TOWN COUNCIL MINUTES OF FEBRUARY 11, 1992 MEETING

Roll Call

I. CALL TO ORDER AND ROLL CALL. The Town Council meeting for February 11, 1992 was called to order by President Heeke at 9:30 AM and on roll call, all Elected Officials were found to be in attendance. Also attending for all or part of the meeting were Mr. Doney, Mr. Randolph, Mrs. Peters, Mr. Dusey, Mr. Bowser, Chief Elmore, Chief Terlizzese, Mr. Elwell, Mr. Jakubiak, Mr. Moore, and Mr. Frank.

Invocation

II. INVOCATION AND PLEDGE OF ALLEGIANCE - Invocation was given by Father Ryan of St. Edward's Catholic Church. Pledge of Allegiance was led by President Pro Tem Weinberg.

Adjourn Sine Die

III. ADJOURN SINE DIE - Meeting was adjourned and the Mayor presided.

Swearing in of newly elected officials

IV. SWEARING IN OF NEWLY ELECTED OFFICIALS - The Honorable Gavin K. Letts, Judge, Fourth District Court of Appeals Councilman Ilyinsky, Councilman Weinberg and Councilwoman Douthit were sworn in by Judge Gavin K. Letts.

Roll Call

V. CALL TO ORDER AND ROLL CALL - Mayor Marix called the meeting to order and on roll call, all Elected Officials were found to be in attendance.

VI. ORGANIZATIONAL ITEMS

Election of TC President

A. Election of Town Council President - Pursuant to Section 3.01 of Town Charter - Motion was made by Mr. Ilyinsky to nominate Bernard Heeke as President of the Town Council. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Election of TC Pres.Pro-Tem

B. Election of Town Council President Pro-Tem - Pursuant to Section 3.01 of Town Charter - Motion was made by Mrs. Douthit to nominate M. William Weinberg as President Pro Tem. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

President Heeke assumed the duties of his office.

Roll call was taken and all Elected Officials were in attendance.

VII. PRESENTATIONS

Presentations

A. Retirement of Ken Wake, Fire Mechanic - Fire-Rescue Department - Deferred from December Meeting - Mr. Wake was presented a plaque for his 17.5 years of service to the Town.

B. Retirement of Ernest Peele, Equipment Operator I/ Streets - Public Works Department - Deferred from January Meeting. Mr. Peele was presented a plaque to Ernest Peele for his ten years three months of service to the Town.

Comments of the Mayor

VIII. COMMENTS OF THE MAYOR: MAYOR MARIX: I've got one very short and important comment, and then one very long and important comment.

The first thing I want to do is to thank Mr. Randolph for the superlative job he did in helping us move forward with the reef. Mr. Randolph you did us proud and I think everyone in this Town should be grateful to you. Thank you very much. He was absolutely wonderful.

These other comments, I thought would be suitable to make at this time because this is the time of the new Council. It is as you might say the start of a new year for the Town, so I'm going to start out by saying to be or not to be. These famous words bring me to what I feel is a present situation in Palm Beach. The Island of Palm Beach was basically no different from any other small subtropical barrier island. We have the same rather nice climate, very poor soil, almost completely flat terrain and not much attractive native vegetation. Yet just think of the beautiful world famous, charming and delightful Town in which we now live. This is a little bit of your history lesson.

A short look back over how this exceptional Town came about shows that during the twenties what had been a very small community came into its own through early planning, mostly by the Garden Club with some fabulous homes built by famous architects and with that Palm Beach started to be world renown. In the late forties after the war and early fifties the word went out we had a jewel here and in came big time developers. Whole tracts of the Town were bulldozed, subdivisions made, and large multi-family started to appear hither and yon threatening to develop our Town in the same way as that of Miami and Ft. Lauderdale.

By the late sixties the impending remake of Palm Beach caused such concern that a new breed started to form. Very concerned citizens ran for election having seriously studied their platforms in order to win and they in turn were backed up by strong minded Zoning Commissioners who developed a tough zoning code in spite of legal threats and actions, and not only preserved whole neighborhoods but saved the Town from the otherwise permitted density of over 100,000 residents.

