TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL MEETING
HELD ON FEBRUARY 14, 2006

I. CALL TO ORDER AND ROLL CALL

The regular Town Council meeting of February 14, 2006, was called to order at 9:30 a.m., in the Town Council Chambers.

President Brooks welcomed and congratulated Ms. Susan Markin on her victory as a Town Council Member.

On roll call, the following elected officials were found to be present:

Mayor Jack McDonald
President William J. Brooks
President Pro Tem Norman P. Goldblum
Council Member Denis P. Coleman
Council Member Richard M. Kleid
Council Member Allen S. Wyett

Others present for all or a portion of the meeting were:

Town Manager Peter B. Elwell
Deputy Town Manager Thomas G. Bradford
Assistant Town Manager Sarah E. Hannah
Town Attorney John C. Randolph
Jay Boodheshwar - Recreation Director
James Bowser - Town Engineer
Paul Brazil - Public Works Director
Eric Brown - Public Works Assistant Director
Paul Castro - Zoning Administrator

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Veronica Close - Director Planning, Zoning & Building
Andrew Cox - Assistant Fire Chief
William Crouse - Human Resources Director
Jane Day - Historical Preservation Consultant
Tim M. Frank - Planning Administrator
Charles Langley - Public Works Assistant Director
Jon Luscomb - Dock Master
Michael Mason - Major Law Enforcement
Edward J. Moran - Fire-Rescue Chief
Michael Reiter - Police Chief
Cheryl Somers - Assistant Finance Director
Jane Struder - Finance Director
Karen Temme - Risk Manager
Rob Walton - Chief Code Compliance Officer
Susan Eichhorn - Town Clerk

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Town Clerk Eichhorn gave the invocation. President Brooks led the Pledge of Allegiance.

President Brooks welcomed the teachers, parents, and students of the third grade from St. Ann's School.

III. <u>RESOLUTION NO. 18-06</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 7th Day of February 2006, Between the Hours of 7 a.m. and 7 p.m. on Said Date for the Purpose of Electing One Council Person - Group 3, for a Two-Year Term, and Referendum Question Regarding Sea Gull Cottage Move to Bradley Park and Referendum Question Regarding Amendment to the Town Charter. [Susan A. Eichhorn, Town Clerk]

Town Attorney Randolph read Resolution No. 18-06 by title, as printed above.

Motion made by Council Member Wyett, seconded by Council Member Coleman to approve Resolution No. 18-06. On roll call, the motion carried unanimously.

IV. PRESENTATIONS

A. Recognition of Norman P. Goldblum for Service on the Town Council From 2000 Through 2006.

Mayor McDonald congratulated Norman P. Goldblum on his appointment to the Medical Care Commission, replacing Tina Bilotti, and presented a plaque to him in recognition of his years of service on the Town Council.

V. SWEARING IN OF ELECTED OFFICIALS- THE HONORABLE JUDGE EDWARD FINE.

The Honorable Judge Edward Fine administered the oaths of office to the following newly elected officials: Council Member William J. Brooks, Council Member Richard M. Kleid, and Council Member Susan Markin.

Mayor McDonald, as presiding officer, recognized President Brooks for giving up his position voluntarily in order for rotational purposes, and for his three years of presidential leadership with the Town Council.

VI. ORGANIZATIONAL ITEMS

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

After casting ballots, Denis P. Coleman was elected as President of the Town Council.

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

President Coleman, as the new presiding officer, announced that Richard M. Kleid had been elected as the President Pro Tem of the Town Council.

VII. COMMENTS OF MAYOR JACK McDONALD

I welcome Susan Markin, and want to inform her that it was her turn to buy lunch today, and that Café L'Europe has a nice ring to it. I am grateful that the voters passed, by large majorities, moving Sea Gull Cottage, and denying the Charter Amendment regarding the Town Manager's employment responsibilities. Today the Council will discuss potential negotiations with the Towns of Manalapan and South Palm Beach regarding the provision of Fire-Rescue services. I have met with the Mayors of both cities; the meeting being prompted by the dramatic increase both municipalities will receive from Palm Beach County for Fire-Rescue services. I made it clear at our meeting that we were not interested in providing emergency services at cost. Any services would need to generate a profit for the Town, without any reduction in services to our residents. I did not know if we would be less expensive than the County, because costs were secondary to our Rolls Royce level of service. With that understanding, they were encouraged to inspect our services, which they did, and subsequently proceeded to present the matters to their respective Commissions, who authorized them to proceed negotiations with us. We have not discussed the many details of a possible contract, and this item will appear on the Agenda later this morning.

VIII. APPROVAL OF AGENDA

Agenda was approved with the following amendments:

DEFERRED to March 14, 2006, Town Council Meeting, Variance #7-2006, Item XX.C.4.a.

Motion made by Council Member Wyett, seconded by Council Member Brooks to defer Variance #7-2006, Item XX.C.4.a., to the March 14, 2006, Town Council Meeting.

DEFERRED to the March 14, 2006, Town Council Meeting, Plat Abandonment, 515 North County Road, and Resolution No. 71-05, Item XX.C.5.a. and i.

Motion made by Council Member Brooks, seconded by President Pro Tem Kleid to defer Plat Abandonment, 515 North County Road, and Resolution No. 71-05, Item XX.C.5.a. and i., to the March 14, 2006, Town Council Meeting.

Council Member Wyett requested that the Town Council invite the authorities of the City of West Palm Beach Water Department to next month's Town Council Meeting, to discuss the poor quality of water.

ADDED to next month's Agenda was an invitation of representatives from the City of West Palm Beach Water Department to discuss water quality.

MOVED to the Regular Agenda as Item XII.B.11., the Relocation of PZ&B, Item X.G.4., from the Consent Agenda.

MOVED to Regular Agenda as Item XII.B.12, the Use of Town-Owned Property for Sunfest Parking from Consent Agenda, Item X.G.3., to be heard at a time certain between 12:00 and 12:30 p.m.

Motion made by Council Member Brooks, seconded by President Pro Tem Kleid to approve the Agenda as amended. On roll call, the motion carried unanimously.

IX. COMMUNICATIONS FROM CITIZENS- 3 MINUTE LIMIT PLEASE
(Another opportunity for communications from citizens will be offered immediately after the lunch break.)

Royall Victor commented that the noise from the City of West Palm Beach's events was unpleasant and annoying to the residents of the Town of Palm Beach. Mr. Victor suggested that as a condition precedent to considering SunFest's request for parking on Town property located in West Palm Beach, that the Town Council obtain a commitment from the City and the management of SunFest to reduce the electronic amplifications of performances held in the amphitheater.

Eric Gilbertson, 151 Chilean Avenue, commented that rather than replacing sand at the beach, an installation of higher and extended groynes in the sand would hold a considerable portion of the sand in place, and save an enormous amount of money.

X. CONSENT AGENDA

A. MINUTES: DECEMBER 12, 2005
APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL TRAINING SESSION REGARDING THE NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS)

B. MINUTES: JANUARY 10, 2006
APPROVAL OF THE MINUTES OF THE REGULAR MONTHLY TOWN COUNCIL MEETING

C. MINUTES: JANUARY 17, 2006
APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING TO CALL THE ELECTION

D. MINUTES: JANUARY 17, 2006
APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING REGARDING ZONING

E. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL REVIEW COMMISSION AT ITS MEETING ON JANUARY 25, 2006.

F. RESOLUTIONS

1. RESOLUTION NO. 9-06 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]

2. RESOLUTION NO. 10-06 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Mayor to Execute an Amendment to an Agreement Between the Town of Palm Beach and Palm Beach County Dated March 15, 2005, for the Lease of Two Million Gallons of Wastewater Treatment Capacity at the East Central Regional Reclamation Facility.
[H. Paul Brazil, Director of Public Works]

3. RESOLUTION NO. 12-06 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Florida Boating Improvement Grant Agreement Between the Florida Fish and Wildlife Conservation Commission and the Town of Palm Beach for a Public Safety Dock and Authorizing the President of the Town Council to Execute the Same on Behalf of the Town. [Thomas G. Bradford, Deputy Town Manager]

4. RESOLUTION NO. 13-06 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving an Interlocal Agreement for Co-utilization of the Palm Beach County Surplus Property Thrift Store and Authorizing the Town Manager to Execute the Same on Behalf of the Town.
[Jane Struder, Director of Finance]

5. RESOLUTION NO. 14-06 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Establishing Dock Rates for Annual, Seasonal, and Winter Transient, Summer Monthly, and Summer Transient Leases. [Thomas G. Bradford, Deputy Town Manager]

6. RESOLUTION NO. 17-06 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Urging Members of the Florida Legislature to Support Certain Legislation During the 2006 Legislative Session.
[Peter B. Elwell, Town Manager]

G. OTHER

1. Designation of Mayor McDonald as the Town's Voting Delegate to the Palm Beach County League of Cities.
[Peter B. Elwell, Town Manager]

2. Acceptance of 2006 FCC Rate Filings from Adelphia.
[Thomas G. Bradford, Deputy Town Manager]

3. Authorization to Allow Sunfest of Palm Beach County, Inc., to Use Town-owned Property at Quadrille Boulevard in West Palm Beach for Volunteer Parking During Sunfest 2006.
[Sarah E. Hannah, Assistant Town Manager]

This item was moved to the Regular Agenda as Item XII.B.12.

4. Authorization for Staff to Continue Exploration of Alternatives for Relocation of the Planning, Zoning, and Building Department to West Palm Beach North of Quadrille Boulevard.
[Peter B. Elwell, Town Manager]

This item was moved to the Regular Agenda as Item XII.B.12.

5. Approval of ARCOM Decision for B78-05 Addition Located at 995 South Ocean Blvd.
[Veronica B. Close, Director of Planning, Zoning, and Building]

6. Appointment of "Employee Representative" on the Town's Mini PERC.
[William C. Crouse, Director of Human Resources]

Motion made by Council Member Wyett, seconded by President Pro Tem Kleid to approve the Consent Agenda as amended. On roll call, the motion carried unanimously.

