles on the streets. She stated that it was a very serious issue, and beseeched the Town Council to go back to having no construction vehicles parking on the streets; the person to enforce the no parking was the person who had the permit, and she suggested that the permit have language on it stating that any parking violation would result in suspension of the permit.

Mayor McDonald commented that there should be some way to identify a vehicle with the property, so that at least when an enforcement person comes out they will not have to spend so much time determining that.

Town Manager Elwell commented that the problem was that it must be ruled out that the vehicle did not have some other legitimate reason to be parking. The inspector did know who the permits were issued to; when seeing a vehicle that may not be there appropriately the inspector must confirm that it was indeed a violation, and not someone who was legitimately on the street performing a service. Thus, it did require the labor intensive checking to be sure that enforcement was being done properly.

Councilman Coleman suggested that when occupational licenses are obtained, both service and construction vehicles be provided with forms to put in their windshields, in order to help facilitate the labor intensive checking.

Mayor McDonald suggested that the Right-of-Way Manual could require any person providing services to anyone in Town to identify the address where they were working.

President Brooks summarized that there was a parking problem, an enforcement problem, and recommended that the staff be directed to consider the following:

- empowering more than one employee of the Public Works Department to be able to enforce the permit regulations;
- one construction per block, east/west, 750 linear feet running north and south from the petitioner's home
- simplify the procedure of enforcement

President Brooks suggested that Ordinance No. 24-04 be adopted, and leave the discussion open ended for staff to come back for further discussion.

Councilman Wyett moved adoption of Ordinance no. 24-04, requesting that Town staff follow up with further discussion on construction parking/enforcement. The motion was seconded by Councilman Coleman. On roll call the motion carried unanimously.

3. ORDINANCE 30-04 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 82 of the Code of Ordinances Relating to Benefit Group Police Officer in the Retirement System; Amending Section 82-115(c), effective October 1, 2004, to add a Provision for a 3.25% Multiplier of Credited Service Applicable to Average Final Compensation after of Police Officers; Employed on and After October 1, 2001, Providing for Payment, Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.
[Peter B. Elwell, Town Manager]

Town Attorney Randolph read Ordinance no. 30-04 by title, as printed above.

Town Manager Elwell advised that a letter had been received late yesterday afternoon from Attorney John McCracken to the Police Officer Retirement Board, and to the Firefighter Retirement board, identifying an issue that needed to be addressed. Attorney McCracken had agreed that it would be inappropriate to change the form of the ordinance as it was before the Town Council today, because there had not been the opportunity to discuss the issue with other people who were affected by this, and had knowledge of it, and could help determine whether it was the right thing to do. In order to keep moving forward with this matter, the substance of the ordinance was ready to move forward; the form may need to be changed next month. He urged that the ordinance be adopted today, and if there was a changed needed, two more readings would be done. Otherwise, only one more reading would be done. He explained that this ordinance took the action that raised the multiplier for the dropped employees to the same level as the active employees.

Councilman Wyett moved approval of Ordinance No. 30-03, on second reading, as presented. The motion was seconded by President Pro-Tem Goldblum. On roll call the motion carried unanimously.

(Ordinance no. 30-04 will be heard at the March 8, 2005, Town Council Meeting for a third and final reading, as changes were made to the ordinance).

XIV. TEMPORARY ADJOURNMENT OF THE TOWN COUNCIL

The regular Town Council Meeting was adjourned at 2:19 p.m.

XV. CONVENE AS LOCAL PLANNING AGENCY

A. Call to Order and Roll Call

President Brooks called the meeting of the Local Planning Agency to order at 2:20 p.m. On roll call the following elected officials were found to be present: Mayor Jack McDonald, Town Council President William Brooks, Town Council President Pro-Tem Norman Goldblum, Councilman Denis Coleman, Councilman Richard Kleid, Councilman Allen.

Town Manager Elwell explained that, under Florida State Statute, when amendments were made to zoning or to the Comprehensive Plan, it was required that the Local Planning Agency first review the changes and make a recommendation to the Town Council. In many jurisdictions, the Local Planning Agency was a body that was appointed by the Town Council, rather than actually being comprised of the Town Council. Here, in the Town of Palm Beach, the Town Council serves also as the Local Planning Agency, thus causing convening as the Local Planning Agency, where recommendations are made to the Town Council, and then reconvening as the Town Council, and actually take the actions on the same items.

B. ORDINANCE 1-05 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 134-1156, by Prohibiting Drive Through Facilities in the C-WA Zoning Districts; Section 134-1107, by Deleting Offices, Professional Service, Business Services and Securities and Financial Brokerage and Trust Companies on the First Floor in the C-TS Zoning District; Section 134-2176, by Deleting Offices and Professional and Business Services, Including Banks and Financial Institution on the First Floor in the C-WA Zoning District; Section 134-893 and 134-948, Lot, Yard and Area Requirement-Generally by Increasing the Landscape Open Space Requirements in the R-B Zoning District and Landscape Open Space for Single-family Development in the R-C Zoning District; Amend Section 134-2029, Permitted and Special Exception Uses by Allowing Antennas in the Pud-A District Provided Certain Conditions Are Met; Providing for Severability, Repealing All Ordinances or Parts of Ordinances in Conflict Hereof; Providing for Codification; Providing an Effective Date.
[Robert L. Moore, Director of Planning, Zoning, and Building]

Town Attorney Randolph read Ordinance No. 1-05, by title, as printed above.

Mr. Goldblum moved approval of Ordinance No. 1-05 on first reading. The motion was seconded by Mr. Kleid. On roll call the motion carried unanimously.

C. RESOLUTION NO. 4-05 A Resolution of the Town of Palm Beach, Palm Beach County, Florida, Amending Resolution No. 3-00, The Breakers PUD, by Modifying the PUD Master Plan to Redesign the Beach Club Cabanas and Related Facilities, East of South County Road.
[Robert L. Moore, Director of Planning, Zoning, and Building]

Town Attorney Randolph read Resolution No. 4-05 by title, as printed above.