A very tough Civic Association led by Ray Kunkel and the creation of the Architectural Commission started the Town on its way to preservation. The beauty of the commercial districts was retained by ordinances on signs, banners, displays that have disfigured and cheapened many other communities. While we do have rules that govern such matter as noise, sales, lights, solicitation and for which sometimes we're ridiculed, the result is a Town whose sheer quality in so many important ways makes it not only the pride of our coast, a world famous resort, a Town where real estate values are hardly equaled anywhere, but also a place which is relaxed, informal, cosmopolitan and a Town whose residents can pride themselves on giving more per capita to charities than any other community in the United States.

Preservation of Palm Beach moved ahead in spite of very limited Town facilities. We recall that when the Town was still its present size that Administration, the Building Department, the Fire Headquarters, the Police Department were all in our old Town Hall. You might say that was very cost effective operation. The regular monthly committee meetings allowed in depth study and research by Council members prior to Town Council meetings which in turn made the Council meetings more effective yet shorter, practical and informal with the Chairman often taking the minutes. This was no show but the result certainly did tell. In spite of our foibles we are different and

Comments of the Mayor (cont'd)

much better than any other community than I can think of, as shown by the tax assessments where we pay 9% of the entire County and School Board expenses.

Now for my statement. To be or not to be. We are now being asked not to be strong on some zoning. To alter sign ordinances, to allow more sale signs, to weaken our charitable ordinances, to allow more activities in residential areas, etc. Why tear down what many who worked so long to build. To do this will benefit a few, but cheapen the Town and make it more like others and it will hurt us all in some way. The achievements made over the past years must be preserved with the same dedication, the same results and the same far sightedness because what we undo now will not be redone, it will be lost.

We have a great Town OK, but we have new and important challenges, water, ecology, County and School Board taxes, right sizing of expenditures, infrastructure, etc. Let us go forward in these matters with resolve, dedication and foresight rather than tempering with a proven formula. All elected officials during their campaigns have claimed they wanted to preserve Palm Beach. Not one was elected on the platform of change. It is therefore our duty to carry out those promises or leave office and run again on a different platform. It is likewise the duty of you, the residents to be the watch dogs of your Town. Take time to come to the meetings. Study the issues and be ready to stand up for what is your heritage. Don't bend to the random articles probably written by a nonresident or a PR agent. These short often incomplete frequently biased reports will not give you the whole picture, and most positively not the insight you will need at election time to decide who will preserve the Town or who will allow it to be changed for personal gain, lack of knowledge, desire for publicity or short sightedness. The only time we know we have is now, let us use it in the right way. Thank you very much.

IX. APPROVAL OF AGENDA

Approval of Agenda

<u>NOTE:</u> Items listed on the "APPROVED AGENDA" will be approved by one motion of the Town Council, unless the Mayor or an individual Council Member requests that certain items be deleted from same and be individually considered.

Mr. Doney suggested under Item XVI under the Regular Agenda, he suggested there be added Item B. which would be Consideration of Matters Related to the Charitable Solicitation Ordinance and Related Zoning Issues. Mrs. Wiener moved the item be included on the Regular Agenda. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Mayor Marix wondered if the building at 1070 North Ocean Blvd. should be discussed again, the residence of Mr. Larsen.

Mr. Moore stated this was before the Town Council for an appeal of Mr. Moore's decision that they had gone beyond the intent of the Zoning Ordinance and they negotiated with the Council on the setbacks on the north and south property lines. He indicated in a redesign of the house, they have eliminated the floor slab area, which was their basis for saying they could not conform to the proper setbacks. He stated the job has been stopped and there is nothing to discuss at this point as they have not been able to talk to the owner or the contractor.

Mayor Marix stated she brought this matter up because the cement slab is what they considered to be the basis of what they could rebuild is not there and she thought they needed to come back to the Council and talk to them, but she didn't want to see them have the problem again. She knew the job has been red tagged and asked how long this would be stopped? Mr. Moore response was there would be no further construction until the matter is resolved, by either coming to the Council or revert back to the fifteen foot setbacks on the north and south property lines.

Mr. Heeke asked that the charitable solicitation, A-10 Best Buddies be pulled from the Approved Agenda. Mr. Doney suggested it be Item 15 A.

