

Ordinance
1-90

President Douthit called for a roll call. Attorney Randolph reminded that this was the second public hearing and the public should be given an opportunity to speak. There was no public comment.

On roll call, the motion carried unanimously.

Mr. John Hochella asked if he could be heard. Mr. Randolph stated that was the purpose of his comment made on allowing the public to speak. Mr. Heeke thought the opportunity was given and the Council has already voted on the Ordinance. Mayor Marix asked if Mr. Hochella could ask his question. Mrs. Douthit asked Mr. Hochella to come up to the microphone.

Mr. Hochella of Royal Palm Beach addressed the Council indicating he was employed by Mrs. June Martino and is representing her in reference to the mural or logo section and asked the attorney to read that section which Attorney Randolph did: "No signs shall be painted or installed on any awning. In residential districts, no lettering, illustration, logos or characters visible from public or private streets shall be painted on or attached to any structure, except as otherwise provided in Section 6.32 (Signs in Residential Districts)."

Mr. Hochella asked if this pertained to holiday decorations? Mr. Randolph responded the way it is drafted and if it is looked at as it pertains to zoning generally, rather than any particular property, it does prohibit signs which consist of characters, lettering or illustrations from being painted on structures in residential districts.

Mr. Hochella asked if murals were eliminated from the original language proposed? Mr. Randolph explained the word "murals" was eliminated at the first reading, but that doesn't mean that this wording does not prohibit murals on structures. Mr. Heeke stated he understood this word "mural" was deleted as it was surplus usage because the word "illustration" covered murals and other types of illustrations.

Mr. Hochella again asked if this wording pertains to holiday decorations? Mr. Heeke was not sure that could be excluded. Mr. Hochella pointed out Testa's puts up Christmas decorations. Mr. Douthit pointed out this was at Christmas time but he stated holiday decorations and that could be Chinese New Year and he hadn't mentioned which holiday to which he was referring. Mr. Hochella asked if it made any difference? Mrs. Wiener pointed out Testa's is in the commercial district and this wording is referring to residential districts.

Mr. Hochella noted he had a letter from the Town Manager stating that Mrs. Martino would be allowed to present her murals during Hanukkah or Christmas or at Thanksgiving time and again asked if this Ordinance would affect that? Mr. Randolph did not believe the Council could speak about individual properties as they are here tonight to adopt the provisions of this Ordinance and if there was anything else he needed to know, he should address it to the Building Official rather than the Town Council.

Mr. Hochella asked if he was saying that holiday decorations should be dealt with through the Building Department? Mr. Randolph advised he has given his interpretation of the applicability of this provision on a Town-wide basis and it states in residential districts, no lettering, logos, characters visible from the public or private street shall be painted on or attached to any structure and if Mr. Hochella had any different understanding as it relates to the property he is representing, he should address his questions to the Building Official.

Mr. Hochella did not understand. President Douthit pointed out the Zoning Commission considered this and then the Town Council had a full day's meeting on these recommendations. Mr. Hochella stated that is the reason he is here as if there is an objection to Mrs. Martino's holiday decorations, she doesn't want to be in violation.

Mr. Heeke suggested he discuss this with the Building Official in light of the Ordinance just passed.

Mr. Moore advised Mr. Hochella he is not prepared to give an answer at this time and asked that he have Mrs. Martino, the property owner, write a letter and ask for a definition and he will take a look at it and give an answer at a propitious time.

VI. ANY OTHER MATTERS: None

VII. ADJOURNMENT. There being no further business, the meeting was adjourned at 5:22 PM.

Grace T. Peters, Town Clerk

TOWN COUNCIL MINUTES OF FEBRUARY 13, 1990

Roll call
& call to
order.

I. CALL TO ORDER AND ROLL CALL. The monthly meeting of the Town Council of the Town of Palm Beach was called to order at 9:40 AM on February 13, 1990 in the Town Hall Council Chambers by President Pro Tem Heeke, who explained the President is ill. On roll call, the following elected officials were found to be in attendance: Mayor Marix, President Pro Tem Heeke, Councilmen Weinberg and Ilyinsky and Councilwoman Wiener. (Mrs. Douthit was absent). Also attending for a portion or all of the meeting were Town Manager Doney, Town Attorney Randolph, Mrs. Peters, Mr. Elwell, Mr. Jakubiak, Mr. Crouse, Mr. Bitzer, Chief Terlizzese, Chief Elmore, Mr. Moore, Mr. Zimmerman, Mr. Dusey, Mr. Bowser and Mr. McPhail.

Invocation

II. INVOCATION AND PLEDGE OF ALLEGIANCE: Rev. Lampe gave the Invocation. Pledge of Allegiance was led by Mr. Doney.

III. APPROVAL OF MINUTES OF JANUARY 9, 11 (3PM), 16, 22 AND FEBRUARY 5, 1990. On motion of Mr. Ilyinsky, the minutes were approved with one correction. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Approve minutes

IV. APPROVAL OF AGENDA. On motion of Mr. Ilyinsky, Item XIV, (C) 8, Special Exception No. 1-90 - Sailfish Club was postponed to the March 13, 1990 Town Council meeting and Item XIV (D) Other - 1. Consideration of the application for dune revegetation Permit - 2000 South Ocean Blvd., Sloan's Curve be moved up on the agenda and be heard after the Mayor's Comments, Item No. IX. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Approve agenda

V. RESOLUTION NO. 18-90 - Certifying Election of February 6, 1990 Mr. Randolph read the Resolution:

Resol. 18-90

RESOLUTION NO. 18-90 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 6TH DAY OF FEBRUARY, 1990, BETWEEN THE HOURS OF 7 AM AND 7 PM ON SAID DATE FOR THE PURPOSE OF ELECTING A COUNCILMEMBER IN GROUP ONE, A COUNCILMEMBER IN GROUP TWO, AND A COUNCILMEMBER IN GROUP THREE, ALL FOR A TWO YEAR TERM.

On motion of Mrs. Wiener, seconded by Mr. Ilyinsky, the Resolution No. 18-90 was adopted. On roll call, the motion carried unanimously.

VI. SWEARING IN OF NEWLY ELECTED OFFICIALS - The Honorable Gavin K. Letts, Judge, Fourth District Court of Appeals. Councilmen Paul R. Ilyinsky and M. William Weinberg were given the oath and sworn in by Judge Letts.

Swearing in officials

VII. ORGANIZATIONAL ITEMS:

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

Organizational items.

President Pro Tem Heeke passed the gavel to the Mayor who called for nominations for Town Council President. Mr. Ilyinsky nominated Mr. Heeke. On roll call, the motion carried unanimously. Mr. Heeke assumed the Chair as President of the Council.

B. Election of Town Council President Pro Tem - Pursuant to Section 3.01 of Town Charter. Mr. Heeke called for nominations for President Pro Tem. Mr. Ilyinsky nominated Mr. Weinberg to serve as President Pro Tem. Mr. Weinberg declined. Mayor Marix took the gavel and Mr. Heeke nominated Paul R. Ilyinsky as President Pro Tem. On roll call, the motion carried unanimously.

C. Appointment of Town Manager - Pursuant to Section 4.02 of Town Charter. Robert J. Doney was reappointed as Town Manager on motion of Ilyinsky/Weinberg. On roll call, the motion carried unanimously.

D. Appointment of Administrative Officials - Mr. Doney indicated he has written a memorandum of Feb. 6, 1990 listing the appointments which are:

Town Clerk	Grace T. Peters
Finance Director/Treasurer	Michael T. McPhail
Dir. of Planning, Zoning & Building	Robert L. Moore
Town Attorney	John C. Randolph
Town Engineer	Dir. of Public Works or designee
Personnel Director	William C. Crouse
Recreation Director	Russell E. Bitzer
Chief of Police	Joseph L. Terlizze
Fire-Rescue Chief	Vincent Elmore
Director of Public Works	Albert P. Dusey
Acting Town Manager	Peter B. Elwell

Motion was made by Mrs. Wiener to reappoint all of the administrative officials as read by Mr. Doney. Seconded by Mr. Ilyinsky.