Attorney James Brindell, on behalf of The Breakers, commented that he had reviewed the draft Resolution, and found it acceptable.

Mr. Wyett moved approval of Resolution No. 4-05. The motion was seconded by Mr. Coleman. On roll call the motion carried unanimously.

XVI. ADJOURN AS LOCAL PLANNING AGENCY

The Local Planning Agency meeting was adjourned at 2:24 p.m.

XVII. RECONVENE AS TOWN COUNCIL

President Brooks reconvened the regular Town Council Meeting of February 15, 2005, at 2:25 p.m.

XVIII. CALL TO ORDER AND ROLL CALL

President Brooks called the reconvened regular Town Council Meeting to order. On roll call the following elected officials were found to be present: Mayor Jack McDonald, President William Brooks, President Pro-Tem Norman Goldblum, Councilman Denis Coleman, Councilman Richard Kleid, and Councilman Allen Wyett.

XIX. RESOLUTIONS

A. RESOLUTION NO. 4-05 A Resolution of the Town of Palm Beach, Palm Beach County, Florida, Amending Resolution No. 3-00, The Breakers PUD, by Modifying the PUD Master Plan to Redesign the Beach Club Cabanas and Related Facilities, East of South County Road. [Robert L. Moore, Director of Planning, Zoning, and Building]

Town Attorney Randolph read Resolution No. 4-05 by title, as printed above.

Attorney James Brindell, on behalf of The Breakers, commented that this Resolution addressed the amendments and changes to the master plan; the master plan had also been updated in accordance with previous changes approved through site plan reviews. The site plan review for the cabana project would be heard later in the agenda.

Councilman Wyett moved approval of Resolution No. 4-05. The motion was seconded by President Pro-Tem Goldblum. On roll call the motion carried unanimously.

XX. ORDINANCES

A. First Reading

1. ORDINANCE 1-05 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 134-1156, by Prohibiting Drive Through Facilities in the C-WA Zoning Districts; Section 134-1107, by Deleting Offices, Professional Service, Business Services and Securities and Financial Brokerage and Trust Companies on the First Floor in the C-TS Zoning District; Section 134-2176, by Deleting Offices and Professional and Business Services, Including Banks and Financial Institution on the First Floor in the C-WA Zoning District; Section 134-893 and 134-948, Lot, Yard and Area Requirement-Generally by Increasing the Landscape Open Space Requirements in the R-B Zoning District and Landscape Open Space for Single-family Development in the R-C Zoning District; Amend Section 134-2029, Permitted and Special Exception Uses by Allowing Antennas in the Pud-A District Provided Certain Conditions Are Met; Providing for Severability, Repealing All Ordinances or Parts of Ordinances in Conflict Hereof; Providing for Codification; Providing an Effective Date.
[Robert L. Moore, Director of Planning, Zoning, and Building]

Town Attorney Randolph read Ordinance No. 1-05 by title, as printed above.

Councilman Wyett moved approval of Ordinance No. 1-05 on first reading. The motion was seconded by President Pro-Tem Goldblum. On roll call the motion carried unanimously.

XXI. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

Town Manager Elwell reported the Town is forming a partnership with the Port of Palm Beach as well as the Corps of Engineers and Palm Beach County with the Port and the Town working together on Inlet projects. He said the Port and the Town are working on expediting a permit with DEP, expected to be issued the first week of March, to allow the dredging of Lake Worth Inlet on an emergency basis with the sand being pumped onto the Town's beaches.

President Pro-Tem Goldblum recalled Mayor Smith had suggested the Port of Palm Beach, West Palm Beach, Riviera Beach, and Palm Beach share a fire boat to prevent a future disaster at one of the docks in the area. *Town Manager Elwell responded the issue will be discussed during the upcoming budget season including providing a space for such a vessel at the Town's docks.*

Councilman Coleman requested the Town's advertisements (legal ads) be printed in larger type. *Town Manager Elwell responded that was a funding item that could be addressed with the budget items.*

President Brooks reported that the late Roger Dean's daughter, Mrs. Miller, wishes to donate an item in his memory that would be located in the northern quarter of the green space on Tangier Avenue and suggested this item may be a fountain or a bench. He added full details would be available at the March 8th Town Council meeting.

XXII. DEVELOPMENT REVIEWS

Town Clerk Pollitt administered the oath to all those who would be providing testimony in regard to the Development Review items.

A. Appeals

None

B. Time Extensions

1. Site Plan Review 2-2004 with Variances (The Plaza Inn). [James R. Brindell]

Attorney James Brindell, on behalf of The Plaza Inn, addressed the Town Council, stating that on April 13, 2004, approval had been issued for the renovations and expansion of the hotel property, and a time extension of one year was being requested today.

Zoning Administrator Paul Castro commented that the project had originally been submitted to staff in November 2003, had gone to the Architectural Commission (ARCOM), who had deferred the project for re-design. He recommended that six months from the April date would be an adequate time extension.

Mr. Ajit Arsani, 215 Brazilian Avenue, The Plaza Inn, advised that there had been no attempt to market the property, however, calls were received from real estate agents frequently. He advised that the property would be constructed in conjunction with a development team.

Councilman Wyett moved approval of the time extension request of one year.

The motion died for lack of a second.

Councilman Kleid moved that a time extension be granted for six months. The motion was seconded by President Pro-Tem Goldblum. On roll call the motion carried unanimously.