XI. PUBLIC HEARING

A. RESOLUTION NO. 11-06 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Ratifying and Confirming the Determination of the Landmarks Preservation Commission that the Property at 442 Seaspray Avenue Meets the Criteria Set Forth in Ordinance No. 2-84, also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach, and Does Hereby Designate Said Property as a Town of Palm Beach Landmark Pursuant to Ordinance 2-84, also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach.
[Veronica B. Close, Director of Planning, Zoning, and Building]

Planning Administrator Tim Frank presented Resolution No. 11-06, and noted that there was verification of notification, witnesses, and property owner consent.

The witnesses were sworn in by Town Clerk Eichhorn.

Historical Preservation Consultant Jane Day provided a presentation of the property located at 442 Speaspray Avenue.

Motion made by Council Member Brooks, seconded by President Pro Tem Kleid to accept Jane Day's Designation Report as part of the record. On roll call, the motion carried unanimously.

Town Attorney Randolph read Resolution No. 11-06 by title, as printed above.

Motion made by Council Member Brooks, seconded by Council Member Wyett to approve Resolution No. 11-06 designating property at 442 Seaspray Avenue, as a Landmark of the Town of Palm Beach. On roll call, the motion carried unanimously.

XII. REGULAR AGENDA

A. Old Business

1. Placement of Overhead Utility Lines Underground.
[Thomas G. Bradford, Deputy Town Manager]

Deputy Town Manager Bradford provided an update on the placement of overhead utility lines underground. He indicated that staff recommended that the Town be as flexible as possible with the use of easements and right-of-ways, and approve Florida Power & Light's (FPL) proposed Phase I. Mr. Bradford noted that there were three additional recommendations, entitled Special Considerations, that would be reviewed at the end of the report.

a. Phases for the Townwide Undergrounding Project.

Mr. Bradford discussed the following:

- Legislative Update
- Proposal of Phase I to include Onondaga Avenue north to the Lake Worth Inlet and from Sloan's Curve on State Road A1A to the Town's southern border with the Town of South Palm Beach, contingent upon Adelphia/Comcast and BellSouth completing those areas within the same time frame as FPL.

b. Location of Underground and Above Ground Facilities (the "Easement Question")

Mr. Bradford indicated that FPL planned to facilitate the conversion of overhead utilities by placing underground conduit, cable, associated above-ground transformers, and switch cabinets in road rights-of-way. The Town anticipated utilizing the rights-of-way for its underground utilities project.

The alternatives based upon the circumstances encountered at each project location were:

- Use of rear yard easements for all three utilities where 10 feet of combined cleared right-of-way exists and no insurmountable impediments (structures) existed within that rear yard easement;

- Use of right-of-way adjacent to a property's front yard for FPL facilities, with easements on private property or space designated in right-of-way, as needed, to accommodate ground mounted transformers and switch cabinets. Existing rear yard easements to remain to accommodate underground Adelphia/Comcast and BellSouth facilities;

- Use of new front yard easements to accommodate FPL underground facilities in the event that the right-of-way adjacent to a front yard was insufficient to accommodate FPL facilities.

Mr. Bradford stated that Adelphia/Comcast and BellSouth's conversion was required prior to FPL's conversion. He indicated that meetings had been scheduled with Adelphia/Comcast and BellSouth in order to acquire the necessary information.

Mr. Bradford reported that Mr. Rod Macon of FPL noted several of the following issues in regard to a cost estimate for Phase I:

- That a non-binding ball park estimate for the cost of conversion of the north section was $2.5 million;

- That a non-binding ballpark estimate for the cost of conversion of the south section was $4.5 million;

- That there would be up to ten phases;

- That a deposit of $22,000 would be required to generate a binding estimate for the north section of Phase I;

- That a deposit of $34,000 would be required for a binding estimate for the south section of Phase I; and

- Once the deposits were paid, binding estimates for the north and south sections of Phase I would be delivered in 10 to 15 weeks.

Mr. Bradford related that staff recommended the following Special Considerations:

- Instead of creating a new special committee, the existing Public Works Committee could accelerate the project while a new, separate committee would slow it down.

- Town Council would hold a special meeting, with Bond Counsel present, to review each of the finance options available for the funding of the undergrounding project.

- Upon receipt of all outstanding information from the three utilities, but no later than March 31, 2006, the Town Council would hold a special meeting to review all of the technical issues identified by the Public Works Department.

Several points of discussion by Mr. Bradford and the Council Members were:

- The work could be done faster, and less costly, by not relocating Adelphia/Comcast's and BellSouth's existing underground facilities in rear yard easements to the front, where other easements were needed;

- The Town should consider the benefits of having residents with expertise in construction and negotiation experience with FPL being put on any special committee;

- It was assumed that the 25% participation of the cost by FPL was prior to any discount or payment, resulting in less money than estimated.

- Timing was critical in order to maximize the 180 day-binding estimate in consideration of a referendum in November.

- Two letters dated January 31, 2006, and February 2, 2006, from Mr. Alec Flamm, an Officer of the Palm Beach Civic Association addressed to Town Manager Elwell had been entered into the record, making valid points.

- The Town was in the process of obtaining a House of Representatives sponsor;

- The formation of committees that were site-specific to each phase, as north-end and south-end issues were different;

- The reconciliation between FPL's first phase estimate and the ballpark estimate was received yesterday;

- The time frames of each phase would be approximately 12 months, amounting to 10 years or less;

- Pertaining to easements, a recalcitrant property owner could affect the cost of the project, but could not prevent the Town's progress; the issues associated with the project would be resolved in the court system, which could lead to increased costs of the job, but would not hold up construction;

- The number of streets that would be utilized for the facilities on the north-end had not been quantified yet.

- In order to accelerate the project, shorten the 10 years by having three projects per year;

- The interval of transformers varied depending upon the demand of electricity, and the size of the house;

- The amount of FPL's manpower would have a significant effect on how quickly the project could be completed;

- The engineering design of the project would indicate the location of the transformer boxes, eliminating the need for an overlay; and

- The burden of the transformer boxes would be shared by the property owners, but the engineering design would drive the location of the boxes.

The Town Council agreed to the following staff proposals:

- The use of easements and right-of-way;

- Proposed Phase I;

- That if a formal, appointed committee of the citizens was appointed to oversee the project, it would be encumbered by the Sunshine Law;

- The Town Council would hold Special Town Council Meetings or Town Council Workshops to review each of the finance options available; the Town Manager's Office would schedule the Special Town Council meetings and workshops.

Public Comment:

Mrs. Yvelyne Marix, 1570 N. Ocean Blvd., commented that the Sunshine Law should be followed, regardless of the drawbacks.

President Coleman indicated that he was following the Sunshine Law, and that he did not intend to give the impression that he was avoiding it.

2. Update Regarding Kapok Trees at the East Approach to the Royal Park Bridge. [H. Paul Brazil, Director of Public Works] *Deferred from the January 10, 2006, Town Council Meeting.*

Director of Public Works Paul Brazil indicated that the Town had entered into a joint project agreement with the Florida Department of Transportation (FDOT) to be reimbursed $140,000 for planting specimen trees on the southeast corner of the Royal Park Bridge. He noted that there was only one responsive bidder, that requested $650,000 for two trees. Mr. Brazil continued that he had worked with the Garden Club and Mr. George Sanchez, locating a specimen Kapok tree, for $99,500. Mr. Brazil recommended that the Council reject the bid provided by Statewide Contracting, on December 28, 2005, and authorize the Town Manager to enter into a contract with Tree Integrity, Inc., for an amount not to exceed $99,500 for the planting of one tree on the southeast corner of Royal Park Bridge.

President Pro Tem Kleid suggested that Mr. Brazil approach FDOT to discuss the remaining funds available.

Ms. Nancy Murray urged approval of the Kapok tree, because the Town Council had agreed on the tree twice before, and it was a good price that included digging up the tree, pruning it, getting it on the barge, planting it, and insuring it for a year.

Motion made by Council Member Wyett, seconded by President Pro Tem Kleid to

reject the bid received on December 28, 2005, from Statewide Contracting, and approve entering into a contract with Tree Integrity, Inc., in an amount not to exceed $99,500 from the General Fund Contingency Account. On roll call, the motion carried 4-0, as Council Member Markin had temporarily left the dais.

**********The luncheon recess was taken at 12:30 p.m.***********

**** The Town Council Meeting of February 14, 2006, was reconvened at 2:20 p.m.*****

3. Review of Previously Approved FDOT Project Upgrades and Funding. [H. Paul Brazil, Director of Public Works]

Director of Public Works Brazil reported the following previously approved FDOT project upgrades and funding as listed below:

a. Decorative Street Light Poles:

- Upgrade street light system along State Road A1A from Hammon Avenue to Southern Boulevard;
- Staff could install the light poles saving approximately $200,000;
- The total cost would be $640,000 with FDOT's participation of $385,000;
- Staff requested $195,000 from the Capital Improvement Fund Contingency to pre order half the light poles;
- The project balance would be included in a planned budget amendment, presented in the future, and would cover costs incurred by the Town from Hurricane Wilma;
- There were two other light issues from Lake Worth Road, to the south Town limit - using the same project approach from Hammon Avenue to Southern Boulevard, the anticipated entire project cost would be $324,000, and FDOT's participation would be $210,000. The increase would be covered in the FY07 Capital Improvement Fund Account, which would be presented in the future budget.
- Decorative Lighting - one section of roadway along State Road A1A, from Sloan's

Curve to Lake Worth Road. The entire project would cost $990,000, with FDOT's participation to be $641,000.

Council Members Wyett and Markin commented that they were opposed to funding decorative lighting and sign posts, because it was an unnecessary expense.

President Pro Tem Kleid indicated that the new lighting, new signs, and new crosswalks would have a dramatic, positive effect on the Town. He said this was an opportunity to enhance the beauty of the Town.

The Council Members discussed deferring the approval of the decorative street light poles, in order for staff to return at the next meeting with the cost of placing the street light lines underground.

Motion made by Council Member Wyett, seconded by Council Member Markin to defer approval of the decorative street light poles to March 14, 2006, Town Council Meeting. *[Please see substitute motion]*

Mr. Gerry Frank commented that driving along State Road A1A from the south through the Towns of Manalapan, South Palm Beach, and the City of Lake Worth, the street lighting had been upgraded and was decorative. He noted that the old style, non decorative street lighting began at the *Welcome to Palm Beach* sign, and that the Town should take the opportunity to be reimbursed by FDOT.