VIII. PRESENTATIONS

Presentations

A. Recognition of Town Residents Serving on Commissions:

1. Recognition of Robert T. Eigelberger - Landmarks Preservation Commission. Mayor Marix read the plaque and presented it to Mr. Eigelberger for his service on the Landmarks Preservation Commission from 1984 to 1990.

2. Recognition of Jesse D. Newman - Landmarks Preservation Commission. Mayor Marix read the plaque and presented it to Mr. Newman for his service on the Landmarks Preservation Commission from 1984 to 1990.

B. Recognition of Town Employee:

1. Retirement of Paul Newman - Town Manager's Office and Public Works Department. Mayor Marix read the plaque and presented it to Mr. Newman for his ten years of service with the Town of Palm Beach.

IX. COMMENTS OF THE MAYOR:

Mayors comments

Mayor Marix indicated she would have no comments at this time.

D. Other

1. Consideration of Application for Dune Revegetation Permit - 2000 South Ocean Blvd., Sloan's Curve. Mr. Heeke recalled there has been two workshop sessions on this matter and asked all who will now speak to avoid repetition. Mrs. Wiener moved that all of the exhibits and material submitted at the Workshop meetings be incorporated into the record. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Dune Revegetation permit

Dune Rev-
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permit

Mr. Heeke indicated the procedure will be ten minutes for those in favor and ten minutes for those in opposition and ten minutes for the Council to deliberate after which there hopefully will be a motion.

Mayor Marix recalled Mr. Darwin has indicated the Beaches and Shores Council has indicated they would not be issuing permits and she wondered how that fit into the scheme. Mrs. Wiener made a motion that no more than one half hour be spent on this matter, as we have already spent about five hours on it and it should not be delayed any further. There was no second to the motion.

Mr. Heeke stated the Town Council will debate approximately ten minutes and then the matter will be acted upon. Mr. Heeke called for anyone who wished to speak in opposition.

Mr. David Darwin clarified the Ordinance which has been in effect since 1984 to the present time does require a permit and it followed the guidelines of the State of Florida which states no woody area on a seagrape of one inch or greater can be cut. That still is in effect as this is the guidelines of the new Ordinance which specifically states there must be two foot on the bottom, two feet on the top and nothing in between where the window is to be cut that is more than one inch in diameter. He stated the reason for the two feet on the top is the only way that the long roots of the plant can be fed. He knows the seagrape covers a seawall is because the protection was lost and we had to go to a sea wall and there are problems with seawalls, and in fact, the Palm Beach Post had an article which also appeared in the New York Times which states Florida is not all it used to be. He indicated the article states there was a study done by Florida State University for the State of Florida, and one of the areas that has the greatest erosion is Key Biscayne and Palm Beach and the only thing that is keeping Palm Beach out of the ocean are the seawalls and whenever there is a seawall erosion is slow until a hurricane comes and undercuts and takes the whole seawall. He stated they are losing better than nine feet of shore line a year. He has heard today that the reports of the consultant of the Town are favorable towards the cutting, to which he did not agree as if you look carefully at the report from Mr. Campbell, it specifically says: (1) "trimming the seagrasses will in time reduce the size of the root systems;" and (2) "in a 200 year storm, there will be ten foot of dune lost than if they have the dune trimmed". He explained in a 50 year storm, it would hit in the middle of the dune and that is where the seagrasses protect the area and regardless of what they think about the Halycon report, the pictures do not lie which show the roots are ten to fifteen feet long and the study, the report and the pictures were done by a consultant who is a landscape architect who has worked for Palm Beach on several projects and is qualified. He thought they had to be careful as what they are talking about doing will set a precedent which in the future could hurt not only this area but the entire state of Florida, especially since it will be an experiment on a system that is working very well and he could see no point in experimenting on something that works. He stated historically this system has worked well and most importantly in the first three to five years, the system has worked very well when we have had very major storms.

Pat Garner addressed the Council noting there is an Ordinance in place which is functional and she encouraged them to work within that Ordinance and maintain the very valuable dune system which now exists.

Mr. Darwin clarified that the Beach and Shores Council yesterday turned down the permit with a vote of 17 to 4 and the staff report states "the project will need a permit under the recently authorized Palm Beach County Coastal Protection Ordinance No. 90-2. It is understood that the Town of Palm Beach has the ability to opt out of the County Ordinance and may do so in the near future. This report does not replace a County determination under Ordinance 90-2, since a permit application has been submitted. This project has been substantially modified from an earlier proposal which was turned down and denied by the Beach & Shores Council. The modified project is not consistent with the Council Resolution 89-001 restricting trimming to less than eight (8') in height."

Attorney Ron Kolins addressed the Council for the applicant, confirming the Beaches and Shores Council did vote against their application, but he wanted to clarify that in their discussion they wished to work out a compromise, rather than an outright approval or rejection, but it was then decided that their obligation was to either vote yes or no with no compromise. He didn't agree with that and he felt they could have gone the other way, but the Council felt they were not allowed to do so. He clarified the Department of Environment Resources Management specifically stated they were making no recommendation on this as they thought they would have to consider it in a separate application before the County later on.

Attorney Kolin recalled they were asked about the question of indemnification which he discussed with his client, and in that discussion it became clear to them that the Town of Palm Beach could not be held monetarily liable for the granting of the permit pursuant to proper procedure and he saw no need for them to be concerned about this.

Mr. Kolins stated the application should be considered in a vacuum since whatever is decided today will have an impact on many other people, including the public property along the coast line of the Town. He pointed out there are many seagrasses planted seaward owned by private citizens and owned by the Town. He believed if the application was denied, he did not believe the seagrasses could continue to be trimmed the way they have been cut. He thought that meant everyone in Town would have to have a ten foot high seagrape with windows, and there is a provision for a waiver but he could not envision any circumstances that if this is turned down, that anyone could be granted a waiver to do what they want to do, with the record that has been made today. He thought what was decided will have an impact on many people and much property, both public and private throughout the Town.

Mr. Kolins requested the Council not to ignore the clear recommendations of their own consultants. He pointed out Mr. Gann-Matzen's reports are clear. He recalled Mr. Campbell gave a report at the workshop and his report was unequivocal and for Mr. Darwin to suggest that this report suggests this program will create a problem in dune stability is worthy of substantial scrutiny. He believed Mr. Campbell's report shows there is virtually no erosion or storm problem and the only problem with which they could find was if there was a storm with a magnitude of Hugo whereby no matter what is there in the way of vegetation, the beaches will be gone and the real protection for this building is the thirty foot seawall. Mr. Kolins stated Mr. Gann-Matzen has thoroughly analyzed the environmental and ecological issues and the conclusions speak for themselves. He didn't wish to belabor the point but wished to urge them to approve the application as the record justifies it and it is the clear and correct thing to do and if approved, the dune management program in this area will be an asset to the Town and be an example for the entire area.

Mr. Heeke called for the comments of the Council. Mr. Moore asked Mr. Kolins if the modifications as recommended by Mr. Gann-Matzen were to be addressed? Mr. Kolins stated he is not in a position to address them point by point, but they are confident those modifications can be incorporated and addressed and will not be a problem. Mr. Moore asked if they were agreeing to the modifications, if the Council were to approve the plan. Mr. Kolins responded it is his understanding that is true, as there will have to be agreement on the perpendicular line as to where the line will be drawn but other than that issue, everything else is agreeable.

Dune Rev-
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permit

Mayor Marix agreed with Mr. Kolins on the point that whatever is done will set a precedent and if it turned down, there could not be any seagrapes cut in a similar position, but she believed if they did approve, there would be other areas which would be able to be cut and the precedent is either against cutting or for cutting. She asked if she was correct in stating that if this application is turned down, there could be no cutting of dune-located seagrapes anywhere in the Town. Mr. Moore explained the proposal before them is for an experimental program and is under the terms of the old ordinance. Mayor Marix stated she understood that, but Mr. Kolins stated if they decide to not allow their application, we would not be allowed to allow any other similar cutting. Mr. Moore did not believe that was the case as there is a waiver provision under the new Ordinance.

Mr. Randolph believed they were dealing with each case on an independent basis and as with any other case which comes before the Council, it would be dealt with on its particular merits. He stated because of all the information which has been provided to the Council, he didn't believe there was going to be any precedent established and in this case, they are acting under the old ordinance and on all other applications, they will be acting under the new ordinance, so there is a great distinction in that regard. Mr. Heeke agreed.