C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

a. VARIANCE NO. 20-2004 The application of 171 Royal Poinciana, LLC, Lynn Min, Member relative to property described as Lot 7, Floral Park Add. No.2; commonly known as 171 Royal Poinciana Way; located in the R-C Zoning District. To demolish and build a new single family home on a non-conforming lot requiring the following variances: Variance to build new single family home on a platted lot that has a width of 25 ft. in lieu of 75 ft.; to build a new single family home on a platted lot with a lot area of 2,500 sq. ft. in lieu of 10,000 sq. ft. required; to provide a front setback of 5 ft. in lieu of 25 ft. minimum required and garage doors with a setback of 5 ft. in lieu of 18 ft. minimum required; to provide east side yard setback of 0 ft. in lieu of 10 ft. minimum required; to provide west side yard setback of 4.25 ft. in lieu of 10 ft. minimum required; to provide lot coverage of 60% in lieu of 35 % maximum allowed; to provide landscape open space of 28% in lieu of the 35% minimum required; to provide landscape open space of 0% in front yard in lieu of 35% minimum required where now none is existing; to build a swimming pool with a 3.8 foot east, west and rear yard setback in lieu of 10 ft. minimum required; and, to have 9 dormer window openings in the roof above the maximum building height which opens into habitable space. *Deferred from the August 10, 2004, October 1, 2004, October 12, 2004, November 19, 2004, December 14, 2004, and January 11, 2005, Town Council Meetings.*

Ex-parte communication was declared by Councilman Kleid via a telephone conversation with Attorney Peter Broberg; by President Pro-Tem Goldblum with Attorney Broberg, by Councilman Wyett with Attorney Broberg via telephone calls regarding the application in question; and by President Brooks via walking the property, and meeting with Attorney Broberg regarding the application, and had a telephone conversation with Ms. Min.

Attorney Peter Broberg, on behalf of the applicant, addressed the Town Council, stating that the lot was 25' x 100' lot and the applicant was requesting to build a new house on it; presently there was a two-story, three unit building with no parking. The applicant was proposing a single family two-story building with two off-street parking spaces. In order to do that, there were several variances needed. He reviewed the requests that had been made to date, and the modifications to the request that had taken place since the original request was made. He explained that an easement agreement had been entered into with the neighbor to the west.

Ms. Lynn Min reviewed the site plan and elevation drawings with the Town Council.

Zoning Administrator Paul Castro reported that the project had originally gone to the Architectural Commission (ARCOM) in August, and they had liked the architecture. Staff had an issue relating to the size of the proposed house of approximately 4,500 sq. ft., including the sub-basement. Subsequently, the applicant removed the basement and took 1' off of the back of the house and 1 ½' off of the top. The house was approximately 2,800 sq. ft. on a 2,500 sq. ft. lot. While there was a hardship related to the size of the lot only being 2,500 sq. ft., and being only 25' wide, staff questioned the amount of variance that was being requested. It was a substantially sized home on a substantially small lot. He noted that staff had not seen the easement agreement. He explained that he understood that the petitioner had requested demolition, and it was granted; the property had been cited by the Code Enforcement Board because of lack of maintenance and upkeep on the property.

Attorney Ron Kolins, on behalf of Ed Cury, property owner to the east of the property in question. He offered his congratulations on the newly elected officials. He explained that he recognized that the construction of the house carried certain improvements and benefits. There was concern regarding the small setback between the houses, and he requested that a condition of approval, via deed restriction, be that Ms. Min's home be screened by Mr. Cury's property.

Attorney Broberg responded that there had been an effort to make the house smaller; the easement agreement had been delivered to the Building Department last week, and he produced a copy for the file. He passed out a picture of what the building looked like currently, as well as the construction next door.

In response to President Pro-Tem Goldblum, Attorney Kolins advised that the screening was being requested at 20'. He suggested that a wooden trellis could be constructed with vines growing within it.

Director of Planning, Zoning & Building Robert Moore advised that the height at 20' was somewhat unusual, given the fact that the entire property was only 25' in width. He stated that he thought the screening request was legitimate, and that a trellis vine would take some time to grow; 20' of screening was almost impossible to get within the 2 ½' area.

Attorney Kolins responded that Mr. Cury was requesting screening on two elevations; Mr. Cury had one structure to the east, and another one to the north. He was requesting the eastern property line and northern property line have screening material; the appropriate type of screening could be worked out.

Zoning Administrator Castro commented that there were some big drainage issues on the side property line; there was some infrastructure on the side that was underground, there was a 7' high wall up against the property line, and he did not know how 20' high landscape material could be installed and maintain the drainage system.

Attorney Kolins commented that the problems with the east side did not exist on the north side, and that reasonable screening on the north should be relatively easy.

President Pro-Tem Goldblum commented that Mr. Cury would need to put up tremendous screening if the old house stayed in place and the new proposed home was not being built.

Zoning Administrator Castro commented that eliminating the water lily ponds would reduce the amount of variance being requested, while giving the ability to plant more landscape material. There were currently only four trees included on the lot, and the rest of it was water lily pond, swimming pool and deck, which did not meet the intent of the Code.

Mayor McDonald questioned the feasibility of a 20 ft. lattice easement on the east of a 25 ft. wide lot.

Councilman Wyett made a motion to approve Variance No. 20-2004. The motion was seconded by President Pro-Tem Goldblum and carried 4-1 on roll call with Councilman Kleid casting a negative vote.

Councilman Kleid said he would like to state for the record that he intended to vote against any variance or special exception which does not meet the conditions of the Zoning Code.

b. VARIANCE #3-2005 The application of John B.A. Haggin relative to property described as Lot 89, Plat No.2 Everglades Island; commonly known as 757 Island Drive; located in the R-B Zoning District. Variance to construct a dock and boat lift seventeen (17) feet west of the U.S. Pierhead Line in lieu of the six (6) foot maximum allowed.
Deferred from the January 11, 2005, Town Council Meeting.

See item 2. a. under New Business below.

c. SPECIAL EXCEPTION #1-2005 The application of Hugo Boss relative to property described as lengthy legal description on file; located in the C-WA Zoning District. Special exception for a new retail store which will total 3,158 square feet in lieu of the maximum 2,000 square feet allowed by right which requires the applicant to be town-serving. *Deferred from the January 11, 2005, Town Council Meeting.*

No one declared ex parte communications.