President Pro Tem Kleid stated that the difference in the street lighting in that area was like night and day, and that it was not how the Town wanted to appear.

Town Manager Elwell noted that if the Town delayed installation of the decorative street lighting, it would have to pay the full price, whereas FDOT would reimburse the Town for the cost of standard lighting installation.

Council Members Markin and Wyett, commented that they would prefer to defer the approval until more information was obtained.

Substitute motion made by Council Member Brooks, seconded by President Pro Tem Kleid to approve the decorative light system along State Road A1A from the south to Hammon Avenue. Upon roll call, the motion carried 3-2, with Council Members Brooks, Kleid, and Coleman casting affirmative votes, and Council Members Markin and Wyett casting dissenting votes. [Decorative lighting along State Road A1A from Lake Worth Road to south Town limit: $324,000 total project cost, FDOT participation $210,000]

Motion made by President Pro Tem Kleid, seconded by Council Member Brooks to approve the decorative lighting from Sloan's Curve to the Lake Worth Bridge, and from the Lake Worth Bridge to the southern end of the Town. Upon roll call, the motion carried 3-2, with Council Members Brooks, Kleid, and Coleman casting affirmative votes, and Council Members Markin and Wyett casting dissenting votes.

b. Decorative Sign Posts

- Decorative sign posts would replace 66 existing sign posts from Royal Palm Way to Hammon Avenue, at a total cost to the Town of $198,000 paid to FDOT. If approved, the funding would be added to the planned budget amendment.

Town Engineer Bowser explained that FDOT had credited money to the Town for the project between Southern Boulevard and Royal Palm Way, for landscaping, lighting, poles, and crosswalks to help defray the costs.

Motion made by Council Member Wyett, seconded by Council Member Brooks to approve the replacement of 66 decorative sign posts from Royal Palm Way to Hammon Avenue at a total cost to the Town of $198,000 paid to FDOT, and no reimbursement. On roll call, the motion carried 3-2, with Council Members Wyett, Brooks, and Kleid casting affirmative votes; and Council Members Coleman and Markin casting dissenting votes.

c. Pedestrian Crosswalks

- Anticipated costs to the Town for crosswalks was $66,000, and should be forwarded to FDOT this fiscal year, to be included in the budget amendment.

Motion made by Council Member Wyett, seconded by Council Member Brooks to approve colored, textured asphalt within the pedestrian crosswalks for $66,000. On roll call, the motion carried unanimously.

d. Phipps Ocean Park Mangrove Mitigation

- FDOT was required to construct a mangrove mitigation project at Phipps Ocean Park, replacing the mangroves with buttonwood trees in the sparse area; the Lake Worth Lagoon was chosen for the replacement of the mangroves, using it as a vegetative buffer for $43,747 in this fiscal year;

- The Town staff worked with Ibis Isle residents to provide additional landscape buffering at Phipps Ocean Park, which was funded by the Town and the residents; and

Town Manager Elwell clarified that Phipps Ocean Park mangrove mitigation project was approved through the unanimous consent of the Town Council, at a total project cost of $63,647; $43,747 in this fiscal year, and in the future $19,900 to monitor and maintain for 5 years.

B. New Business

1. Request for Right-of-Way Permit on North Lake Way at Hi-Mount Road. [H. Paul Brazil, Director of Public Works]

Director of Public Works Brazil stated that there was a request to use the road right-of-way for construction activities during the season at 766 Hi-Mount Road. He indicated that staff was ready with a plan to minimize impacts to traffic, if the Council approved the request.

There was a consensus of the Town Council not to approve the request, as it was during the season.

2. Potential Negotiations with the Town of Manalapan and the Town of South Palm Beach Regarding Fire-Rescue Services.
[Peter B. Elwell, Town Manager and Edward J. Moran, Fire-Rescue Chief]

Town Manager Elwell requested direction regarding the potential negotiations with the Town of Manalapan and the Town of South Palm Beach for the provision of contractual fire-rescue services.

Fire-Rescue Chief Moran noted the advantages of providing contractual services to the two Towns as:

- A fourth station at the south end of the Town of Palm Beach would provide additional resources and a quicker response time to the extreme south locations;

- Faster arrival of required "second due" companies, such as engine companies and rescue companies;

- Ability to handle multiple concurrent incidents without relying on mutual aid and assistance from surrounding communities; and

- Increased ability to train "on duty" staff.

Fire-Rescue Moran's responses to the Council Members were:

- Any associated costs would be passed on to the Towns of Manalapan and South Palm Beach;

- The additional staffing requirements would be approximately 30 personnel; and

- Discussions regarding the cost formula would prevail with the direction of the Town Council;

Council Member Brooks requested that after discussions with the Towns, the following information be brought back to the Town Council:

- The current cost that the Towns of Manalapan and South Palm Beach were paying for the Palm Beach County Fire-Rescue Services;

- The additional personnels' impact on the benefit packages;

- Valid quotes of the additional required professional equipment;

- Factor in the buildings of the Towns of South Palm Beach and Manalapan in order to provide the Town Council with necessary data; and

- Ensure that it would be a reasonable cost plus agreement for the Town of Palm Beach.

Council Member Markin expressed concern about the cost of the pensions that would result from the additional personnel.

Fire-Rescue Chief Moran stated that any associated costs to the Town would be factored into the contract.

Motion made by President Pro Tem Kleid, seconded by Council Member Wyett to direct Fire-Rescue Chief Moran and Staff to enter into preliminary negotiations with the

Towns of South Palm Beach and Manalapan to provide contractual fire-rescue services.

Public Comment:

Ms. Jere Zenko, of Tangier Avenue, commented that the Town could not do it all for everyone, and that the citizens should come first. Ms. Zenko asked that except for being polite, why would the Town consider this discussion?

President Coleman responded that the Town had a tangible, direct benefit, and that the Council would not put the Town in a position of risk at the end of the process.

Mr. Marty Millar, South Palm Beach Council Member, commented that his Town was reaching out to the Town of Palm Beach for help, and would not put it in jeopardy.

Town of Manalapan Mayor William E. Benjamin II, commented that the Town Council was empowering the three Towns to discuss the details of the contract, and if it did not work out, there would be no hard feelings. He added that the Towns needed to preserve its integrity by developing friendships and alliances based on realism and understanding, which would benefit everyone.

Town of South Palm Beach Mayor Maurice Jacobson, commented that the exploratory discussions would be for the benefit of all three Towns. He stated that the Towns of Manalapan and South Palm Beach were in disagreement with the Palm Beach County Fire-Rescue's pricing structure, not with the services. He apprised that the Towns pay $1,037,000 each to the County, and that he hoped to come to a conclusion, in which all parties would benefit equally.

Upon roll call, the motion carried 4-1, with Council Member Markin casting a dissenting vote.

3. Seaview Park Tennis Facility Master Plan.
[H. Paul Brazil, Director of Public Works]

Director of Public Works Brazil presented three alternative site plans:

- Option 1- included eight tennis courts, but would not expand the space between the fences and the play area or between the two courts. The consultants did not recommend this option.
- Option 3 - had seven courts, did not compromise any additional greenspace, and was a reasonable alternative.
- Option 3a - was slightly different in the bottom two courts. The shade shelter was

in the center as opposed to off the side, and there was more greenspace in the play area next to the court.

Mr. Brazil noted that based on the public hearings and input from the Recreation Department, that Option 3a would be preferable.

President Pro Tem Kleid inquired as to the justification of installing an eighth court.

Town Manager Elwell noted that there were currently eight courts, and this would be a reduction to seven, but this was the preferred option.

Motion made by Council Member Brooks, seconded by Council Member Wyett to approve Option 3a of the Seaview Park Tennis Facility Master Plan as presented with staff memorandum of February 6, 2006. On roll call, the motion carried unanimously.

4. Proposed Memorial Plaque for Town Employees at Memorial Fountain Park. [Peter B. Elwell, Town Manager and Sgt. Fred Hess, President, Lodge #19, Fraternal Order of Police]

Town Manager Elwell stated that staff recommended that Town Council authorize $18,000 from the General Fund Contingency Account for the installation of a memorial plaque for Town employees at Memorial Fountain Park by May 1, 2006, which would be in time for dedication on Police Memorial Day.

Motion made by President Pro Tem Kleid to approve the expenditure of $18,000 for the installation of the memorial plaques, and the refurbishment of the plaque on the westernmost section of Memorial Fountain Park.

Mr. Elwell advised that if staff was unable to refurbish the plaque, he would come back with a recommended amount for an outside contract.

Council Member Wyett suggested including the names of Town employees who had died while serving in the military.

Amended motion made by President Pro Tem Kleid, seconded by Council Member Markin to approve the installation of the memorial plaques, the refurbishment of the plaque on the westernmost section of Memorial Fountain Park, and the inclusion of the "employees who had died in the line of duty or also in a war." On roll call, the motion carried unanimously.

5. Request for Staff Report Regarding Proposed Improvements in Police Pension Benefits, so This Matter May Receive Additional Consideration at the Town Council Meeting on March 14, 2006. [William J. Brooks, Town Council President]

Council Member Brooks noted that there was a discrepancy between the Florida Statute, Chapter 185 and 175, in which the Fire-Rescue Department employees received more in pension benefits than the Police Department employees. He recommended that on March 14, 2006, the Town Council hold an open discussion including remedies for the inequities to be on the agenda.

Town Manager Elwell explained the differences of the inequities between the Florida Statutes, Chapter 185 and 175.

President Coleman indicated that although he was not trying to resolve the issue today, he would like to obtain as much information as possible.

Motion made by Council Member Brooks, seconded by President Pro Tem Kleid to place the item on the March 14, 2006, Town Council Meeting Agenda.

President of Palm Beach Lodge No. 19, Fraternal Order of Police Fred Hess, requested that next month the item be given full discussion, and thanked the Town Council for calling attention to it today.

Officer Michael Lynch, member of the Palm Beach Police Pension Board, thanked the Council for re-addressing the issue, and recommended that an ordinance be drafted today for the March meeting, in order to move forward if the proposal was approved.