Mr. Weinberg commented the Council has spent hours on this and many dollars hiring experts on behalf of the Town and he felt it was incumbent upon them to pay attention to the recommended monitored dual management program submitted by the experts. Mrs. Wiener understood the problem with the State on the Comprehensive Plan as the Town has tried to do its best, because we have consulted the experts and then someone up there states we haven't been doing what we are supposed to be doing in the right way. She believed they can call in experts after expert and we will always have people with differing opinions and she doesn't believe this case has been proven right or wrong either way and as a public official, it has been her stance when she hasn't seen something clearly, she will stand with the people the Town has hired. Mr. Heeke agreed with the perception of what has been presented to us has been truly fine on both parts, as we have experts that don't agree with each other and Mr. Gann-Matzen would like to leave the dune alone and he has reservations with that. He believed dune management is available irrespective of the permit and all they would have to do is manage the exotics as nothing stands in the way of that. He noted there was a permit presently existing authorizing windows and there is a dune there which is stable.

Mrs. Wiener believed from the testimony heard from the workshop, one of the things that came up is the seagrapes had been cut down, removed, or changed, over a period of time from the time the building there was first on our program, but it seemed to her that if this has been pointed to as one of the most outstanding strong dunes in the entire area and all this has happened to it, and it is still strong, she is not convinced that trimming it is going to do anything but continue to keep it that way as it has been raped at one point in time. She had reservations about the window and although she is not an expert, there is something about putting the windows in that sounds like mutilation. She felt when a window is put in, she believed they would be creating a problem on four sides and she has reservations about it and would much rather do nothing than put windows in.

Mr. Weinberg made a motion to accept the recommendation of the Town's expert. Mr. Heeke asked if this was to approve the application? Mr. Weinberg indicated he is in favor of the application. Mrs. Wiener seconded the motion.

Mr. Ilyinsky believed this is a great emotional issue and he has spent about 19 hours on this and Mr. Darwin and Attorney Kolins have been extremely educational on this matter and have presented their cases well and he would like to express his disappointment that the State has decided to back away from this. He is convinced the dune is in good shape and he can well understand Mr. Kolins' position but he is not in agreement with Mrs. Wiener on the windows.

Mr. Moore asked if the maker of the motion and the seconder would consider the four conditions which Mr. Gann-Matzen had put into his report and the inclusion of the condition that all other applicable State and County permits be acquired prior to the Town issuing its permit to which the maker and the seconder agreed to the conditions.

Attorney Randolph reiterated that other bodies which have jurisdiction would have to grant the permits before the Town would grant its permit and the Building Official would need to see the permit or a letter from the agencies that no permit is necessary.

On roll call, the motion failed to carry. 3-2. Affirmative votes cast by Mr. Weinberg, Mrs. Wiener. Negative votes cast by Mr. Ilyinsky and Mr. Heeke. Mayor Marix broke the tie by voting against the motion.

Mr. Moore asked if a motion would have to be made to deny the application to which Mr. Randolph responded he thought the motion was clear. Mr. Heeke stated that will be the ruling of the Chair.

X. LICENSES AND PERMITS:

Licenses
& permits

A. Charitable Solicitations -

1. Palm Beach Co. Kidney Assoc, No. 133-90.
2. Parent-Child Center of the Palm Beaches, Inc., No. 198-90.
3. Croquet Foundation of America, No. 216-90.
4. The Lord's Place, No. 229-90.
5. A Living Memorial to the Holocaust - Museum of Jewish Heritage, No. 295-90.
6. Palm Beach County Medical Society Auxiliary, No. 296-90.
7. Hope House of the Palm Beaches, Inc., No. 297-90.

Mrs. Peters advised all of those listed are recommended for approval. Motion was made by Mr. Weinberg, seconded by Mrs. Wiener to approve the charitable solicitations as listed. Motion carried unanimously for approval.

XI. OLD BUSINESS

A. Appointments

1. Architectural Commission - Balance of Term to Expire March 1992 - Deferred from January meeting. Motion was made by Mr. Ilyinsky to defer all appointments until the next regularly scheduled Town Council meeting. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

B. Other

1. Consideration of Gazebo Located in Cul-de-Sac on Casa Bendita - Deferred from December meeting. Mr. John Marten of 100 Casa Bendita addressed the Council, indicating he hoped this matter will be resolved today. Mr. Doney explained the staff has looked at the proposal dated 1-24-90 which outlines some conditions under which the private property owners would agree to participate in the cost of the restoration, if authorized. Mr. James Bowser stated he had this checked out by Keystone Restoration who did the restoration of Town Hall and based on his preliminary review, he thought it would cost \$20,000 to restore the gazebo which is different from the \$14,000 estimate received. He stated this may be cause of the nature of the materials and the restoration effort. He suggested design monies be requested to have a professional who is experienced prepare a cost estimate and if the Council and the citizens wish to proceed with the project on a 50-50 basis, they can pursue this. Mayor Marix noted that quite frequently private enterprise manages to do things more reasonably than the public sector. She wondered if the residents on that street want to undertake this program, then the only decision the Council would have to make is whether or not they wish to pay half. Mrs. Wiener assumed whenever public funds are expended, we have to go to bid and asked the attorney? Mr. Randolph indicated he understood the property owners do not want to be involved in getting the contractors and doing the project themselves. Mr. Marten stated it is very important to the homeowners that there be no liability on their part as if they repaired the gazebo, there may be liability and he felt it best the Town do the contracting. Mayor Marix asked if they would be willing for the Town to do the contracting even if it was going to cost \$20,000 to which Mr. Marten responded affirmatively. Mr. Randolph pointed out in the event they do go the way that has been suggested, he would like to have a hold harmless agreement executed by the property owners. Mr. Marten stated that will not be an issue.

Mr. Jack Lobatta of 125 Casa Bendita addressed the Council, indicating he was interested in the preservation of the gazebo but he couldn't see why if the Town was willing to pay for half the repair why they just didn't go ahead and assume the whole project. He stated there is also the question also after it is restored, who will be responsible for the maintenance? He also was concerned about the liability if someone does get hurt on it and the residents should be absolved of any liability.

Mr. Doney advised a letter has been received from Mr. Marten indicating they have received several estimates on what the cost will be from Modern Masonry and they proposed the Town take the necessary steps to repair and landscape the gazebo. He noted one of the proposals was purely from a liability and cost perspective and an alternative might be for the Town Council to consider demolition, or restoring it and restore it to a grassy area which would preclude the liability issue which Mr. Lobatta referred to. He reported this is on a cul de sac and the major benefits for viewing the gazebo is related to the abutting private property owners.

Mrs. Wiener noted the letter from Mr. & Mrs. Marten states the homeowners would like to have the Town take the necessary steps to repair and landscape the gazebo; the homeowners will contribute one-half of the cost; the Town will accept the continued responsibility for the repair and maintenance of the gazebo and the landscaping for the future. Mr. Marten stated the homeowners will share the cost up to \$21,000. Mrs. Wiener moved the Town Council approve the restoration and repair of the gazebo contingent upon the homeowners sharing up to one half of the cost thereof, not to exceed their portion being \$21,000. Seconded by Mr. Weinberg.

Mr. Doney indicated he would like to have the funds for the design fees appropriated from the Undesignated General Fund Balance. Mr. Heeke asked Mrs. Wiener if she would be willing to amend her motion to include this to which Mrs. Wiener responded this is already part of the cost and her motion stands. Mr. Weinberg indicated his second stands also. On roll call, the motion carried unanimously.

Mayor Marix suggested there might be a local architect who would donate his services with regards to the design as a gift to the Town and she suggested they be contacted.

Mr. Doney asked there be authorization for the funding from the Undesignated General Fund Balance so they can begin the project. Mrs. Wiener so moved. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Five minute break was taken.

President Heeke called the meeting back to order.