Attorney Jim Brindell, representing Hugo Boss, reported a written analysis proving the town-serving requirement was submitted to the Town using the Buxton Company, a major market research company, to prepare the document.

Mr. Brindell noted the proposed store in the Esplanade is substantially smaller, approximately 2,000 sq. ft. smaller, than the normal Hugo Boss store. He said all advertising will be focused on Town residents and activities.

Mr. Moore affirmed that the Town-serving document is valid and requested the Town - serving tabulation be provided again to the Town prior to renewal of the occupational license next October.

Mr. Brindell responded the store would not be open in time to present the documentation by October 1, 2005, but would be by April 2006.

Councilman Wyett made a motion to approve Special Exception No. 1-2005 with the Town-serving tabulation to be presented by April 2006. The motion was seconded by President Pro-Tem Goldblum and carried 5-0 on roll call.

2. New Business

a. VARIANCE #3-2005 (Modified) The application of John B.A. Haggin relative to property described as Lot 89, Plat No.2 Everglades Island; commonly known as 757 Island Drive; located in the R-B Zoning District. Variance to construct a dock and boat lift twenty-two (22) feet west of the U.S. Pierhead Line in lieu of the six (6) foot maximum allowed.

Ex parte communications were not declared by the Mayor or any member of the Council.

Mr. Castro explained Variance No. 3-2005 had to be readvertised, delaying it a month, because the request on the application stated 17 feet west of the U.S. Pierhead Line whereas 22 feet was needed.

Scott Colton, representing the applicant John Haggin, explained the variance is for construction of a dock and boat lift to be located west of the U.S. Pierhead Line. He added that the neighboring land owners have docks and boat lifts, and permission has been granted by the Department of Environmental Protection for the project.

Mr. Moore said Mr. Colton was to have provided information to the Town regarding the boat docks and lifts in the area, but that has not been received.

Mr. Colton replied that information was not provided; however, approximately twelve of the seventeen landowners north of the property have docks and boat lifts.

Mr. Moore verified that Mr. Haggin's boat lift will not extend any further to the west than any neighboring boat lifts on the west side of Everglades Island. He added that be made a provision or condition if the request is approved.

Councilman Wyett made a motion to approve Variance No. 3-2005 with the condition the boat lift not extend any further west than any neighboring boat lift on the west side of Everglades Island. The motion was seconded by Councilman Coleman and carried 4-1 on roll call with Councilman Kleid casting a negative vote.

b. VARIANCE #6-2005 The application of Nancy Z. Lane relative to property described as Lot 128 and the South 50 feet of Lot 127, Mark Rafalsky Tract; commonly known as 726 Hi-Mount Road; located in the R-B- Zoning District. To allow construction of a 6 foot high retaining wall in lieu of the 4 foot maximum allowed within 25 feet of the easterly right-of-way of the Lake Trail. The proposed 6 foot high wall is along Lake Trail and the Lake Trail access on the south side of the subject property.

Councilmen Kleid, Goldblum, Wyett, and Brooks declared ex parte communications with Attorney Maura Ziska regarding the merits of the case.

Attorney Maura Ziska, representing Jeff and Nancy Lane, the applicants, said the request is to build a six foot wall along the Bike Trail in lieu of the four foot maximum allowed with the hardship being the grade of the property at Hi-Mount Road is approximately 22 ft. NGVD, and the property at Lake Trail is 5 ft. NGVD or a difference of 17 ft. She stated a lower wall would not provide sufficient security or safety, and the Council has approved requests for previous variances for these purposes. Ms. Ziska stated the applicants would plant a hedge in front of the wall and plant nothing on the west side of the Bike Trail higher than three feet thus preserving the vista.

Architect Eugene Lawrence, explaining the project on a site plan, presented photographs to the Mayor and Town Council.

Mr. Castro recalled several variances were granted previously to allow this house to be constructed further to the west and questioned the possible fill-in of the lot in the back. He said although the applicant volunteered to retain a three ft. vista on the west side of the Bike Trail, the staff recommendation next year is to maintain 30 inch high vistas.

Mr. Lawrence responded that a four ft. cross tie wall that was badly rotted existed there before with a four ft. fence behind that plus a large hedge. He added that all was removed to clear the lot.

Mr. Moore said the main issue related to the request was the slope of the land.

President Pro-Tem Goldblum made a motion to approve Variance No. 6-2005 with no more than a 30 in. high wall on the west side of the Bike Trail. ***The motion died for lack of a second.***

Councilman Wyett made a motion to deny Variance No. 6-2005. ***The motion died for lack of a second.***

Mr. Lawrence said the Code provided a 6 ft. wall could be built in the front yard setback if the wall is setback 3 ft. and a 3 ft. high hedge was planted. He continued the fence is set back and suggested planting a hedge the full height of the wall.

Councilman Coleman said he would second President Pro-Tem Goldblum's motion with the six foot hedge. President Pro-Tem Goldblum re-made the motion to approve Variance No. 6-2005 with the conditions the wall be no higher than six feet with a six foot hedge and set back three feet. Councilman Coleman seconded the motion. On roll call the motion carried 3-2 with Councilmen Kleid and Wyett casting negative votes.

c. <u>VARIANCE #7-2005</u> The application of Paul Birmingham relative to property described as Lot 1, Jamaica Lane; commonly known as 937 North Lake Way; located in the R-B Zoning Distict. To allow a garage addition to have a front yard setback of 14'3" in lieu of 25 ft.; to allow an angle of vision of 124° in lieu of 100° required; and, to allow a side yard setback of 4'1" in lieu of 12'6" required.