John Cuomo, Palm Beach Fire-Rescue, member of the Palm Beach Fire-Rescue Pension Board, requested that the Fire-Rescue Department be included in any discussions about the 175/185 statutes. He stated that the statutes changed year over year, increasing as a result of the property values, but could easily decrease if the property values dropped. The inequity could flip-flop next year, and the Fire-Rescue Department would be requesting equity.

Council Member Markin requested a total package comparison for the Police and the Fire-Rescue Departments, in order to be prepared for next month's meeting.

President Coleman suggested hiring an outside consultant to report on the totality of the pension benefits, and inviting both departments to participate in the discussion next month.

Amended motion made by Council Member Brooks to add full discussion of Police and

Fire-Rescue Pension benefits to the March 14, 2006, Town Council Meeting Agenda, invite representatives from each Department, and review their packets. Seconder agreed. On roll call, the motion carried unanimously.

6. Review of Final Scope of Work for the Traffic and Parking Improvement Plan. [H. Paul Brazil, Director of Public Works]

Director of Public Works Brazil provided an overview of the Town-wide Traffic and Parking Improvement Plan. Request for additional funding would be used for:

- Reviewing and recommendations regarding alternatives to "chalk marking" parked vehicles;

- Development of a graphic depiction of recommendations for improved parking and traffic for both commercial and residential districts; and

- Providing a detailed parking inventory between Wells Road and Gulfstream Road. Reviewing an existing police inventory to minimize effort of field data collection.

Town Manager Elwell noted that there was $150,000 in the budget, and staff was asking for $37,895 from contingency today, and authorization to proceed with the work.

The Council Members and staff discussed the following:

- Chalk marking parked cars was not effective, because the chalk marks could and have been be wiped off;

- Store owners and employees occupied half of the parking spaces downtown;

- Analysis of the Apollo Lot for potential parking for cooperative, creative alternatives as private, public, and multiple use parking;

- Inclusion of video cameras for the surveillance of traffic as a consideration of the Scope of Work;

- The study of punitive aspects of parking violations and the timing of traffic lights would be included in the study;

- The study would include behavioral analysis in addition to the engineering analysis as it related to the real world;

- Accommodation of the needs of the shops and reevaluation of the existing parking placard system;

- Make more efficient use of private parking facilities, not just the Apollo Lot, but also the garages at the Esplanade and Nieman Marcus.

Motion made by Council Member Brooks, seconded by President Pro Tem Kleid to approve the transfer of an additional $37,895 and a 10% contingency for the project, from the General Fund Contingency to the General Operating budget to fund Town-wide traffic and parking improvement plan. On roll call, the motion carried unanimously.

7. Schedule for Annual Review of Strategic Plan and Pre-Budget Goal Setting[PeterB. Elwell, Town Manager]

Town Manager Peter Elwell referred to his memorandum to the Mayor and Town Council, dated February 9, 2006, and included in the back-up recommending a proposed schedule for the annual review of the Strategic Plan and pre-budget goal setting. He noted that the Town Council, as a group, would establish the top five priority goals for the upcoming fiscal year.

Mr. Elwell recommended that the discussion of these two items be held, within the next two months, during the course of the regular monthly Town Council meetings, with the Strategic Plan to be addressed on March 14, 2006, and the budget parameters item on April 11, 2006.

President Brooks stressed the importance of the Strategic Plan review analysis, since this was the public policy that the Town Council was elected to follow. He recommended that this item should be placed up high on the agenda, under Old Business, so sufficient discussion could be given.

President Coleman suggested that on an as needed basis, the Town Council schedule Special Town Council Meetings or Town Council Workshops on the Mondays before the Town Council meeting, from 2:00 p.m. to 5:00 p.m., and the Wednesdays after the Town Council meeting, from 9:30 a.m. to 12:30 p.m. He stated that these meetings, which may not occur all the time, would allow for the Council Members to plan ahead.

After discussion, Mr. Elwell clarified that the Strategic Plan meeting would be March 13th, from 2:00 p.m. to 5:00 p.m. He stated that the Council would keep their calendars open for the Monday afternoons before Town Council meetings, and the Wednesday mornings after each Town

Council meeting. He noted that staff would make the required notifications for the Special Town Council meeting of March 13th regarding the Strategic Plan.

The Town Council agreed to put into effect, starting as of March 13, 2006, that the Monday prior to a regular Town Council Meeting (2:00 - 5:00 p.m.) and the Wednesday following a regular Town Council Meeting (9:30 a.m. - 12:30 p.m.) would be allotted for necessary Special Town Council Meetings or Town Council Workshops.]

8. Discussion of Employing Expert to Advise ARCOM on Architectural Matters. [Jack McDonald, Mayor]

Mayor McDonald suggested employing an expert consultant to advise the Architectural Review Commission (ARCOM) similar to the way the Landmarks Preservation Commission (LPC) had done. He noted that at the first two workshops regarding neighborhood indexing, Architect Jeff Smith had stated the answer was not indexing but good architecture. He explained that many times applicants apply to ARCOM who might or might not have the appropriate architectural background.

Councilman Wyett stated that the role ARCOM plays in the Town were all important. He explained that a house becomes a good addition to a block when it has been well designed and well landscaped. He noted that, currently, there was a requirement to have two architects on ARCOM and suggested that, as an alternative idea, moving in the same direction, four architects should be required for the Architectural Review Commission. He advised that by increasing the number of architects, if they could be found, from two to three or from two to four, the same result would be achieved without incurring additional expense.

Mayor McDonald discussed his concerns regarding Mr. Wyett's proposal and the reasons he would not recommend that suggestion:

- Difficulty of finding four residents that were architects;
- Architects serving on ARCOM, would live in Town, would often still be practicing architects, and due to conflicts, would frequently have to recuse themselves.

Councilman Brooks agreed with Mayor McDonald's proposal, and brought forward a letter that he had received from Mr. Royall Victor concerning the Town's boards and commissions. He recommended that the Council review Mr. Victor's suggestion for an education program for all new board members.

President Pro Tem Kleid suggested that both recommendations, Mayor McDonald's and Mr. Victor's, should be handled as one matter.

President Coleman suggested deferring this item to next month's Town Council meeting.

In response to President Coleman's concern regarding the Sunshine Law, Town Attorney Randolph advised that he could send a memo through the Town Manager's office advising that a particular item would be discussed at the next meeting.

Mr. Elwell explained that in order to stay on the right side of the Sunshine Law, staff would place such a memorandum in the Council's back-up books. He advised that then each member would have the opportunity to review that memo over the weekend, prior to the meeting, as opposed to over the course of the month.

After discussion, it was the consensus of the Town Council to defer this item to the March 14, 2006, Town Council Meeting. The Council, at that meeting, would discuss both recommendations in their entirety, under one agenda item.

9. Discussion of Authorizing Mayor to Contact the Publix CEO and Open a Discussion on the Inadequate Parking and Traffic Problem. [Allen S. Wyett, Town Council Member]

Councilman Wyett stated that Publix, as the primary supermarket in Town, needed to have its parking facilities expanded as well as expanding the store itself. He noted that Publix had refused, on a number of occasions, to consider purchasing one or more parking lots located behind them. He suggested that the Town make a major effort in asking the CEO of Publix, rather than contact their real estate department, to invite him to come and see what the problems were facing the Town and to gather a better understanding of the Town's concerns.

President Coleman stated that one of the concerns he had regarding expansion of the Publix parking lot was that it would bring more people into Town. He explained that the Town had sixteen acres in West Palm Beach next to the railroad tracks, off the north bridge, part of which would be available for the Town to use in the future as a water facility. He advised that the Town could make it very favorable for a high class retailer to place a food market at that location, which could help limit the people coming into Town, and that the Town Council would ask Mayor McDonald to touch base with Publix, Whole Foods and any other supermarket in regard to this property. He suggested working with Mayor Frankel, who was aware of situations going on in West Palm Beach that the Town was not be aware of.

Mr. Bill Diamond, 220 Wells Road, Chairman of the Governmental Impact Review Panel, stated that he believed a multifaceted approach was needed to address this problem. He advised that the Governmental Impact Review Panel had insisted that Mayor Frankel address this issue when she appeared before the Panel, and that Mayor Frankel had informed them that the City of West Palm Beach was in contact with Publix.

Mr. Diamond stated that Mrs. Marix, had informed the Panel that when standing in front of Publix to get petitions signed, this past summer, at least fifty percent of the people could not sign her petition, because they were not residents of the Town. He stated that the idea of using Town land located in West Palm Beach could be a possible solution, although he did not believe the Town would receive much of a response from Publix as far as the location in Town; the Panel had received a very unsatisfactory response from Publix. He urged the Council to proceed as best as possible, on both sides of the lake, to do something about Publix, and to address the need for more service facilities, not just grocery stores.

President Coleman advised that the Town would have more control and more influence by holding onto the land in West Palm Beach. He suggested asking the Mayor to contact Publix.

Mayor McDonald advised that he was very much in favor of the idea.

In response to Mayor McDonald, Mr. Elwell advised that the water contract with West Palm Beach expired in 2029, twenty-three years from now. He stated that he did not know what the zoning was for that location, but believed that the Town could work with the City of West Palm Beach to acquire any required approvals, if Publix would be willing to locate there, due to the obvious benefit to the new downtown residents of West Palm Beach.

Councilman Brooks informed the Council that Publix had sold the land that their City Place Publix was located on, and condominiums were going into that space. He stated that Publix was building a new building in greater West Palm Beach, which was to be larger.

Ms. Markin suggested that bringing in another vendor or holding discussions with another vendor might prompt Publix to act a little more proficiently. She advised that the idea of having more control over the services that were provided for the citizens moving into West Palm Beach was a very good one.

Mayor McDonald accepted the Town Council's authorization to contact the Publix CEO and open a discussion on the inadequate parking, traffic problem, and to request that Publix consider the Town-owned property in West Palm Beach for placement of a larger store. The Mayor agreed to contact other vendors, in addition to Publix, for their consideration of locating to the Town-owned property in West Palm Beach.

10. Planning and Zoning Commission Appointments.
[Veronica B. Close, 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:
Harrison M. Robertson	William M. Guttman
John Schuler	Walter A. Dowell
Alan S. Golboro	Leslie A. Shaw

11. Authorization for Staff to continue Exploration of Alternatives for Relocation of the Planning, Zoning and building Department to West Palm Beach north of Quadrille Boulevard. [Peter B. Elwell, Town Manager]

Council Member Susan Markin stated that it was at her request that this item was placed on the agenda and that she had several points she wanted to make. She advised that she had toured Town Hall including the old fire station with Town Manager Peter Elwell.