XII. NEW BUSINESS:

A. Ordinances - First Reading

1. Ord. No. 2-90 - Amendment to Retirement Ordinance. Attorney Randolph read the Ordinance by title:

ORDINANCE NO. 2-90 - AN ORDINANCE OF THE TOWN OF PALM BEACH PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER XV OF THE CODE OF ORDINANCES OF SECTIONS 15-18, PROVIDING A MINIMUM BENEFIT TO FIREMEN AND POLICE IN COMPLIANCE WITH STATE LAW, AMENDING SAID CHAPTER, SECTION 15-43 TO SPECIFY LIMITATIONS ON INVESTMENTS AND COMMON STOCK OR CAPITAL STOCK AND TO MAKE PERMISSIVE THE RETENTION OF AN INDEPENDENT CONSULTANT TO EVALUATE THE PERFORMANCE OF FUND MONEY MANAGERS; FURTHER AMENDING SAID CHAPTER TO COMPLY WITH U. S. INTERNAL REVENUE CODE LIMITATIONS ON BENEFITS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION.

Mr. Ilyinsky moved Ordinance No. 2-90 be approved on first reading. Seconded by Mrs. Wiener. On roll call, the motion carried with a negative vote cast against the motion by Mr. Weinberg. (3-1).

B. Resolutions:

1. Res. No. 20-90 - Opposition to Restructuring of Solid Waste Authority Board. Mr. Heeke wondered if the recipients of these Resolutions read them and thought perhaps a motion and then a letter by the Town Manager may suffice in most of these instances. Mr. Doney explained the Resolution, does set it aside in a more permanent manner although the message would be the same, be it by letter or Resolution. He advised the Palm Beach Municipal League has an interest in matters of this type and encourages all municipalities to let their position be known. Mr. Heeke asked that some thought be given to this in the future. Attorney Randolph read Res. No. 20-90 by title:

RESOLUTION NO. 20-90. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, URGING THE BOARD OF COUNTY COMMISSIONS OF PALM BEACH COUNTY AND THE PALM BEACH COUNTY LEGISLATIVE DELEGATION TO OPPOSE A RESTRUCTURING OF THE SOLID WASTE AUTHORITY BOARD.

Mrs. Wiener moved for adoption of Res. No. 20-90. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

C. BID AWARDS:

1. Sealed Bid No. 029-88/89 - Roadway Protective Seawall Rehabilitation Project - Staff recommends rejecting all bids. Mr. Ilyinsky moved all bids be rejected and this be readvertised, following the recommendation of the staff. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

2. Reconsideration of Sealed Bid No. 033-88/89 - Par 3 Golf Course Fueling Facility - Consideration of Resolution No. 19-90. Mr. Randolph read the Resolution by caption:

RESOLUTION NO. 19-90 - A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING A CONTRACT TO DELTA PETROLEUM FOR THE PAR 3 GOLF COURSE FUELING FACILITY.

Mr. Dusey explained they were unsuccessful in executing the contract with the low bidder, and Delta is the second low bidder and he recommended it be awarded. Mr. Peter Ward of Glasgow Equipment Service addressed the Council indicating his company was the third low bidder and he pointed out that Delta has not submitted a bid bond or a cashier's check and he believed they should be disqualified. Mr. Dusey indicated this is a formality in the bidding and can be waived, if it is in the Town's best interest. He stated the purpose of the bid bond is to assure that the company will honor the bid and in this case, he did not believe there was anything to lose as Delta has indicated they will execute a contract.

Mr. Heeke wondered if it was a good practice to waive that requirement as the low bidder last month has failed to execute a contract. Mr. Dusey indicated ordinarily it would not be good practice, however in this particular case, there is a savings here of about four thousand dollars and he believed the procedure was proper. On motion of Mrs. Wiener the Sealed Bid No. 033-88/89 which translates into Resolution No. 19-90 be approved, as recommended by Mr. Dusey. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously. Mr. Heeke asked Mr. Dusey to think about these comments on this matter in the future.

3. Sealed Bid No. 005-89/90 - Diesel Truck with Aluminum Dump Body for Streets Division of Public Works Department. Mr. Doney explained the staff, as set forth in Mr. Dusey's memorandum of Jan. 25, 1990 is recommending award to Palm Beach International Truck in the amount of \$21,753.75. Motion was made by Mr. Ilyinsky to approve as recommended by staff. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

D. Appointments:

1. Landmarks Preservation Commission - Two Years to Expire February 1993. Mr. Heeke noted this has been deferred to the March meeting.

2. Zoning Commission - Two Terms to Expire February 1993 and One Term to Expire February 1992. Mr. Heeke noted this has been deferred to the March meeting.

E. Other:

1. Consideration of Approval for Outdoor Public Gathering Permit - 1990 Bethesda-by-the-Sea Spring Festival to be held March 10, 1990. Mr. Doney indicated this will be for over one thousand people which necessitates the Town's Council's considerations. Mr. Heeke indicated this is an annual event. Mr. Doney indicated it has been reviewed by the appropriate departments and recommendation is for approval. On motion of Mr. Ilyinsky, the Outdoor Permit was approved. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

2. Postage Meter Machine (Replacement) - Request for Appropriation from Undesignated General Fund Balance to Purchase Machine Under General Services Administration Contract. Mr. Doney explained Mrs. Peters has submitted a memorandum dated Feb. 2, 1990 and the total replacement will be in the amount of \$6754 which includes a trade-in amount of \$460.00. He stated this was an unanticipated need which was not addressed in the current budget. He stated this request also requires the funding for same be provided from the Undesignated General Fund Balance. On motion of Mrs. Wiener, seconded by Mr. Weinberg, the authorization to purchase the machine and the funding authorization for same as contained in Mrs. Peters' memorandum of Feb. 2, 1990 was approved. On roll call, the motion carried unanimously.

3. Consideration of Proposed Date Change for April 1990 Town Council Meeting. After discussion, a motion was made by Mr. Weinberg, seconded by Mrs. Wiener that the April Town Council meeting be held on Wednesday, April 11, 1990. On roll call, the motion carried with a negative vote cast by Mr. Weinberg. (3-1).

Resol.
20-90

Bid
Awards

Resol.
19-90

Appoint-
ments

Bethesda-
by-the-
Sea
permit.

Replace
postage
meter

Change
April
meeting
date

Budget
meeting

4. Consideration of Date for Special Town Council Meeting on Budget in March or April. Mr. Doney explained this meeting has historically been held in the last few years in March or April to give the residents an opportunity to look at what has happened budget-wise, before they leave Town for the summer and to give the Mayor and Town Council an opportunity to review the actual expenditures after five or six months activity. Mrs. Wiener recalled in the past two years, there were only four people in attendance at these meetings. Mayor Marix thought that was a press problem to which Mrs. Wiener did not agree. Mayor Marix felt there should be notice in the press about these meetings, as people are not in the habit of having budget meetings early as this is usually finalized during the summer months. Mrs. Wiener suggested if there is no interest this year, this budget hearing should be dropped, as staff does have to put a lot of time into it. After discussion, it was decided on motion of Mrs. Wiener, seconded by Mr. Ilyinsky that the budget hearing be held at 8:30 AM prior to the scheduled Town Council meeting on April 11, 1990. Motion carried unanimously. Mr. Heeke asked if the Department Heads could have a "wish list" ready for this meeting which will give an overview. Mr. Doney recalled this was not done in the past. Mayor Marix thought this was a good idea as the general public needs to have an idea of what is coming up. Mr. Doney indicated these figures will just contain the best estimates of what is believed will come up, but there are always items which will change before the budget is adopted. Mr. Heeke believed a wish list should be ready by the Department Heads as they may have some items - non-recurring - which will be anticipated and they can make the Council aware in broad terms. Mr. Doney indicated these would be only the major non-recurring items to which the Council agreed. Mr. Heeke challenged the Department Heads to look at the dollars spent last year and have as an overall objective that the Town would not expend in excess of four per cent of what was spent in the prior year.

Meeting was adjourned for lunch.

President Heeke called the meeting back to order.

Mid-Town
beach
nourish-
ment

5. Proposed Mid-Town Beach Nourishment Project - Request to Set Meeting Date for Department of Natural Resources to Conduct Public Hearing in Town Council Chambers on Establishing an Erosion Control Line. Mr. Doney explained one of the requirements in the application process is to have this public hearing which will be conducted by the Department of Natural Resources officials and all the private property owners within the project area would be notified by DNR and will be given an opportunity to offer comments on this matter. After discussion, it was decided to recommend the date of March 20, 1990 at 9:30 AM be the date for this hearing.