Ex parte communications were declared by Councilmen Kleid and Wyett, President Brooks, and President Pro-Tem Goldblum with Attorney Peter Broberg.

Attorney Broberg requested Variance No. 7-2005 be deferred to the March 8, 2005, Town Council meeting per the request of his client, Paul Birmingham.

Councilman Wyett made a motion to defer Variance No. 7-2005 to the March 8, 2005, Town Council meeting. The motion was seconded by Councilman Kleid and carried 5-0 on roll call.

d. VARIANCE #8-2005 The application of Garrison Lickle, Lehman Brothers Trust Company relative to property described as Lots 52, 53 and 61, together with the North 100 ft. of Lot 54, Block C, Royal Park Addition; commonly known as 450 Royal Palm Way; located in the C-OPI Zoning District. Variance to eliminate the requirement for three (3) additional off street parking spaces to build out the 5th floor converting 900 square feet of common space to gross leasable office space.

Ex parte communications were declared by Councilman Wyett with Attorney Peter Broberg.

Attorney Broberg, representing Lehman Brothers Trust Company and Gary Lickle, requested the elimination of the requirement for three additional off street parking spaces to allow the company to expand in the 900 square feet on the fifth floor. He explained the proposed 900 square feet will be used for a conference space which will not be occupied most of the time.

Mr. Castro said this space previously was a multi tenant use with the space being left out of the original calculations for parking space requirements for the building.

Councilman Wyett made a motion to approve Variance No. 8-2005. The motion was seconded by President Pro-Tem Goldblum and carried 5-0 on roll call.

e. VARIANCE #9-2005 The application of 421 Peruvian Avenue, Inc. relative to property described as Lots 19 and 20, Royal Park Addition; commonly known as 421 Peruvian Avenue; located in the R-C Zoning District. Variance to reconstruct northeast wing of house with a rear yard setback of two and one half feet in lieu of the five (5') granted in Variance #29-2004 on November 9, 2004.

No ex parte communications were declared by the Mayor or any Town Council member.

Wade Byrd, Attorney for 421 Peruvian Avenue, Inc., recalled this item was heard by the Town Council on November 9, 2004, with an extensive presentation by Architect Eugene Pandula. He continued that the applicant wanted to re-build in the existing footprint, and Mr. Byrd's office erred in requesting a 5.0 ft. set back in lieu of the 2.5 ft. actually needed requiring the re-advertising of the project. He added the architectural plans have always shown a 2.5 ft. setback

Architect Gene Pandula explained the building was constructed in 1919, renovated in 1930 by Howard Major as a portion of the 1925 Major Alley, a landmark of the Town of Palm Beach, and this building has been voluntarily volunteered to be landmarked and is scheduled to be on the February Landmark Preservation Commission agenda.

Mr. Pandula said the intent of the project is to reduce the four units in the structure to one single family residence. He explained that parts of the structure identified on the plans presented at the meeting would be demolished and rebuilt in the same footprint from current elevation 3.4 ft. to elevation 5.08 ft. which is the main finished floor elevation of the house. He continued that the 2.5 ft. rear set back encroaches approximately 4 inches into the utility easement; the green space will be increased, and the footprint of the house will be decreased slightly.

Mr. Castro reported the Public Works Department stated all the submitted plans show the alcove in the utility easement, and the concern is if any digging has to be done, the integrity of the building in the area could be compromised and they did not recommend approval of the building so close to the utility easement. Mr. Castro questioned the hardship which has not been addressed.

Reg Stambaugh, Attorney representing the property owners located at 424 Chilian, Lucy Webster and Laura Johnson, said the easement should be respected and cited the example of needed access during the recent hurricanes. He continued his clients had no objections to hedges or paver brick but objected to any structures.

Mr. Pandula responded not one square inch of the project is in the easement as what was in the easement has been removed and the plans show nothing in the 2.5 ft. easement.

Mr. Stambaugh questioned the proof of a hardship in this case.

Mr. Castro said his plans show a wall in the utility easement.

Mr. Byrd replied the property in the rear adjoins the existing Major Alley and these properties share a common boundary with the walls abutting. He reiterated the goal is to reconstruct the wall with proper construction.

President Pro-Tem Goldblum made a motion to deny Variance No. 9-2005. The motion was seconded by Councilman Coleman and carried 5-0 on roll call.

f. VARIANCE #10-2005 The application of Vivian P. Dorris relative to property described as the East one-half of Lot 10, Block "F", Revised Map of Royal Park Addition to Palm Beach; commonly known as 155 Brazilian Avenue; located in the R-B Zoning District. Variance to close the existing underground one-car garage. This variance will increase the structure's existing non-conformity with off-street parking regulations which provide that all "required" off-street parking be located within a garage.

Variance No. 10-2005 was deferred earlier in the meeting.

g. VARIANCE #11-2005 The application of Emil Solimine relative to property described as Lot 8, Lagomar Park Plat No. 1 and Lot 8A, Lagomar Park No. 2; commonly known as 8 Lagomar Road; located in the R-A Zoning District. Variance requested to construct a two story entry addition and convert awning to hard roof on the back patio which would increase the lot coverage to 32.07% in lieu of the 31.93% existing and the 25% maximum allowed; and, variance requested to build the two-story entry addition with a front setback of 25 feet in lieu of the 35 foot minimum required.

Ex parte communications were not declared by the Mayor or any member of the Town Council.

Attorney James Brindell, representing Emil Solimine, said the house is located in the R-A zoning district which requires a minimum 20,000 square foot lot; however, this lot is 10,500 square feet, barely over the minimum for the R-B zoning district. He continued that the lot depth is 105 feet whereas the requirement is 150 feet, and the lot width is 100 ft. with the requirement of 125 feet. Mr. Brindell noted that the R-A district requires a 35 ft. front yard set back with this house set back at 25 ft.