Council Member Markin discussed the following points regarding revamping of the computer system for the Planning, Zoning, and Building Department:.

- Decrease the amount of traffic coming into Town Hall;
- New capabilities with the computerization of these applications - i.e., Track permits on line;
- Staffing requirements minimized with use of new technology.

Council Member Markin stated that the best way to get the most efficient use of a space was to hire a professional office space planner, which might help keep the Town from incurring the cost of either building, buying or leasing a building, and to try to keep Planning, Zoning and Building in Town Hall. She noted that she would hate to see the disconnect that might occur with staff and residents if PZ&B was moved across the way. She noted that the majority of residents she spoke with during her campaign, stated they would like to see Planning, Zoning and Building remain in Town.

Councilman Wyett stated that this subject has been rehashed many times. He advised that he was in the minority because he supported keeping the Planning, Zoning and Building Department in the Town. He explained that the costs to move to West Palm would not be cheap, and that it might be well worth it to have space requirements analyzed by a space planner in order to see if there was enough space in Town Hall for it to be renovated.

In response to President Coleman, Mr. Elwell stated that both the relocation and the space planner could be pursued on parallel tracks, but he did not know if the space planning work could be done timely enough so as not to slow down the other process. He advised that he was requesting direction from the Council as to whether there was a third Council Member who believed the Town should consult a professional space planner. He noted that his concern was, he believed, in order for this to be done right, a proposal was needed. He advised he would have to come back to Council next month for funding to proceed with that proposal.

Mr. Elwell advised that staff had hoped to present specific recommendations at the Town Council Meeting next month with regard to where the Town was headed and with whom the Town would be doing business. He advised that he did not know if staff will have finalized a deal, by that time, but stated that some good points had been made about the benefits of staying. He commented that, he believed, it was the consensus of the Council, and certainly from his perspective with staff, that there was agreement with the points made in terms of the advantages for all departments to remain here together, if possible. He noted that staff did try to make that work, without a space planner, but with the help of an architect, and there had been some structural issues within Town Hall that would place constraints on the creativity that a space planner could bring.

In response to President Coleman, Mr. Elwell stated that the Council could provide staff with an upset figure, and staff would then address this issue. He advised that there was one other point he wanted to make, and that was staff believed the higher than expected prices in the bidding several years ago was caused by the need for phasing of the work to be done, which was very difficult for the contractors, and they had to build in a good cushion to allow for the fact that there would be much more than the usual amount of inconvenience. The contractors would be working in a 75-year old building with the occupants of the building remaining while they worked through four or five phases; it was hoped that in the next stage of bidding, a lot of money would be saved because Planning, Zoning and Building would have been moved out reducing the number of phases.

Councilman Brooks advised that he respected Ms. Markin's observation, but this discussion has been going on for six or seven years. He explained that he was not in favor of going back and revisiting this issue, because he was afraid that they would come up with the exact same answer.

In response to Mayor McDonald, Ms. Markin stated that her comment that traffic in the building would be reduced due to the utilization of an updated computer system, was based on conversations with Mr. Elwell and several other people in Town Hall. She explained that if contractors had the capability to log onto the Town's website, which would allow them access to information related to their projects, traffic coming into the building would be reduced significantly.

In response to Mayor McDonald, Mr. Elwell advised that there was a software upgrade plan that was being developed and money had been budgeted for it. He stated that staff expected within the next few months to be in front of the Council reporting on the progress and with recommendations for how to begin the upgrade process. He explained that over the course of the next several years, staff would be upgrading virtually all the packages Town-wide, beginning with Finance and PZ&B.

Mayor McDonald stated that even if there was a space planner who could lay the space out better than an architect, most of the structural issues and repairs would still have to be reviewed. He noted that the morale of the Building, Planning and Zoning Department, due to the cramped conditions, was also an issue.

Ms. Markin addressed the issue of morale stating she has seen in business that when people were moved and segregated out of a particular department into a remote location, morale was affected. In addition, she remarked that she would not want to work in any of the buildings that were being considered for the Building, Planning and Zoning Department; the buildings were not great buildings, the locations were terrible, and safety was an issue.

President Coleman advised that he thought the immediate problems were what was going to be done with staff, and structurally, how were they going to deal with Town Hall.

Ms. Markin suggested talking to staff to ask what they would rather do, would they prefer to move to a facility in West Palm or bear with it for whatever the time frame might be.

Councilman Wyett stated that many of the structural repairs would be taking place regardless of whether the Building Department was to remain in Town Hall or not. He advised that if it was going to be done, it should be done right so that it would not have to be done again in ten years. He stated that staff could take a dual track to make sure they were moving in the right direction.

President Pro Tem Kleid stated that a great deal of homework has been done and did not believe the wheel had to be reinvented. He explained that he thought the Council had gone through a long process arriving at the right answer and was not sure that by starting all over again, it would result in a different answer, nor would it be worth doing.

Ms. Markin advised that she brought this up as an alternative plan because there has been a lot of conversation on this issue, and that she had seen office planners do marvelous jobs with buildings like Town Hall making them very functional for a lot more people than one would think. She commented that if the Council does not want to do that, she understood and she knew a lot of homework had been done

Council Member Markin made a motion to authorize staff to continue exploration of alternatives for relocation of the Planning, Zoning and Building Department to West Palm Beach; and to hire a professional office planner to work simultaneously with the other

alternatives.

Mr. Elwell advised that he needed Council to authorize a not to exceed figure to be expended from the Contingency Fund.

Ms. Markin responded that she did not believe a professional office planner would charge more than $35,000 or $40,000 to prepare a preliminary plan.

Councilman Wyett suggested amending the motion to include the condition of at a cost not to exceed a given number of dollars.

Council Member Markin amended her motion to hire a professional office planner at a cost not to exceed $40,000.00. Councilman Wyett seconded the motion. On roll call, the motion failed 2/3: Council Member Markin and Council Member Wyett casting affirmative votes; Council Member Kleid, Council Member Brooks, Council Member Coleman casting dissenting votes.

Mr. Elwell explained that another motion was needed if the three Council Members who voted no, were inclined to proceed as recommended in his the memo.

Council Member Kleid made a motion to authorize staff to continue to review and refine alternatives for the relocation of the Planning, Zoning, and Building Department to West Palm Beach, north of Quadrille Boulevard. The motion was seconded by Council Member Brooks. On roll call, the motion carried unanimously.

TIME CERTAIN - 12:00 P.M.

12. Authorization to Allow SunFest of Palm Beach County, Inc., to Use Town-owned Property at Quadrille Boulevard in West Palm Beach for Volunteer Parking during SunFest 2006. [Sarah E. Hannah, Assistant Town Manager]

Assistant Town Manager Sarah Hannah commented that the item was pulled from the Consent Agenda in order for Mayor McDonald to discuss other SunFest issues regarding noise.

Mayor McDonald noted that the Town of Palm Beach wanted to assist SunFest with parking, but that there was concern among the citizens regarding the noise from SunFest of Palm Beach County, Inc.

Executive Director of SunFest Paul Jamison pointed out that the noise concerns this weekend was not from SunFest, and that he planned to bring sound representatives to the Island to determine the source of the sounds. He noted that none of the stages faced the Town, but that he intended to minimize the sound, and would be here on the first day of SunFest.

President Brooks commented that in low humidity the sound travels differently, and that SunFest traditionally had humid weather, which would impact the distance the sound level could travel.

Public Comment:

Mr. Royall Victor commented that the noise levels last weekend were very high and unpleasant, and the SunFest was an even grander display, despite the humidity level, could be very unpleasant.

Sergeant Fred Hess, Police Department, stated that he patrolled Seminole Avenue, last Saturday evening, and that the sound was so loud, he thought there was a party on Oleander Avenue.

Motion made by Council Member Brooks, seconded by President Pro Tem Kleid to approve the parking arrangement with SunFest of Palm Beach County, Inc., by using Town property located at the corner of Quadrille Boulevard from May 3 through May 7, 2006, and that the Police Department would review the arrangement. On roll call, the motion carried 4-0, as Council Member Markin had temporarily left the dais.

XIII. TEMPORARY ADJOURNMENT OF THE TOWN COUNCIL MEETING

The regular Town Council Meeting was adjourned at 3:37 p.m.

XIV. CONVENE AS LOCAL PLANNING AGENCY

A. Call to Order and Roll Call

President Coleman called the meeting of the Local Planning Agency to order at 3:37 p.m. On roll call the following elected officials were found to be present: Mayor Jack McDonald, Town Council President Denis Coleman, Town Council President Pro Tem Richard Kleid, Town Council Member William Brooks, Town Council Member Susan Markin, and Town Council Member Allen Wyett.

Town Manager Elwell explained that the staff recommendation to the Local Planning

Agency, was to recommend to the Town Council adoption of Ordinance No. 1-06.

B. ORDINANCE NO. 1-06 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 134-2, by Adding Cross References to Other Pertinent Regulations in the Definitions of Basement and Sub-basement; by Relocating Section 134-1516 to Section 134-1608; Sections 134-1609 through Section 134-1611, by Creating New Sections and Renumbering Other Sections to Add an Exception to Allow Basements and Sub-basements Outside of the Above Building Footprint and to Correct a Scrivener's Error; Section 134-2179, to Correct a Scrivener's Error; Section 134-1698 by Providing for a Regulation to Require a Lake Vista on the West Side of Lake Trail; Section 134-390 and Section 134-419, by Changing the Maximum Completion Dates for Restorations, Enlargements, Reconstruction or Alterations of Structures to be Consistent with the Building Regulations; Section 134-1730, by Adding a Provision to Regulate the Maximum Height of Outdoor Lighting Equipment; Providing for Severability, Repealing All Ordinances or Parts of Ordinances in Conflict Hereof; Providing for Codification; Providing an Effective Date.
[Veronica B. Close, Director of Planning, Zoning, and Building]

Councilman Brooks made a motion to recommend the adoption of Ordinance No. 1-06 to the Town Council. The motion was seconded by President Pro Tem Kleid. On roll call, the motion carried unanimously.