Port of
Palm Bch.
exemption

6. Consideration of Chapter 161 and 493 of the Florida Statutes - Exemption for Port of Palm Beach and Certain Other Ports Concerning Inlet Sand By-passing Responsibilities - Discussion of Proposed 1990 Legislative Amendment. Mr. Heeke recalled this matter was discussed last week when Mr. Frost of the South Lake Worth Inlet District appeared before the Council. Mr. Heeke noted Mr. LaFace's flat fee would be \$35,000 plus expenses and this was to be coordinated with the other coastal municipalities, and it looks like there has been no response from them according to Mr. Doney's memorandum. Mrs. Wiener felt this was extremely high but this could be approached on an hourly basis also. Mr. Doney felt a minimal effort could be done to explore the type of opposition which would arise state-wide as there are other ports in the State which would be affected. Mr. Heeke believed the hourly approach should be initiated and if it then looks like all stops should be pulled out for the current Legislative session, we would be in a position to do so and on the other hand, we could back off, if it developed it was not necessary. Mr. Doney indicated he can try that approach and he has spoken to the Town Administrator of South Palm Beach and Town Manager of Manalapan and Mr. Frost of the South Lake Worth Inlet District and he is not too optimistic there will be much financial support from these agencies. Mr. Heeke felt it was extremely important to the Town of Palm Beach and that needs to be recognized. Mr. Ilyinsky made a motion that the Town Council authorize proceeding on this matter with the hourly rate as set out in Mr. Doney's memorandum of February 5, 1990. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

School
crossing
guards

7. Consideration of Opposition to Proposed Palm Beach County Ordinance Repealing Funding for Reimbursements to Municipalities for School Crossing Guards. Mr. Heeke asked if they would have any impact on this. Mrs. Wiener believed the Municipal League was also interested in this subject and would like to have the municipalities' support as there is a concern because of the continual raising of taxes and reduction of services on the county level. Motion was made by Mrs. Wiener that a letter be sent on behalf of the Town Council by the Mayor or the President of Council to the Palm Beach County Board of Commissioners indicating the Town's strong opposition to the proposed Palm Beach County Ordinance which would repeal funding for reimbursements to municipalities for School Crossing Guards. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Tennis
courts
lighting

8. Existing Lighting of Two (2) Clay Surface Tennis Courts at Seaview Park - Hours of Operation. Mr. Bitzer explained a letter of complaint was received by Attorney Prosperi at a time when the tennis court lights were malfunctioning and that situation has now been corrected. Mr. Heeke suggested this be deferred for a month and see how this works out with Mr. Prosperi. Mrs. Wiener moved the matter be put over to the next regularly scheduled Town Council meeting. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Approve
warrant
list

XIII. APPROVAL OF WARRANT LIST AND FUND EXPENDITURES FOR JANUARY, 1990. On motion of Mr. Ilyinsky, seconded by Mrs. Wiener, the Warrant List and Fund Expenditures for January were approved. On roll call, the motion carried unanimously.

Development
reviews

XIV. DEVELOPMENT REVIEWS:

A. Major Matters Previously Considered by the Architectural Commission at their meeting of January 24, 1990 - Mr. Ilyinsky moved the major matters considered by the Architectural Commission at their meeting of January 24, 1990 be approved with the exception of the appeal of Mrs. Marina Perry, 137 E. Inlet Drive, Item B-3-90. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

The major matters were:

B7-89 - New roof and front entry of Mr. & Mrs. Keenan Morrow, 593 Island Dr. Removed from agenda.

B84-89 - Construct two commercial buildings for Biltmore Galleria, 255 and 265 Sunrise Ave. - Removed from agenda.

B1-90 - Addition to residence of Robert Cummings, 665 N. County Rd., deferred to Feb. meeting.

B2-90 - Entrance facade changes to residence of Jack Perlmutter, 570 M. Lake Way - approved

B4-90 - New resident for Mr. Lenardo Sessa, 6 South Lake Trail - deferred with conditions and suggestions to be worked out before ARCOM reviews this matter again.

Development
reviews

B5-90 - Additions to residence of Mr. & Mrs. Alfonso Fanjul - deferred to February meeting.

B. Appeal of Decision of Architectural Commission by Paul Thibadeau, Attorney, Representing Marina Perry, 137 E. Inlet Dr. Attorney Thibadeau addressed the Council on behalf of his client, Mrs. Perry indicating this is an appeal of the Architectural Commission's decision which occurred in January. He stated his client is presently building a house and the plans were originally approved by ARCOM and at the meeting when the plans were approved, there was a question asked of his client's architect and the question was "What will the color of the roof be?" He stated the architect responded it would be white and subsequently as the house was constructed, a determination was made by his client that she wanted a color other than white on the roof and a neighbor complained and the Town investigated and red-tagged the job, indicating the roof was to be white and not the off-color which she was installing. He did go back to Arcom and asked for their approval of the change and he did not believe he was received very well. He felt the original approval was not specific as to the color of the roof and he wished to appeal that decision. He indicated he has several problems with the whole procedure as he first of all, did not believe the Architectural Commission has the right to specify color of residences. He felt this was further evidenced by the fact that the Council several years ago considered amending the ARCOM Ordinance to include color and it was soundly defeated. He stated the Building Official indicated to him a Certificate of Occupancy would not be issued if the roof was not white but he could paint it white the day after the CO is received, he could paint it any color and there would be no control the Town could impose on them. He viewed this as an opportunity for ARCOM to punish Mrs. Perry for changing her mind. He recalled the building permit does state "white tile roof" but nonetheless the Town is not in the business of telling people what color roofs they should have. He has a petition signed by most of the members of the street indicating they like the color of the house and he also has a sample of the roof tile which was installed.

Perry
appeal of
ARCOM
decision

Mr. Heeke asked Mr. Randolph if the statements presented by Attorney Thibedeau are substantially correct on being able to change the color after a CO has been issued? Attorney Randolph responded there is nothing that would preclude someone were they not seeking any kind of a permit from the Town to change the color of a roof by painting the roof.

Mr. Heeke noted this is an appeal from the decision of ARCOM. Mr. Moore indicated he does not agree totally with the statements made by Mr. Thibedeau as Mr. Moore believed ARCOM does have the ability to judge the color of a roof at the time of their approval. Mr. Moore stated he is correct in his statement that the color can be changed after the CO is issued. Mr. Moore felt the color of the roof does affect the mass of the house in certain instances and can be related as to how it will be compatible to the surrounding properties. He felt this was a valid issue at the time of the review and that is what the Architectural Commission was saying when they denied the change. He felt the merits of the change are before the Council on appeal and he has no objection to overturning ARCOM, but he believed it was in the initial review procedure of ARCOM to look at the color of a roof tile. Mr. Heeke felt that each should be judged on their own merits.

Mrs. Wiener moved that Mr. Thibedeau's client, Mrs. Marina Perry, be entitled to have the roof color that is now on her roof, and the appeal is granted and the decision of the Architectural Commission is reversed. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

C. Variances, Special Exceptions and Site Plan Reviews:

OLD BUSINESS:

1. Var. No. 53-88 - Polly Blakely Davidson, 12 Lagomar Rd.; Letter dated Feb. 2, 1990 from Doyle Rogers requesting one-year extension. R-A District. Mr. Heeke noted this matter is presently in litigation. Attorney Robert Deziel addressed the Council, indicating he was representing Mrs. Davidson. Mr. Heeke asked if the litigation on this should drag on longer than twelve months, could there be an extension on this from the granting of the entry of final judgment? Mr. Randolph responded it could be done but he would recommend this be revisited if that happens as this has been set for oral argument within the next month and unless there is an appeal, this matter should be resolved in the near future, and he thought it better to set the extension to a time certain. Mr. Moore indicated his department has no objection to the granting of the extension. Mrs. Wiener moved the one year extension be granted since this is not the applicant's fault. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously. Attorney Deziel asked if it was an extension from today's date to which Mr. Heeke responded affirmatively.