Mr. Brindell said the request is to renovate an existing house, replacing the existing awning and a small existing balcony over the front door with a permanent architectural feature, with a 26 ft. set back. He added that the lot coverage request is being withdrawn as minor changes to the renovations on the plans have made that request unnecessary.

Architect Jacquie Albarran, SKA Architects, presented plans for the front renovation.

Mr. Castro said the house is non-conforming and is in a location where additions to the front are difficult. He questioned the hardship related to the request.

Councilman Wyett said the architectural change would improve the house and would be for the benefit of the general public. **Councilman Wyett made a motion to move approval of the change of the architecture of the house. Councilman Coleman seconded the motion. On roll call:**

	yea votes:	**Wyett**	**nay votes:**	**Kleid**
		Coleman		**Goldblum**
				Brooks

The motion failed.

President Pro-Tem Goldblum made a motion to deny Variance No. 11-2005. The motion was seconded by Councilman Kleid. On roll call:

yea votes:	**Goldblum**	**nay votes:**	**Wyett**
	Kleid		**Coleman**
	Brooks		

The motion passed.

Attorney Brindell requested clarification regarding the awning replacement.

Mr. Castro responded the replacement cannot be any taller than the existing awning.

h. SPECIAL EXCEPTION #4-2005 The application of Taja Realty Trust, James Smith, Trustee relative to property described as lengthy legal description on file; commonly known as 101 Seminole Avenue; located in the R-B Zoning District. Special exception requested to construct a 10' x 20' beach cabana within the Beach Area district immediately across North Ocean Boulevard from the primary residence.

Ex parte communications were declared by Councilmen Kleid, Wyett and President Pro-Tem Goldblum, and President Brooks with Attorney Maura Ziska.

Attorney Maura Ziska, representing Taja Realty Trust, said this request for a beach cabana was previously approved in 2003 and the previous approval has expired. She continued that the 10 x 20 ft. beach cabana meets Code.

Architect Harold Smith, Smith and Moore Architects, explained the main house across the street to the west is currently under construction, and the cabana will be located 10 ft. from the right-of-way; 25'10" from the south property line; and approximately 90 ft. from the cabana to the north.

He said the architectural features and colors will match the main residence.

Mr. Castro said, subsequent to the approval expiring, the Town Council approved an open vista requirement and requested that condition could be made part of an approval for the project.

Mr. Smith responded although the wall was constructed under the previous Code requirements, this project could be modified meet the new requirement for an open vista.

Councilman Goldblum made a motion to approve Special Exception No. 4-2005 with the condition the ocean vista requirement in the Code be met. The motion was seconded by Councilman Coleman and carried 5-0 on roll call.

i. SPECIAL EXCEPTION #5-2005 WITH SITE PLAN REVIEW AND VARIANCE The application of Amici Partnership relative to property described as Royal Park Addition, Lots 1 to 4 inclusive (less road right-of-way), Block 9 and Royal Park Addition, West 22 feet of Lot 66 and Lots 67 to 69 inclusive, Block 9; commonly known as 375 South County Road; located in the C-TS Zoning District. Request for expansion of a previously approved special exception and a site plan review to allow a 96.9 square foot marquee along South County Road at the restaurant entrance; to allow a 69 square foot wood storage building; and, a new 39 square foot can wash area on the east side of the property. Request for variance to allow a reduction in the landscaped open space of 19.3% in lieu of the 20.2% existing and 25% minimum required.

This item was heard out of sequence after Variance No. 20-2004

Ex parte communications were declared by Councilman Kleid and President Pro-Tem Goldblum who met with Attorney Kolins to discuss the request.

Attorney Ron Kolins, representing the Amici Partnership, explained the awning marquis on the restaurant was shown in the wrong place during the previous site plan review. He continued the awning was located on Peruvian Avenue; however, the new entrance is on South County Road, and that is where the awning should be located.

Mr. Kolins added that his client would like to move the can wash area, currently located inside the building, to the outside of the building. He explained that in addition to cleaning the plastic or rubber garbage cans daily, the rubber floor mats in the kitchen are hosed down and cleaned daily. Mr. Kolins said the addition of this outside area will reduce the landscaped open space by a fraction of 1%.

Mr. Castro commented that the requested awning would require a DOT permit and stated the staff's concern was that the South County Road passenger drop off area would have to be eliminated as agreed upon, because the passenger loading and unloading area will be where the marquis is located on Peruvian. He added the staff would like to see the landscaped open space lost to the can washing area made up on the site, and the staff questioned the hardship.

Mr. Kolins replied the valet area for drop off is located on the Peruvian side, and the applicant does have a FDOT permit for the awning.

Councilman Wyett said the marquis awning is an advertising method indicating a main entrance resulting in patrons pulling up to that entrance on South County Road, and the original Council approval indicated no such attempt to identify that as the drop off entrance. He questioned how previous restaurants in that location handled the clean up problem?

Mr. Kolins responded that many patrons park themselves, not using the valet on Peruvian, and the entrance, like many others in Town, should be delineated. He noted the awning requires a site plan approval only, and does not require a variance. Mr. Kolins said an herb garden was added to the site thus expanding the open space.

Mr. Kolins, replying to questions from Mayor McDonald regarding noise in the can wash area, said the cleaning would occur in the morning for approximately fifteen minutes. He continued the original approval allowed for an outdoor eating and bar area with the condition the applicant return in six months to see how that affected the neighbors in the area or if there were noise problems. He suggested a similar arrangement could be included for the can wash area.

Mr. Moore said the requirements for the dumpster area were to hold the garbage inside the building at night with the garbage brought out in the morning for a 8:30 a.m./9:00 a.m. pickup for recyclables.