XV. ADJOURN AS LOCAL PLANNING AGENCY

The Local Planning Agency meeting was adjourned at 4:03 p.m.

XVI. RECONVENE THE TOWN COUNCIL MEETING

President Coleman reconvened the regular Town Council Meeting of February 14, 2006, at 4:04 p.m.

XVII. CALL TO ORDER AND ROLL CALL

President Coleman called the reconvened regular Town Council meeting to order. On roll call, the following elected officials were found to be present: Mayor Jack McDonald, Council

President Denis Coleman, Council President Pro Tem Richard Kleid, Council Member William Brooks, Council Member Susan Markin, Council Member Allen Wyett.

XVIII. ORDINANCES

A. Second Reading

1. None

B. First Reading

1. ORDINANCE NO. 1-06 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 134-2, by Adding Cross References to Other Pertinent Regulations in the Definitions of Basement and Sub-basement; by Relocating Section 134-1516 to Section 134-1608; Sections 134-1609 through Section 134-1611, by Creating New Sections and Renumbering Other Sections to Add an Exception to Allow Basements and Sub-basements Outside of the Above Building Footprint and to Correct a Scrivener's Error; Section 134-2179, to Correct a Scrivener's Error; Section 134-1698 by Providing for a Regulation to Require a Lake Vista on the West Side of Lake Trail; Section 134-390 and Section 134-419, by Changing the Maximum Completion Dates for Restorations, Enlargements, Reconstruction or Alterations of Structures to be Consistent with the Building Regulations; Section 134-1730, by Adding a Provision to Regulate the Maximum Height of Outdoor Lighting Equipment; Providing for Severability, Repealing All Ordinances or Parts of Ordinances in Conflict Hereof; Providing for Codification; Providing an Effective Date.
[Veronica B. Close, Director of Planning, Zoning, and Building]

Town Attorney John Randolph read Ordinance No. 1-06, by title, as printed above.

Councilman Brooks made a motion to approve Ordinance No. 1-06 on first reading. The motion was seconded by President Pro Tem Kleid. On roll call, the motion carried unanimously.

XIX. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

Council Member Markin commented that she very much respected all of her counterparts on the Town Council, and looked forward to working with all of them.

Council Member Kleid thanked Ms. Markin for her comment.

Council Member Wyett welcomed Ms. Markin to the Town Council.

Council Member Brooks commented that the Scripps vote was in and it was 4/3 for the Abacoa site.

President Coleman encouraged thinking about how to expedite variances. He also encouraged members to become more familiar with the subject of pensions.

Council Member Brooks applauded President Coleman's path to expedite variances.

XX. DEVELOPMENT REVIEWS

A. Appeals

1. None

B. Time Extensions

1. Request for Extension of Building Permit at 455 North County Road. [Frank Lynch, Esq.]

Ex-parte communication was not declared by any member of the Town Council.

Attorney Frank Lynch, on behalf of the applicant, 123, LLC, advised that approximately eighteen months ago, at the time the applicant took over the property, a petition for demolition by neglect was being considered by the Landmarks Preservation Commission. He explained that since that time, the property was being renovated and construction work was ongoing.

Attorney Lynch stated that the applicant was requesting an extension of the building permit. He explained that the building permit had been extended one time, last year for ten months, and the extension was due to expire next month. The extension they were granted included a one month extension granted because of the hurricane. He stated that the applicant was requesting another 13-month extension until April of 2007, and advised that they did not anticipate requesting any additional extensions.

Attorney Lynch explained the reasons for the delay; his client remained committed to completing the project and would like to see it done as soon as possible.

Director of Planning, Zoning and Building Department Veronica Close, advised that staff recommended granting the 13-month extension with the following three conditions:

- Any noise complaints in violation of the Town Ordinance may be cause for rescinding approval;
- All neighbors within 200' of 455 North County Road would be notified of the extension and any reasonable concerns will be rectified;
- Applicant would continue to report their progress every ninety days to the Landmarks Preservation Commission, which they have been doing.

Councilman Wyett made a motion to approve the request for a 13-month extension of the building permit until April 25, 2007, at 455 North County Road, with the conditions as listed above. The motion was seconded by Councilman Brooks. On roll call, the motion carried unanimously.

C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business- Less Than 15 Minutes

a. <u>MODIFIED SPECIAL EXCEPTION #20-2005 WITH SITE PLAN REVIEW AND VARIANCE</u> The application of Randal and Barbara Smith relative to property described as lengthy legal description on file; commonly known as 447 Primavera Avenue; located in the R-A Zoning District. Applicant requests to modify previous Special Exception with Site Plan Review approval to allow construction of a new two-story single family residence on a non-conforming unplatted parcel that is 137 feet in depth in lieu of the 150 foot minimum required in the R-A Zoning District; applicant requests a variance to build the proposed modified house with a building height plane setback of 37 feet and 1 inch in lieu of the 51 foot 5 inch minimum required. This is a modification of a previously granted variance which allowed a building height plane setback of 35 feet in lieu of 50 foot minimum required. *Deferred from the December 13, 2005, and the January 10, 2006, Town Council Meeting.*

Ex-parte communication was declared by President Pro Tem Kleid with the Architect Harold Smith; President Coleman with Mr. and Mrs. Randal Smith; and Councilman Brooks with Attorney Ray Royce.

Attorney Ray Royce, on behalf of the applicant, congratulated President Coleman and Council Member Markin. He stated that he was going to explain some special unique circumstances with regard to this matter, and Architect Harold Smith would further discuss the proposed project. He advised that there was an existing house on this property, which was constructed by the previous owner. The house was substantially complete on the outside, but was not complete. The house has a roof on it and the walls were up; the house was not complete on the outside. The existing house did receive Town Council approval and a height to plane variance based on the non-conforming nature of the lot was approved. The applicant could have opted to finish the existing house, since it had been approved by the Town, but they decided to build a better house, which would be more attractive and more sensitive to the concerns of the neighbors, and better for the neighborhood.

Attorney Ray Royce presented architectural renderings to discuss the proposed project. He pointed out the location of the property and explained that other properties on the street were in the R-B Zoning District. He reiterated that the Town Council previously found that there was a hardship by virtue of the shape of the lot.

Attorney Ray Royce presented a site plan in order to provide some context relative to the existing house, the property and what was being proposed. He reviewed the comparisons that had been made of the existing house and the proposed new house.

Attorney Royce pointed out that Attorney Paul Thibadeau, representing a neighbor of the applicant, was present today and that the applicant was working with him in regard to this project. He stated that a letter was received from Attorney Thibadeau dated February 14, 2006, which requested that the following conditions should be made part of the approval:

- The Site Plan dated January 18, 2006, which was considered by ARCOM at its January 25, 2006 meeting, should be the Site Plan approved by the Town Council, without modification.
- The landscape plan prepared by Life Force Nurseries dated February 10, 2006 was to be the required landscape plan for the project.
- There be a continuing requirement that the eight foot sections of the Ficus hedge adjacent to the one story section of the residence not be allowed to grow to a height in excess of 8 feet.

Attorney Royce stated that the applicant was amenable to the conditions requested by Mr.

Thibadeau.

Zoning Administrator Paul Castro commented that the hardship relative to the property was that it was an odd shaped lot, which was not very deep but was very long, or wide across Primavera Avenue. He advised that the previous applicant had received a variance for the building height plane setback, and because the proposed house was a little bit wider across the front plane of the building height plane, a variance was required when they came back to the Council. The Architectural Commission did recommend approval of the project and believed that the architecture was in keeping with the style that was presented, or the style that they were intending to provide on this property. He noted that staff had a question relative to the hardship and relative to the variances. The applicant had now addressed those issues.

Director of Planning, Zoning and Building Veronica Close advised that a letter had been received in their office, but it was too late to process for today's Town Council meeting, and that she wanted to bring the letter to the Council's attention because it might affect any decisions made regarding the ultimate outcome. The letter was a request for an extension of time for this project, and f this project was approved, then their request for an extension would be brought to next month's Town Council meeting. The request would tentatively be on the agenda next month, pending the outcome of this.

Councilman Brooks made a motion to approve Modified Special Exception #20-2005 with Site Plan Review and Variance. The motion died for lack of second.

In response to Ms. Markin, Attorney Royce advised that he was not aware of any other neighbors that might have objections, and all neighbors had received notices. He explained that he and Mrs. Smith spoke with the neighbor across the street to the south, who indicated that he had no objection.

Attorney Royce requested the letter received from Attorney Thibadeau, the attorney for Mr. and Mrs. Leonard Sessa, be made part of the record. He advised that if this application was approved, the conditions enumerated earlier should be included in that approval. He noted that the applicant agreed with Attorney Thibadeau, even with respect to the demolition. He advised that the applicant would put up appropriate screening and so forth in order to protect his neighbor's house.

In response to Zoning Administrator Paul Castro, Attorney Royce advised that Architect Smith indicated that the accessory structures were 25' from the trail.

Architect Harold Smith, Smith and Moore Architects, Inc., referred to architectural renderings to explain the specifics of the request.

Attorney Royce recommended that Council approve this application and discussed the merits of the application. He reiterated that he would appreciate the support of the Council.

- A prior Council had granted a high plane variance, and the applicant was asking to substitute one height plane variance for another.
- The proposed request would have less impact than the one that exists.
- The current request has the blessing and endorsement of the neighbors and there were no objectors.
- Applicant meets criteria of Site Plan.
- No objections to Site Plan, as much of the criteria with regard to Site Plans related to impacts on the neighbors and advised that the applicant has demonstrated clearly that the impact on the neighbors or adjacent properties was actually less.

President Pro Tem Kleid commented that he would tend to support this project, because there was a variance, in place, which had been improved on, and it was an attractive project, more attractive than the building presently there.

Ms. Markin advised that if the applicant was going to tear down the house that was presently there, they would be basically starting from scratch, building a brand new house. She stated that the comparison of what was there before really did not make a difference.

President Coleman advised that was not correct. He explained that you would have the house presently standing, which was more non-conforming than something else that could be less conforming. He noted that in either event, there would a non-conforming structure there. He stated that the proposed project was less non-conforming, and it looked better. He noted that he would like to try, on the margin, to support the Town's commissions.