Variance
53-88

2. Amended Var. No. 94-89 - P. B. Land Investments, Inc., Graham Eckes Academy Plat 5, 690 N. County Rd.; to allow construction of a single family dwelling providing a street side yard setback of 20' from the other property line in lieu of 30' as required; and to provide a north side yard setback of 12.5' in lieu of 15' required. R-B District. Postponed from January meeting. Mr. Heeke noted the Council approved the SUBdivision for less lots than what would normally be permitted and required the applicant to make some significant changes, so it could be this is a situation which is not of the applicant's own doing. Mr. Moore agreed, indicating this was a creation of a Subdivision and in consideration of the widening of Cherry Lane on the north side, and as result of that the applicant has requested there be a further understanding that there will be a maid's quarters over the garage area, and Mr. Moore recommended a deed restriction be placed on the property which would preclude the main residence to never have a second story and a restricted covenant precluding the further subdivision of this particular lot.

Amended
Variance
94-89

Mr. Heeke asked if there were any letters of objection to which Mrs. Peters responded negatively. Mr. Moore stated there was no objection from the staff.

Mr. Ilyinsky moved the Variance No. 94-89 be granted with the deed restrictions that no further two story expansion be allowed, other than the maid's quarters over the garage; and that the property at no time in the future will be further subdivided. Seconded by Mrs. Wiener.

Variance
94-89

Mr. Armand Glocker who lives directly across the street from the proposed house advised there are no details as to what type of a house would be built or where the driveways will be located, and it could affect his property as the second story could overlook his pool area and that is a concern. Mr. Moore advised the Architectural Commission will review the style of the house and the driveway cuts that

Variance
94-89

would be involved but he does believe they wish to enter the property from County Road. Mr. Bill Meyer reported there will be a secondary entry to the property from Cherry Lane, but the main entrance will be off County Rd. Mr. Meyer exhibited a plan which showed where the proposed driveway would be located off of Cherry Road.

Mr. Heeke noted that part of the Site Plan approval was to allow the front footage on Cherry Lane which was more than required in the Ordinance so there would be compatibility with the lots on the south side, which are 125' and the applicant did concede on that point. Mr. Glocker indicated he has no objection to the site plan, but he has lived for many years with the problems created by the School and he would not want to be facing an area where the trash would be taken off the property across the street from his home and that would not be satisfactory. He also had an objection to the second story if it overlooked his pool area. Mr. Moore stated the second story will be over the garage area and is not a formal second story as the garage will be a low garage and that is one of the deed restrictions. Mr. Glocker stated he needs to see detailed drawings. Mr. Moore advised the plans cannot be drawn without the granting of the variance and he will be notified when the Architectural Commission has its meeting to review the proposed plans and he will have an opportunity to voice any opinions he might have about trash removal and the second story.

Mrs. Wiener advised Cherry Lane will be widened so whatever has been objectionable will be further away from his home by ten feet. Mayor Marix indicated if this was being subdivided any differently, there could have been at least three extra houses on Cherry Lane, each with garbage and trash heaps.

Mr. George Clothier addressed the Council for his wife, Dorothy Muller, and they live at 242 Cherry Lane and it was always his understanding that Cherry Lane was a private road, which should require the consent of the owners of both sides of the road if any changes are to be made. He understood the street was to be widened on the north side which would involve the removal of a long row of trees which now border the present property line and he objects. Mr. Moore did not believe it was a private road but even if it were, the owners of the south side would have no control of the ownership of the north side. Mr. Clothier felt that any changes on the north side of Cherry Lane can properly be made without the approval of the owners on both sides.

On roll call, the motion carried unanimously.

NEW BUSINESS:

Variance
5-90

3. Var. No. 5-90 - Louis Dommerich, 28 Middle Rd., to allow construction of a kitchen inside the guest house; same prohibited by Section 5.51(b)(5) of the Town Zoning Ordinance. RB District. Since there was no one in the room at the time, a motion was made by Mrs. Wiener, seconded by Mr. Weinberg that this Variance 5-90 be put over until next month's meeting. On roll call, the motion carried 3-1 with Mr. Heeke voting against the motion to defer. Mr. Heeke stated this may be precedent setting because normally, these variances are denied when no-one is here to present them to the Council.

Variance
6-90

4. Var. No. 6-90 with Site Plan Review - John Raimondi, 1420 N. Ocean Blvd. - to allow erection of three sculptures exceeding maximum height allowed as follows: permit 12' height and a 15' in lieu of 4' maximum allowed east of Ocean Blvd. per Section 5.47 (a) and permit 13' height in lieu of 12' allowed (west of Beach Area Zone) per Section 5.50 (b). Also, to allow construction of a swimming pool in the required front yard street side yard property line in lieu of 25' required and 15' from the east front yard property line in lieu of 30' required. Beach Area Zoning District. Mr. Raimondi addressed the Council on his behalf. Mr. Heeke asked what the hardship was? Mr. Raimondi indicated he has moved to this area to live on the oceanfront and he believes the sculptures proposed for the beachfront look beautiful there. Mr. Heeke indicated there must be compliance with the Ordinance and in order for him to do what he wants to do, he has filed for a variance, but some hardship must be shown which will run with the land or is unique to the property. Mr. Raimondi felt the hardship will be his concept as he currently has to look at sailboats and it would be a hardship for him to not look at his sculptures on the land he owns. Mr. Moore explained to Mr. Raimondi how the Zoning Code interprets a hardship and it has to run with the land. Mr. Raimondi stated he does not know how to make his situation any clearer as this will be a hardship for him not to have his sculpture on his property as everything he does is concept and his work involves nature and celebrates life and the environment and he cannot put it into the Council's terms, but that is how he feels.

Mr. Weinberg asked if he any intention of selling the sculpture he wishes to display? Mr. Raimondi stated he owns them and if the price was right, perhaps he may want to sell, but they are not for sale. Mayor Marix agreed the sculptures were lovely but the question is if they can be placed on the property within the Zoning Code.

Mr. Weinberg asked if he would be willing to place only two of them on the oceanfront? Mr. Moore explained this would still not be in compliance as they can only be four feet in height. Mr. Heeke stated he would not be able to go along with that request. Mr. Moore stated they could be placed behind the setbacks or in the rear yard of the property at a maximum of 12' in this zoning district, so it would be a choice of location and the overall height of the sculpture which are a problem.

Mr. Ilyinsky agreed they were quite lovely but if this is granted, someone could come along and want to put up something which was not as attractive, and a precedent would have been set. Mr. Raimondi understood. Mayor Marix asked if there was any other place on the property where they could be placed. Mr. Raimondi indicated on the west side of the street there was one placed at the corner. Mayor Marix asked if there was any place on the west side where they could be put? Mr. Moore stated they could possibly go on the north side of the house, exclusive and out of the utility easement and then the variances would be for the height only.

Mr. Ilyinsky suggested this item be postponed until the applicant could find another place for them. Mr. Heeke indicated he has viewed them and they are beautiful but he doesn't know how he can go along with this and he didn't believe postponing was going to change anything. Mayor Marix felt he may be able to find a solution.

Mr. Moore indicated he could come back with the proposition that all three of them would be placed on the west side of the road, that would be different from this application. Mr. Raimondi indicated he would prefer to place two on the west side than have none at all. Mr. Moore cautioned they would have to be placed behind the setback line, which is 30' and the only conceivable place he could see where they could be put is on the north side of the house, due to the irregularly shaped lot. Mayor Marix felt that perhaps since the lot is irregular in shape, that might work for a hardship and he might be

able to work with the Building Department to apply for a minimum variance. Mr. Heeke pointed out it would still be a hardship of his own making. Mrs. Wiener felt if the variance is granted on the swimming pool, that might bring up another angle.

Variance
6-90

Mr. Moore explained the swimming pool is proposed to be at the corner of Reef and N. Ocean Blvd. in the front yard and they would have no objection to the setback being ten feet from Reef Rd. as long as the pool is sight-screened, however, it is a 40' pool and they would recommend that he shorten the pool to a standard 30' in length and a 5' variance be considered on the east side. Mrs. Wiener had no problem with the pool length and moved that the Variance No. 6-90 as it pertains to the swimming pool be approved. Mr. Ilyinsky indicated he would second if it could be shortened. Mrs. Wiener amended her motion the swimming pool variance be approved at 35'. Seconded by Mr. Ilyinsky. Mr. Moore pointed out there is an easement there that would create the need to put the pool somewhere else and he has no objection to the motion.