President Pro-Tem Goldblum made a motion to approve Special Exception No. 5-2005 with Variance with the condition the can was area be used during the same hours as the garbage is taken out. The motion was seconded by Councilman Coleman and carried 4-1 on roll call with Councilman Wyett casting a negative vote.

j. SPECIAL EXCEPTION #6-2005 WITH SITE PLAN REVIEW AND VARIANCE The application of The Breakers Palm Beach Inc. relative to property described as All of that plat of Breakers Row No. 1; commonly known as 1 South County Road; located in the PUD-A Zoning District. Special exception with site plan approval request to modify the hotel by demolishing 56 existing cabanas and constructing 20 new cabanas in the southeastern portion of the Breakers property. The project includes demolishing the Reef Bar and constructing a new Beach Bar and Grill with 136 seats, two new swimming pools, three Jacuzzis, a pavilion, a locker/restroom building, and a new laundry facility. In addition, a variance to allow the existing seawall to remain at an elevation of 8.03 feet NGVD in lieu of raising it to 14.34 feet NGVD required by code.

Ex parte communications were declared by Councilmen Kleid and Wyett with Paul Leone; President Brooks and President Pro-Tem Goldblum with Attorney Brindell.

Attorney James Brindell, representing the Breakers, stated the project is to revise the cabana area and southeast quadrant of the site by demolishing the 56 existing cabanas and replacing them with 20 cabanas. He continued that the current master plan would remain unchanged with regard to the ultimate potential development for that area, which has been approved, and will be for either 80 hotel suites or 40 multi-family units plus 40 cabanas in the future.

Mr. Brindell said the existing Reef bar and cabana pool will be replaced by a new bar and grill moved to the northwest approximately 150 ft. from the current location; two pools; several jacuzzis; a small pavilion; a new locker room; and an updated laundry area are included in the plan.

Mr. Brindell said the landscape plan will be expanded on the south edge of the property adjacent to the Lauder property including coconut palms and additional substantial landscaping. He added no increased traffic impacts will result with the changes.

Mr. Brindell explained the current Town Code requires seawalls be raised to 14.34 ft. NGVD upon any type of re-development, and the existing revetment is buried in the sand and has worked well for many years. He continued that raising that existing wall would result in approximately 4 ft. showing above ground approximately 100 to 150 ft. landward of the mean high water line. He said the request is to allow the current height of 8.03 ft., which is buried, to be the height of the wall as raising the wall would create a physical obstruction as well as being aesthetically displeasing. He noted DEP approval would also be required to raise the wall.

Paul Leone reported the existing area under discussion is obsolete in terms of age, quality, and functionality. He noted that over the years the number of beach cabanas has steadily been reduced, and the hotel guests prefer to use the areas around pools rather than the ocean front and that is the reason for creating a lush, tropical lawn landscape as well as the poolscapes.

Zoning Administrator Paul Castro said the staff endorsed the project as it is an outstanding improvement over the existing horseshoe cabanas; however, one concern remained regarding the raising of the existing buried seawall at elevation 8.0 ft. He continued that raising the seawall to the 14.34 feet NGVD requested may not be necessary as the seawall may be set back 50 feet from the existing bulkhead line thus not requiring a variance. He suggested the applicant investigate the set back requirement. He added the Breakers has agreed to address the other issues: landscaping between the project and the neighbors to the south and soundproofing and landscaping of the pool equipment building.

Attorney Brindell reported the seawall appears to be approximately 80 feet from the bulkhead line on a property survey.

Councilman Wyett made a motion to approve Special Exception No. 6-2005 with Site Plan Review including the variance (which may not be required). The motion was seconded by President Pro-Tem Goldblum and carried 5-0 on roll call.

3. Other

   a. Request to Refer the Discussion of High Hedges to the Planning and Zoning Commission as a Study Item. [Robert L. Moore, Director of Planning, Zoning, and Building]

Planning, Zoning and Building Director Moore said this item was brought forward by President Pro-Tem Goldblum at last month's Town Council meeting to be added as a study item for the Planning and Zoning Commission with Zoning in Progress going into effect on this item. He clarified that no hedges higher than 30 inches would be permitted west of the Bike Trail while the item was being considered by the Planning and Zoning Commission.

President Pro-Tem Goldblum made a motion to approve the reqest to refer the discussion of high hedges to the Planning and Zoning Commission as a study item declaring zoning in progress. The motion was seconded by Councilman Kleid and carried 5-0 on roll call.

b. Zoning Report Workshop Schedule. [Robert L. Moore, Director of Planning, Zoning, and Building]

Zoning Administrator Castro reported the Civic Association's zoning report prepared by Siemons and Larsen was received by staff, and staff was in the process of preparing a report in conjunction with that report. He continued that the report will be presented to the Planning and Zoning Commission on March 29th, and the request is to schedule a work shop with the Town Council to review the Planning and Zoning Commission's recommendation, the Siemons report, and the staff's recommendations. He suggested a meeting in May with work to continue during the summer months culminating at the December 2005 Planning and Zoning Commission meeting with an ordinance adoption by March 2006.

William Guttman, 216 W. Indies Drive, CEO Palm Beach Civic Association, questioned if the March workshop would cover only variances and special exceptions or would it include potential delegation of decision making power from the Town Council to some intermediate level and when would the report be available to the general public?

Mr. Moore responded the entire package would be covered, and after the March 29th meeting, the report would be ready in two weeks.

Mr. Castro added the first staff report relative to the Civic Association's report, the Siemons report, was expected to be ready by mid March; however, any changes elicited by the Siemons report are not anticipated to be adopted in 2005.

Mr. Guttman replied that the issue of delegation of decision making is not addressed in the Siemon and Larsen report, and he recalled that following the April 2004 meeting at which the Town Council considered Mr. Brooks' proposal regarding decision making delegation, the Town Manager and Mr. Moore agreed that the Town staff, either on its own or through a contractual means, would hire someone to prepare a comprehensive analysis of the pros and cons of the delegation of decision making power to address such items as 'what is the appropriate standard of review' or 'what are the qualifications'? Mr. Guttman concluded that the Town Council does not have professional advice to guide the Council at a March workshop at this stage.