Ms. Markin stated that she agreed with President Coleman. She explained that from the standpoint of a Planning and Zoning Commission Member, she would have been very conservative in granting a variance on new construction. She noted that she did see that the proposed plan was a huge improvement over what was there. She stated that she had no objection to the project.

Councilman Wyett stated that there was no reason to turn down this application under the current rules and regulations, but this was an example of something that needed correction when a house of this size, with a 10' rear setback could be built. He noted that he would vote for approval because there was no reason not to.

Councilman Brooks amended his motion to approve Modified Special Exception #20–2005 with Site Plan Review and Variance with the conditions enumerated by staff and the following conditions requested by Attorney Thibadeau on behalf of his clients and as agreed to by the applicant:

- **The Site Plan dated January 18, 2006, which was considered by ARCOM at its January 25, 2006 meeting, be the Site Plan approved by the Town Council, without modification.**

- **The landscape plan prepared by Life Force Nurseries dated February 10, 2006 to be the required landscape plan for the project.**

- **There be a continuing requirement that the eight foot sections of the Ficus hedge adjacent to the one story section of the residence not be allowed to grow to a height in excess of 8 feet.**

The motion was seconded by Council Member Markin. On roll call, the motion carried unanimously.

2. New Business- Less Than 15 Minutes

   a. VARIANCE #8-2006 The application of Alejandro Lazo relative to property described as lengthy legal description on file; commonly known as 139 North County Road; located in the C-TS Zoning District. Application to permit a dance studio (personal service establishment) to operate in Units 18A and 18B (containing approximately 726 square feet of gross leasable space) at the Paramount Building. The variance is to eliminate the requirement for one additional parking space. This would allow the use which requires four (4) parking spaces in this size space as opposed to the three (3) parking spaces grandfathered under the principal of equivalency regulations in the Code.

Ex-parte communication was not declared by any member of the Town Council.

Councilman Brooks declared that he had no ex-parte communication but for full disclosure he advised that he rents in the subject building; his office was located right across from the petitioner's space with a veranda between them. He explained that he was not going to recuse himself because he believed he could vote on the issue.

Alex Lazo stated that he was before the Council in order to obtain approval for a personal service establishment, a small ballroom dance studio, located 139 North County Road. He advised that there would only be one or two instructors, and it would not be a typical dance studio. He explained he has been in the business for more than twenty years and having had large studios, he was looking for a small place to operate and work with people one on one. He mentioned that he started in Palm Beach twenty five years ago.

Councilman Brooks made a motion to approve Variance #8-2006.

Zoning Administrator Paul Castro stated that the entire building was an adaptive reuse of what used to be a theater. He advised that it was a landmarked building, and the reason they were coming before Council was because of the change in occupancy from an office space to a dance type studio. He noted that this request required a one space variance. The Fire-Rescue Department requires that there were two means of egress from the tenant's space. The applicant would be required to comply with that request.

The motion was seconded by Councilman Wyett. On roll call, the motion carried unanimously.

b. VARIANCE #9-2006 The application of Herbert C. Pohlmann relative to property described as the North 33.89 feet of Lot 25-A and all of Lot 26-A of Bello Lido and Lot 4 of re-plat of Bello Lido; commonly known as 1290 North Ocean Boulevard; located in the R-B Zoning District. The applicant is renovating this house which will include the raising of the roof beam over a portion of the middle of the house and the porch roof by 2 feet and the enclosing of an existing carport to create a longer garage on the bottom floor. The house sits on a lot which has a significant change in elevation from front to back. The existing roof proposed to be raised is in a nonconforming front setback. Variances requested for the following: Non-conforming structures are not to be extended or expanded. A small portion of the new raised roof will extend into the existing non-conforming front (east) setback as the porch roof. This request is to raise the existing porch roof by 2 feet within 20.25 feet of the front property line in lieu of the 25 foot minimum required. The point of measurement for building height in the R-B district begins at the top of the lowest floor slab, which is 10.66 feet NGVD. In this case, however, the lowest floor slab is only under a small portion of the house, so a 10.66 NGVD measuring point results in artificially high cubic content ratio (CCR) and height. Therefore, the applicant is requesting a point of measurement variance for height and CCR to begin at 14.44 feet NGVD in lieu of the 10.66 feet NGVD required.

Ex-parte communication was declared by Councilman Brooks via telephone with Attorney Jim Brindell.

Attorney Jim Brindell, on behalf of the applicant, stated that the house was built around 1955, and that the property had a very significant elevation change of about 8.7' from the street point to the back of the property noting that the property drops off a great deal. He advised that since there was a small room right near the pool, the calculations for cubic content had to start at the floor of that room, which means there has to be included about 6' 9" of dirt in the calculation of the cubic content of the house. The proposal called for raising the roof in the center of the house about 2' and then to raise the roof of the front porch a corresponding 2' to make sense architecturally. The applicant was asking for two variances which he reviewed:

1. Point of Measurement Variance - the point of measurement would then be at 14.44 NGVD;
2. Variance for the setback for the front porch in order to add 2'.

Architect Jacquie Albarran, SKA Architects, presented architectural renderings to discuss the merits of the application.

Zoning Administrator Paul Castro commented that there was a substantial change in the grade of topography on this property.. He advised that there was somewhat of a hardship in that the applicant wanted to introduce higher ceilings into this house, which looks like a one story house up on the dune but from the rear, it looks like two stories. He explained that what the applicant was communicating to Council, as their hardship, was the topography and that the applicant was trying to save this home without coming back and trying to build a new home, which might cause them to have to go to the Department of Environmental Protection to get a minimum grade beam height, which might raise the house even further. He stated that this created a conundrum of trying to save a house instead of building a new home at this location. He advised that the only staff comments were from the Public Works Department and they requested that the applicant needed to clear the intersection site triangle, on the site itself,.

In response to President Coleman, Attorney Brindell stated that ARCOM unanimously recommended approval.

Councilman Wyett made a motion to approve Variance #9-2006 with the condition that, on the site itself, the applicant needed to clear the intersection site triangle. The motion was seconded by President Pro Tem Kleid. On roll call, the motion carried unanimously.

President Pro Tem Kleid stated that he voted to approve this application because he was convinced, as ARCOM said, that there really was a hardship with the land.

3. Old Business- More Than 15 Minutes

   None

4. New Business- More Than 15 Minutes

a. VARIANCE #7-2006 The application of Michael and Lisa Schultz relative to property described as Lots 3 and 3A, Esplanade Estates; commonly known as 1438 North Ocean Blvd; located in the R-B Zoning District. Variances to allow construction of a two story addition with points of measurement for height, building height plane, overall height and cubic content ratio of 17.79 feet National Geodetical Vertical Datum mean sea level ("NGVD") in lieu of the 9.74 feet NGVD maximum allowed, as determined by the Town; to allow the building height plane setback from elevation 17.79 feet NGVD ranging from 54 feet to 65 feet in lieu of a minimum setback required ranging from 42 feet to 49 feet for various portions of the proposed additions; to allow five (5) dormer windows in habitable space which the Code does not permit; and, to allow two (2) windows in a gabled end of a roof which is above the maximum height allowed which is not permitted by the Code. **Request for Deferral to the March 14, 2006, Town Council Meeting Per Letter Dated January 23, 2006, From Maura A. Ziska.**

Deferred Variance #7-2006 to March 14, 2006, Town Council Meeting.

b. SITE PLAN REVIEW #2-2006 WITH SPECIAL EXCEPTION AND VARIANCES The application of FJK Properties Inc (Frederick J. Keitel) relative to property described as Lot 39, Block #, of Revised Map of Royal Park Addition to Palm Beach; commonly known as 230 Royal Palm Way; located in the C-OPI Zoning District. The applicant is seeking to modify the site plan and renovate an existing four story building on the property. The applicant intends to modify the site plan, elevations and interior of the building. The facade is proposed to be upgraded through a combination of new architectural details and finishes, and a mansard style parapet roof is proposed on the existing building along with two tower features. The interior layout is proposed to be reconfigured with no increase in the amount of gross leasable floor area within the building. In addition, an existing staircase on the rear of the building is proposed to be enclosed to provide for an increased level of safety and to maintain a consistent architectural appearance. Special exception requested for modification of the floors above the second floor. Variances are being requested for the following: Front yard variance to allow additional structure with a 6.33 foot setback in lieu of the 22.5 foot minimum setback required to permit the construction of additional architectural and roof features, including columns, mansard roof and other decorative features; side yard variance to allow additional structure in the required side yard to permit the enclosure of the existing exterior stairs and the addition of a parapet roof wall on the east and west ends of the building, allowing for a side yard consistent with the existing east building side yard of 4 inches in lieu of the 17.5 foot minimum required; height variance to allow the construction of an enclosure to existing exterior stairs at a height of 50.25 feet in lieu of the maximum permitted of 35 feet and an overall height of the enclosure of 54.0 feet in lieu of the maximum permitted of 40 feet; overall height variance to allow the construction of a mansard style parapet on the north and south facades and a straight parapet on the east and west facades on a predominantly flat roof at an overall height of 49.33 feet in lieu of the 44.123 feet currently existing and the 40 foot maximum allowed; height variance to permit the construction of two towers at an overall height of 56 .0 feet in lieu of the maximum 45 feet permitted; front yard setback variance to permit the north tower with a front setback of 6.35 feet in lieu of the minimum setback requirement of 27.5 feet; floor area variance to allow the construction of the two towers. The towers cover an area totaling 4.55% of the gross floor area, 944 square feet (626 square feet for the north tower and 318 square feet for the south tower), in lieu of the maximum permitted tower coverage of 2% of gross floor area, which would permit a maximum of 415 square feet; and, variance to permit the front and rear tower features to act as entry facades, which the code prohibits.

Ex-parte communication was declared by Council Member Markin with Attorney Ron Kolins; Council Member Kleid with Attorney Ron Kolins; and Council Member Brooks with Attorney Ron Kolins via telephone.

Attorney Ron Kolins congratulated Council Member Markin on her election, and congratulated President Coleman and President Pro Tem Kleid on the elevation of their positions on the Council.

Attorney Kolins, on behalf of the applicant, introduced Ed Oliver, Project Architect from Oliver Glidden Spina & Partners who would assist with the presentation. He advised that the owner of the property, Mr. Keitel, was in the audience.