Attorney David Leaman, speaking for his client, Herbert Ralston of 1426 N. Ocean Blvd., which is immediately north of the applicant's property addressed the Council. He noted the requested variance on the swimming pool concerns the front and side yard setbacks on the corner lot and he thought the variances on each yard should be considered carefully than a rear or sideyard variance which could be screened with hedges. He stated the variances on the front yard affect the entire neighborhood and not just the applicant. He pointed out the variances are not the minimum required and he wished it to be known there are a number of lots in the Town which are not big enough for a swimming pool and that does have an effect on the value of the property. He assumed there would be a pool deck around the pool which will reduce the green space and the requested variances would have a big impact on the appearance of the house for the entire neighborhood.

Mr. Ilyinsky stated the pool will be heavily landscaped and will not be visible from the road. Mr. Moore recommended that be a condition of the approval. Mayor Marix asked if the planting would make it a dangerous corner? Mr. Raimondi indicated he has been told there would have to be lower planting at the corner and he agrees to do that.

Mrs. Peters advised there is a letter of objection on the pool from E. W. Jackson, 111 Reef Road. and read it with regards to the pool.

On roll call, the motion carried with a negative vote cast by Mr. Heeke.

Mr. Heeke indicated they would now address the sculpture variance. Mrs. Wiener asked how much correspondence was received with regards to the sculptures? Mrs. Peters advised there were letters of approval from Barbara Davidson, 413 Seaview Avenue, Ty Houck, 200 La Puerta and J. Russell Duncan, 9 Via Parigi, Palm Beach County Council of the Arts, and Bruce Helander, 210 Worth Avenue. Mr. Moore pointed out he was in receipt of a letter from George Cunningham which was also in objection on the sculptures and asked if the pool is granted, it be fenced and landscaped.

Mr. Leaman asked if the swimming pool variance grant was subject to screening to which Mr. Moore responded affirmatively.

Mr. Leaman addressed the sculptures - and his objections are:

1. That Mr. Raimondi is trying to use his residence for a commercial use. He noted that his client has received a brochure from Mr. Raimondi with his business card with his home address and telephone number.
2. They believe the sculptures on the east side of Ocean Blvd will detract from the natural beauty.
3. It will set a bad precedent as Mr. Raimondi's sculptures are very well known internationally but the next person who wishes to place a sculpture east of Ocean Blvd. or anywhere else on this lot, the sculpture may not be as nice.

He requested the Council deny the application.

Mr. Raimondi explained Mr. Ralston and his associate rang his bell one evening and exclaimed about his sculptures and welcomes him into the neighborhood and then he invited them into his home. He offered him a series of colored photographs and told him he was going to be before the Town Council for a variance on the sculptures and that is when Mr. Ralston requested his card with the spelling of his name so that he could write a letter and that is when he offered the brochure with his card. He stated there are no prices in the brochure and it is really a portfolio of what he has done all over the world and he protests the implication. Mr. Heeke indicated he still can find no hardship.

Mrs. Wiener agreed with Mr. Heeke but knows in the past side yard setback variances have been granted which is not unusual and different but she too is concerned about setting this kind of a precedent in a community where there are people like the applicant and collectors and we are not here to judge good art or not so good art, and although they all agree the sculptures are exceptionally beautiful, it will set a precedent.

Mr. Weinberg asked if the applicant would consider placing the sculpture elsewhere in the Town where a variance may not be necessary, such as a public park? Mr. Raimondi appreciated the offer but he would like to display it at his home. Mr. Raimondi indicated he would like to amend his application and place one sculpture at the promontary of his property and this would be the sculpture that is 13'. Mr. Moore explained since the height is measured from the crown of the road, that particular property is high, it would be more than the one foot variance. Mr. Moore stated they also need to be designed to withstand 120 mile per hour windload. Mr. Raimondi stated he understood that.

Mayor Marix asked if the lot is high, would that be a basis for a hardship? Mr. Moore stated that would be the case here because the overall height would not be 12' but 17'.

Mr. Ilyinsky believed the matter should be delayed. Mrs. Wiener indicated this still would not change anything.

Mr. Ilyinsky moved to defer this matter to the March meeting. Seconded by Mr. Weinberg. On roll call, the motion carried with two votes for the motion by Mr. Ilyinsky and Mr. Weinberg and two votes against the motion by Mrs. Wiener and Mr. Heeke. The Mayor broke the tie by voting for the motion to defer.

Variance
7-90

5. Variance No. 7-90 - James and Joyce Conn, 115 Gulfstream Road; to allow construction of two additions to a non-conforming two-story residence providing an east side yard setback of 10' in lieu of 15' required and providing a west side yard setback of 5' in lieu of 15' required. R-B District. Attorney Frank Lynch addressed the Council on behalf of the applicants, indicating the first variance is a "fill-in" type variance on the western portion of the property. He indicated they wish to install a kitchen as the existing kitchen is too small. He indicated in this block, the set-back lines are very similar. Mr. Lynch reported the second variance is to add a wing on the eastern side of the house to expand the bedroom area. He noted there is a vacant lot east of the property and adjacent to that lot is Charley's Crab and previously there have been variances requested for this property to be developed into a parking lot and his clients are concerned if that ever happens, it would destroy their privacy. Mr. Heeke recalled the use of the lot has been before Council and has been denied unanimously each time but he didn't believe they could speculate on that lot when they are considering this particular application.

Mr. Moore reported there is no objection to the "fill-in" request as it is a minimum type variance. He stated on the second application on the east side is something that could be moved further to the west to bring it into compliance or require a minimum variance.

Mr. Heeke asked about the hardship. Mr. Lynch responded it basically is the interior configuration of the house; and secondly if this was a one story house, the variance would be less substantial. Mr. Heeke was not sure that was a hardship. Mr. Lynch indicated they could add a second story over a larger area and would create more of a mass, and he was not sure that would be in the interest of the Town as this is a small lot.

Mr. Ilyinsky pointed out if this is allowed, it would be in place in the event the empty lot was ever built upon.

Mr. Moore asked why the addition could not be moved westward which would put it into line with the existing configuration. Mr. Lynch stated it is possible to move it to the west, but the view would be reduced into the interior yard, which is quite attractive, and they don't wish to have that view eliminated.

Mayor Marix did not believe it would make a very big difference with the view and moving the addition westward, as it is a very small area they are talking about. Mr. Lynch wondered if the length would be diminished, would it make it any difference?

Mrs. Wiener indicated she had no problem with the request for the "fill-in" section, but she was disturbed with the other request. President Heeke suggested they be handled separately. President Heeke requested the letters of objection read and Mrs. Peters read two letters of objection from William R. McCraney of 133 Gulfstream Road and Georgiana Doerschuck of 476 S. Ocean Blvd. President Heeke called for further comments from the audience and there were none.

Mr. Ilyinsky moved for approval of the "fill-in" variance for the western portion of the property on Variance #7-90 be granted. Seconded by Mrs. Wiener. On roll call, the motion carried with a negative vote cast against the motion by Mr. Heeke. (3-1).

Mr. Ilyinsky made a motion to approve the variance on the eastern portion, but there was no second to the motion.

Mrs. Wiener moved the variance for the eastern portion of the property on Variance No. 7-90 be denied. Mr. Heeke passed the gavel to Mr. Ilyinsky and seconded the motion. On roll call, the votes were Affirmative for denial: Mrs. Wiener and Mr. Heeke. Negative for denial: Mr. Weinberg and Mr. Ilyinsky. The Mayor cast her vote for denial and the motion carried unanimously for denial 3-2.

Variance
8-90

6. Variance No. 8-90 - Leonard and Pat Sousa, 210 Colonial Lane; to allow construction of a new story residence with the following variances: allow lot coverage of 30% in lieu yard setback in lieu of 30', required; allow residence to be on a lot 82' wide in lieu of 100' minimum width; provide street side yard of 27' in lieu of 35' required to the east and 10' in lieu of 15' to the west side yard; and allow construction of a swimming pool providing 15' street side yard setback in lieu of 25' required. R-B District.