Mr. Castro replied the Town's Planning Consultant, Brisson Planning Solutions, Inc., is in the process of drafting a report, and although the issue of decision making delegation is not in the Siemon and Larsen report, it is part and parcel of the entire issue regarding how should the Code be changed relating to variances, special exceptions, site plan reviews, etc. that will be reviewed by the Planning and Zoning Commission on March 29th.

Mr. Elwell recalled that the understanding was by some Town Council members and Mr. Guttman that the Town Council would consider the Siemons report prior to consideration by the Planning and Zoning, in contrast to the normal sequence of events. He questioned if the Town Council still wanted to consider the item before it is presented to the Planning and Zoning Commission or would like to reverse the procedure?

Councilman Kleid expressed his concerns regarding concluding this issue during this zoning season and not push it ahead until 2006; discussing all of the issues including decision making delegation; and questioned if the Planning and Zoning Commission could hear the issue prior to March 29th?

Councilman Coleman said he would like to have as much information as soon as possible before reacting to proposed changes from Planning and Zoning and suggested that could be handled in a different fashion if necessary.

Councilman Wyett questioned if the issue should go to Planning and Zoning and suggested the issue should be heard by the Council either in a work shop setting or at a meeting?

President Brooks clarified that he did not suggest, eleven months ago, that the Council should abdicate hearing variances and special exceptions as his suggestion was only to study the issue. He said he would like the Planning and Zoning input into the process as they will be the front line in handling the changes.

Mr. Guttman said he would like to see the Planning and Zoning members and any citizen advisory group take part in any Town wide work shop or meeting. He added that after listening to the zoning presentations at this meeting, the process was fairly irrational. He cited several examples of variances that were granted where the hardships were not presented in line with the definitions in the Code although the outcomes of the decisions may have been desirable. He concluded that the system is broken with lawyers citing precedents, and the Council, instead of regulating the use of land in Palm Beach, preserving the character of the community via a zoning code, is using an unwritten process on a case by case basis which is not desirable. Mr. Guttman added that this requires extreme emergency action to wrestle the issue to the ground.

Mayor McDonald responded that Mr. Guttman's statements were correct; although Attorney Randolph tries very hard to have the Council members actually state the basis for the hardship time after time but his instructions are not followed.

President Brooks said he heard the expressions of a sense of urgency and questioned how quickly Mr. Moore could be prepared so the meetings could be scheduled as early as possible.

Mr. Moore responded he, Mr. Castro, and Mrs. Close would be unavailable the end of

March; however, they will be prepared for the scheduled March 29th meeting, but he was willing to schedule an emergency meeting with the Planning and Zoning Commission with the help of Mr. Brisson. Mr. Moore explained that Mr. Brisson is preparing a report that will be released the middle of March and stated the matter should be presented to the Planning and Zoning Commission before presenting it to Council.

Mr. Castro continued that the Siemons report is not simple but far reaching in terms of recommendations, and unforeseen mistakes could occur if the process proceeded too quickly. He said from the staff's viewpoint, many items could be handled administratively but would require ordinance changes; however, the process should be carefully thought out and handled appropriately.

Mr. Guttman said consensus of opinion, a new ordinance, or resolution of all the issues will not come out of the first workshop as it is an important first step in a process. He mentioned that other criteria than the hardship requirement for variances are available including one adopted by the State of New York, the practical difficulties test, and that is addressed in the Siemons report. He urged the Town Council to draft a set of rules, with standards, that act as a guideline to hear requests that deviate from the rules that allow the Council to deviate from the rules but remain faithful to the underlying purposes of the zoning code.

Councilman Wyett said the report should be studied with the new members of the Council having an opportunity to experience what is going on. He noted difficulties exist with the present system; however, the report has difficulties also.

Mayor McDonald questioned if a Code revision would override case law if the standard were changed to practical difficulties regarding the hardship rule?

Attorney Randolph responded the Code would override because of the different standard.

Councilman Kleid stated he announced earlier in the session that he intended to vote against every variance and special exception which did not come within the purview of the Code as the law is violated every time the Council votes in favor of variances and special exceptions which do not meet the conditions of the Code. *(See page 27 of the minutes)*

After further discussion, **the Mayor and Town Council decided to hold a meeting on Wednesday, March 9, 2005, at 1:00 p.m. with Siemon and Larsen present in an educational workshop setting with the Mayor and Town Council.**

XXIII. ANY OTHER MATTERS

There were no other matters.

XXIV. FINAL ADJOURNMENT

The meeting was adjourned at 5:24 p.m.

William J. Brooks, Town Council President

Mary A. Pollitt, Town Clerk

Item XII B. 8 Waiver of Facility Fees at Recreation Center by Society of the Four Arts

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

LAST NAME—FIRST NAME—MIDDLE NAME Coleman, Denis	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE TC
MAILING ADDRESS	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☐ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY
CITY COUNTY	NAME OF POLITICAL SUBDIVISION:
DATE ON WHICH VOTE OCCURRED 2-15-2005	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.

Your responsibilities under the law when faced with voting on 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

A person holding elective or appointive county, municipal, or other local public office MUST ABSTAIN from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * * * * * * * * * * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must 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:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

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

- You must 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. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

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

- You must disclose orally the nature of your conflict in the measure before participating.
- You must 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 must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, ______________________________, hereby disclose that on ______________________________, 20 ____:

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

___ inured to my special private gain or loss;

___ inured to the special gain or loss of my business associate, ______________________________;

___ inured to the special gain or loss of my relative, ______________________________;

___ inured to the special gain or loss of ______________________________, by whom I am retained; or

___ inured to the special gain or loss of ______________________________, which is the parent organization or subsidiary of a principal which has retained me.

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

Member Board of Y Arts

2-15-2005
Date Filed

Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, 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 $10,000.