Attorney Kolins provided architectural renderings and photographs to discuss the proposed project showing the old and showing what was proposed. He advised that the issue today was The Seminole Building, 230 Royal Palm Way, which was an unattractive building that was outdated. He informed the Council that Mr. Keitel proposed to transform the building into an extraordinarily attractive building.

Attorney Kolins informed the Council that the applicant had appeared before ARCOM twice: first, for a very informal opinion about a particular aspect of the building; and second, for the standard preliminary variance type review that ARCOM does. He advised that ARCOM voted to approve and support the He explained that this project needed several variances. The inherent hardship was the applicant was dealing with an existing building, and an existing non-conforming building. The variances that were needed fell into three categories. The first three variances were required variances because they already exist, needing to be approved again.

Attorney Kolins advised the second category of variances related to the central architectural feature. He explained that the four variances in this category would be called the "tower" variances because there were special rules and regulations in the Town Code regarding towers. These variances were required because of the tower. He stated that the design of this building conforms with the best looking buildings along that street, integrating this building perfectly onto that street. He noted that there was not anything unique about the use of a tower type feature along that street in the newer or renovated buildings along Royal Palm Way.

Attorney Kolins explained that there were three remaining variances, which he referred to as miscellaneous variances. He used a photograph to discuss an open staircase that the applicant proposed to close. He advised that the Building Code requires that the staircase be enclosed on the top and extended above the roof a certain number of feet. He noted that in order to be able to enclose it, the applicant needed to comply with the Building Code and in complying with the Building Code, a height variance was required for enclosure of the staircase.

Attorney Kolins discussed the parapet roof that was going to be placed on the building. He explained that it was an architectural feature and advised that it was only a facade.

Attorney Kolins noted that mechanical equipment would be placed on top of the building; under Town Code, air-conditioning equipment could be 4' in height, and the proposed air condition tower was 7' in height; this building did not have central air, which was also being proposed.

Attorney Kolins advised that a feature of the architectural towers was that they serve, both on the front and back, of the building to screen not only the air-conditioning tower but the elevator tower, which was 12' high on top of the roof of the building today. He commented that the towers proposed by the applicant would extend only about a foot or 18" taller than that at their very peaks. He noted that the equipment would be screened.

Attorney Kolins advised that the building would be brought up to Code in the many ways that it was deficient in not meeting the Code today. He explained that in the application there was a line that stated that as an alternative to the request to renovate, the Council could consider allowing for the demolition of a building, rebuilding it exactly the same way as it had been shown. He noted that if allowed to rebuild, they would be able to use stronger and more modern construction materials. He stated that if the Council approved that, the building could be completed in a shorter period of construction time by a number of months than if they renovated. He advised that it would be in the Town's interest that the building be torn down and the applicant starts fresh. The reason that the Council's permission was needed to do that was because, today, in this Zoning District, the height limitation was two stories. He explained that if the building was torn down, they would lose their grandfathering for the size of the building.

Architect Ed Oliver, Oliver Glidden Spina & Partners, on behalf of Mr. Keitel, presented a site plan for the property. He reviewed architectural renderings to discuss the specifics of the building plans and the streetscape design.

Zoning Administrator Paul Castro commented that the proposed project does look much better than what was presently there, but advised that this was the first he had heard that the applicant wanted to tear down the building. He explained that they could not tear down the building and rebuild it to four stories, and they could not even request a variance for that. He stated that the Code and the Comprehensive Plan has a threshold, in a commercial land use category that allows a maximum of three stories and in this district, it was two stories. He noted that if this building was to be torn down completely to the ground, they would not be allowed to build it back up because it would be inconsistent with the Comprehensive Plan, and would require an amendment to the Plan to allow that many stories. He advised that the variances outlined by Mr. Kolins were all necessary and required variances, not just from a procedural standpoint, but from a Code standpoint, due to the height requested for the parapet.

Mr. Castro commented that staff had concerns regarding the tower features. The intent of the Code was to not allow tower features as an entry feature into any building. The Code requires that those tower features be setback an additional 5' from the required setback and the applicant was asking for relief there. He stated that staff understood that the applicant wanted to use the tower feature as screens, but they would be approximately 7' to 9' taller than the existing building. He advised that the building would be substantially taller than the other buildings with those tower features. He noted that he believed the Architectural Commission did have some concern over the height of the tower features as well as the second story balcony features.

Mr. Castro reiterated that from the standpoint of the Code and the technical aspects, the applicant could not request to demolish the building and rebuild it. The applicant would have to work within the renovation process of the building. He stated that the proposed project would be a vast improvement over what was there and the applicant needed to demonstrate the hardship for the variances. Staff's main comment was relative to ensuring that the applicant has addressed the variance criteria. The Fire-Rescue Department required that the building be sprinkled.

Attorney Kolins advised that ARCOM had requested that the applicant slightly lower the tower, which had been done. He noted that ARCOM was enthusiastic and supported this project. He advised that the hardship speaks for itself; the building was an existing building limiting what could be done, and in the context of what could be done, the hardship had to be dealt with.

In response to President Coleman who clarified that the Council did not have the authority to permit the applicant to demolish and rebuild the building, Attorney Kolins agreed, if that was the case, that issue would be off the table.

In response to Councilman Wyett, Town Attorney Randolph advised that there was not any way, he was aware of, at this time, that would allow the building to be torn down. He stated it was something that could be looked into, but he believed that the Comprehensive Plan had been modified to preclude this from happening. He stated that he agreed with Mr. Castro that the Comprehensive Plan would have to be modified in order to allow this to happen.

In response to Councilman Wyett, Mr. Castro stated that it would take nine months from the next zoning season to do that, if the applicant chose to.

Councilman Wyett stated that the proposed project was a great improvement over what was presently there. He applauded the applicant for putting a great deal of money into an obsolete building, and hoped that the renovations would enable them to get tenants.

Councilman Brooks agreed that the project was a tremendous improvement and added to the beauty of Royal Palm Way. He stated that he liked the boulevard theory, and as one came onto Royal Palm Way, it could be considered a boulevard when looking at the beautiful buildings, and the green space by the school. He advised that he was not pleased with the additional height of the building, but that was the trade off of having a building that fits in beautifully with the adjoining properties.

Mayor McDonald stated that the proposed project was a dramatic improvement and a terrific looking building for the street. He commented that ARCOM approved it 6/1 and stated that the Council should accept it.

In response to Council Member Markin, President Coleman advised that the rentable square footage remained the same.

In response to Council Member Markin, Attorney Kolins advised that there would not be any issues with parking. He explained that parking was predicated on square footage, and they were not increasing the usable square footage or the gross square footage. The square footage would be rearranged within the building but gross or the net square footage was not to be increased so there would not be any parking impacts. He stated that they did not know as yet how many offices were planned for the building, as they were presently negotiating with tenant. He advised that a calculation as to the number of parking spaces needed for this building was not done because there was no change in the need for parking.

Mr. Castro advised that if there had been a change in the gross leaseable area it would have dictated another variance or that additional parking be provided over and above what was there today. He advised that the gross leaseable area would be checked to ensure that it had not changed when the applicant came in with the building plans. The parking would be grandfathered unless more than 50% of the building was demolished.

Councilman Brooks made a motion to approve Site Plan #2-2006. The motion was seconded by Council Member Markin. On roll call, the motion carried unanimously.

In response to President Coleman, who asked if it was feasible for the applicant to return to the Council and request that they be allowed to demolish the building, Mr. Castro advised that the Comprehensive Plan would have to be modified to allow four-story buildings within a commercially zoned district. He noted that it would be a lengthy process.

Council Member Markin commented that if the Council allowed the building to be demolished, a terrible precedent would be set.

5. Other

a. PLAT ABANDONMENT The application of Trump Properties, LLC, relative to property described as the Plat of Reef Estates, Plat Book 28, Page 55, of the Public Records of Palm Beach County, Florida, commonly known as 515 North County Road, located in the R-AA Zoning District. Request to abandon the subject plat, including all right-of-way and easements.

i. RESOLUTION NO. 71-05 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Providing for the Vacation and Annulment of the Plat of Reef Estates, Plat Book 28, Page 55, Public Records of Palm Beach County, Florida; Providing an Effective Date. *Deferred from the September 13, 2005, October 11, 2005, and December 12, 2005, Town Council Meeting.* **Request for Deferral to the March 14, 2006, Town Council Meeting Per Letter Dated January 30, 2006, From**

Raymond W. Royce.

Deferred Plat Abandonment and Resolution No. 71-05 to March 14, 2006, Town Council Meeting.

b. Commerce Bank (Special Exception #21-2005)-- Consideration of Proposed Closure of Entrance from Park Avenue. [Veronica B. Close, Director of Planning, Zoning, and Building] *Deferred from the January 10, 2006, Town Council Meeting.*

Director of Planning, Zoning, and Building, Veronica Close stated that at the December 9, 2005, Town Council meeting, the Council conditionally approved the application by Commerce Bank for Special Exception #21-2005 as follows.

- Hours of operation Monday through Friday, 8:00 a.m. - 5:00 p.m.;
- Close the Park Avenue entrance, if possible; if Park Avenue cannot be closed, then the hours will be Monday through Friday, 9:00 a.m. - 5:00 p.m.

Ms. Close explained that the staff's traffic consultant, Gareth Klotz of American Engineers, reviewed the closing of the Park Avenue entrance and advised that it would be a monumental undertaking. She stated that Commerce Bank notified the Town that they would not pursue the closing of the Park Avenue entrance, and they would not pursue the extra hour of operation in the mornings, agreeing to 9:00 a.m. to 5:00 p.m., Monday through Friday, hours granted by the Town Council.

Councilman Wyett made a motion to approve the hours of operation, Monday through Friday, 9:00 a.m. to 5:00 p.m., for Commerce Bank. The motion was seconded by Councilman Brooks. On roll call, the motion carried unanimously.

XXI. ANY OTHER MATTERS

There were none.

XXII. ADJOURNMENT

There being no further business, the regular Town Council Meeting of February 14, 2006 was adjourned at 6:05 p.m.

Denis P. Coleman
President

ATTEST:

Susan A. Eichhorn
Town Clerk