Attorney Elisa Fuller addressed the Council indicating her clients wish to demolish the present residence and the residence will front on Ocean Blvd. and five variance are requested, which all stem from the shape of the property. She explained the lot is 165' deep but only 82' wide, so her clients would need a reduction of the setback from Colonial Drive, from 30' to 20'; on the west side it would be from 15' to 10'; increase in the lot coverage from required 25% to 30%; and the pool setback on Colonial which is a required 30' to 10'.

Mr. Moore indicated there were new plans received yesterday which are a substantial change from the plans previously submitted and the pool is located closer to Colonial Road.

Mr. Ilyinsky voiced his objection on having plans updated the day before a Council meeting, as he took the time last week to go over these with Mr. Zimmerman and Mr. Moore and now they are not the same plans he looked at last week. Mr. Heeke agreed.

Mr. Heeke felt the hardship in this matter will be the 82' lot but he too wishes to study the plans and discuss them with the Building Department and suggested this be deferred which will give everyone an opportunity to study the revised plans. Mayor Marix asked how many square feet is the home? The architect responded it is 6800' of which 4200' is on the first floor. Mr. Ilyinsky moved the Variance No. 8-90 be deferred. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously for deferral.

Mr. Randolph informed Mr. Moore this will have to readvertised if the swimming pool setback is larger than what was shown on the original application.

Variance
9-90

7. Variance No. 9-90 - Judith Grubman, 1102 N. Ocean Blvd., to allow construction of a one-story guest room pool pavilion and cabana providing a street side yard setback of 20' in lieu of 35' required. R-B District. Mr. Heeke noted this was a recently landmarked home. Mr. Moore explained staff has no objection to the application. Mr. John Gosman, Architect reported he was representing the applicant. Mr. Heeke explained the Council studies these applications quite carefully and asked if anyone had a specific question on this application? There was none and Mr. Ilyinsky then moved the application for Variance No. 9-90 be granted. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

8. Spec. Exc. No. 1-90 with Variance and Site Plan Review - The Sailfish Club of Florida, Inc., 1338 N. Lake Way - deferred to the March meeting.

Spec. Exc.
1-90

9. Flood Ins. No. 1-90 - Mrs. Jodi Luntz, 234 Seminole Ave., to construct an addition to an existing residence with finish floor elevation of +6.8' in lieu of the required +7.5'. R-C District. Mrs. Luntz addressed the Council, indicating this was a very small home and they would like to construct an addition and to raise the floor level would be a problem as there would have to have steps installed in every room. Mr. Moore indicated if there can be no hardship proven, the Town does stand to be criticized during the audit on these flood insurance variances. He noted this is a substantial addition, probably 40% of the existing, and the variance needed is 8" and could be handled by one step being installed. Mr. Heeke felt they couldn't put in jeopardy the insurance plan for the Town. Mrs. Wiener moved for denial of Flood Variance No. 1-90. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously for denial.

Flood Ins.
1-90

D. Other

1. Consideration of Application for Dune Revegetation Permit - 2000 South Ocean Blvd, Sloan's Curve - this matter was considered earlier in the meeting.

Dune Re-
vegetation
application

XV. COMMUNICATIONS FROM CITIZENS

A. Mrs. Mary Dull addressed the Council apologizing for the fact her name appeared on the Variance No. 8-90 for the Sousas of 210 Colonial Lane and was shocked they wished to present plans that no-one had previously seen.

Communica-
tions from
citizens

B. Adrian Winterfield addressed the Council on four subjects:

1. On the Grubman variance, No. 9-90, he didn't believe hardship was addressed;

2. On the request by Bethesda-by-the-Sea for an Outdoor Gathering Permit, he asked if it would have been appropriate to remind the church, the requests are due 45 days before the event; and he doesn't understand why they do not need a Charitable Solicitation Permit.

Bethesda
by-the-Sea
permit

3. On the Code Enforcement ordinance, he believed there was some State legislation which addresses the possibility of issuing summons, as is done for traffic violations but will require action of the Town Council.

Code en-
forcement
ordinance

4. On the Charitable Solicitation Ordinance, he understood this Ordinance was under review and in view of the fact that the State no longer requires there be a license from the State, the Council should pick up the slack and require applicants of some of the information which was previously required by the State and now must be available, if a member of the public requests it.

XVI. ANY OTHER MATTERS:

A. Mr. Doney explained he was in receipt of a letter from Mr. John B. Johnson, Director of the Historic Palm Beach County Preservation Board requesting permission for the County to include landmarked properties in a brochure they were preparing. Mr. Ilyinsky asked if it should be public buildings only? Mr. Doney felt it was to encourage sight-seeing and other things relating to that. Mr. Moore suggested any kind of a promotion of this type would bring in bus loads of people and he suggested the Council opt out of this request. Mr. Heeke felt it was a safety problem. Mr. Ilyinsky moved the Town Manager be authorized to respond to Mr. Johnson and deny his request for landmark designations in the Town of Palm Beach be published in the Historic Palm Beach County Preservation brochure. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Historic
Palm Bch.
request

B. Mr. Doney explained a request has been received from the American Red Cross asking they be granted permission to fly the Red Cross flag at the entrance to the Town at the Flagler Bridge during the month of March. Mr. Heeke noted there are so many events and if the Council granted permission for a flag to be flown at every one of them, there would not be enough months in the year to fly them. Mayor Marix explained she had a conversation with the Chairman of Red Cross Month, Mr. Robert Hannon and he felt they were almost like a government entity since they are asked by Congress to look after the American serviceman, so it would not be in the same league as other charities, and she suggested they look at it differently as it could be called a semi-governmental agency, to which some of the members of the Town Council did not agree. Mrs. Wiener moved the request by the American Red Cross to fly their flag be denied and that governmental flags should be the only flags flown at governmental properties and not for charitable organizations, regardless of how worthy they are. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

American
Red Cross

C. Mayor Marix noted on Feb. 12, 1990, Mr. Doney wrote a memorandum on funds for blinds, paint, carpeting, and baseboards and the Mayor and Council offices and she wanted to talk about general expenses. She felt when one wants to accomplish any kind of discipline, the first thing to do is to discipline yourself. She noted the Department Heads are going to be asked to be careful on their budget this year and to keep it within four per cent. She stated in the last few years, a State-of-the-Art Police Station has been built; the North Fire Station has been refurbished; have a new Tennis Pavilion; and redone the outside of Town Hall and she felt it was time for them to stop spending monies on themselves. She knew there were things that needed to be done, such as the Clerk's Office, but really firmly believed that spending money on our own niceties should be put off to the future and she felt strongly about it. She felt if a rug needed to be put under the Data Processor, it can be purchased in a discount place, but she wished all them to think about being tough on spending of money and she didn't know how they could expect the Department Heads to be tough when they weren't tough on themselves. She knows that what was requested was \$15,000 and is only the tip of the iceberg, but she is referring to the whole picture.

Funds for
Mayor and
Council
office

Mrs. Wiener felt the Mayor had the right to feel the way she wants to, but her feelings on some of the things in the memorandum are so ludicrous to discuss in the budget the size of the Town of Palm Beach's and she knows people have come to the Town Hall and are amazed at the state of our offices. She felt if someone came from the State of Florida and asked the Mayor and Council, how they manage to be within the Sunshine Law when there are two desks for five Council people and one Mayor and she felt there were certain things that needed to be done and times in which they had to be done. She finds it difficult to work with six people in one office and she felt it would be more efficient to make life simpler and provide them with the basic tools they require.

Funds for
Council
offices

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

Mr. Weinberg

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

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

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

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

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

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

Money for
MICU

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

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

Grace T. Peters
Town Clerk

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

Call to
order &
roll call

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

Invocation
& Pledge

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

Approve
agenda

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

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

Procedures
for Public
hearing
RE: Land-
marking

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

Resol.
5-90

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

RESOLUTION NO. 5-90 - A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, CLARIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY HEREINAFTER DESCRIBED MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH AND DOES HEREBY DESIGNATE SAID PROPERTY AS A LANDMARK STRUCTURE PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

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