Mrs. Wiener asked that the minutes of January 6th and 7th and 29th be pulled from the Approved Agenda. Mr. Ilyinsky moved the Agenda be approved with the additions and deletions as stated. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

<u>APPROVED AGENDA</u> (ITEMS X THROUGH XIII)

X. APPROVAL OF MINUTES OF JANUARY 22, 1992

XI. LICENSES AND PERMITS

Licenses & Permits

A. Charitable Solicitations

Charitable Solicitations

1. Nelle Smith Residence for Girls; No. 88-92
2. Ballet Florida, Inc., No. 156-92
3. Israel Tennis Centers Association, Inc.; No. 175-92
4. Palm Beach Crime Watch, Inc.; No. 182-92
5. Simon Wiesenthal Center; No. 264-92
6. Opera Antica; No. 271-92
7. Hope House of the Palm Beaches, Inc.; No. 297-92
8. Jewish Arts Foundation, Inc.; No. 299-92
9. The Mary Obolensky Underwood Foundation for Leukemia Research; No. 320-92

B. Beverage Licenses

Beverage Licenses

1. Transfer of 4COPSRX Alcoholic Beverage License from Richard Andrew Spigler/Albergo Cuore, Ltd. d/b/a Heart of Palm Beach to Richard Andrew Spigler/SBS Hotels of America, Inc. d/b/a Heart of Palm Beach, 160 Royal Palm Way

2. Transfer of 4COPSRX Alcoholic Beverage License from Richard Andrew Spigler/SBS Hotels of America, Inc. d/b/a Heart of Palm Beach to Frank Stephen Coniglio/Demcon, Inc. d/b/a Town Tavern, 160 Royal Palm Way

New Business

XII. NEW BUSINESS

A. Other

1. "Updated" Mutual Aid Agreement with the Police Department of the City of Riviera Beach

XIII. APPROVAL OF WARRANT LIST AND FUND EXPENDITURES FOR JANUARY 1992

REGULAR AGENDA

Public Hearings

XIV. PUBLIC HEARINGS

Consideration of Res. 4-92

A. Landmark Designation for 250 Barton Avenue - Consideration of Resolution No. 4-92

Mrs. Peters confirmed the Proof of Publication has been filed. Mrs. Peters gave the oath to those who would be giving testimony during this proceeding.

Mr. Frank reported this property meets the following criteria for designation: (C) It embodies distinguishing characteristics of an architectural type or is a specimen inherently invaluable for the study of a period, style, method of construction or use of indigenous materials or craftsmanship; (d) Is representative of a notable work of a master builder, designer, or architect, whose individual ability has been recognized or who influenced his age. Mr. Frank stated the architect is John Volk.

Mr. Sved advised this residence was designed in 1933 by the architectural firm of Volk and Maass and it was built for Mr. & Mrs. Olaf Tevander. He stated subsequent owners were D. Meade Johnson and Mr. Harcourt Sylvester, He noted this is a Mediterranean Revival Style, with a smooth stucco appearance and still contains many of the original and historical features of the house, including the decorative window and door treatments. He noted there are eight symmetrical roof lines and highly detailed brackets under the roof eaves. He stated in 1935, Mr. Volk and Mr. Maass added an east wing which included two bedrooms, one bath a library and a cloister. He stated in 1987, a extensive renovation of the house was done by Mr. Johnson, which included a complete re-roofing, replacing of the windows, and marbleized the entrance. He noted the new owner, Mr. Sylvester has continued the renovation process and this home is very worthy of designation.

Mrs. Jane Volk advised this home has been volunteered by Mr. Sylvester for landmark designation.

Mrs. Wiener moved the Designation Report be made a part of the record. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Mr. Randolph read the Resolution No. 4-92 by title:

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

Mrs. Douthit moved for approval of Res. 4-92 which designates 250 Barton Avenue as a landmark on the grounds that it complies with Criterian C and D, with thanks to the owner for volunteering this. Mrs. Wiener seconded the motion and thanked the Commission members who were able to bring that about. On roll call, the motion carried unanimously.

Licenses & Permits

XV. LICENSES AND PERMITS

Charitable Solicitations

A. Charitable Solicitations

1. Croquet Foundation of America; No. 216-92 - Request for time extension through May 31, 1992. Mrs. Peters explained the Croquet Foundation filed for an application last Fall for a fund-raiser event at the Flagler Museum, and through an oversight did not have their Ball included under that permit, and the request is the permit which expired January 15, 1992 be extended through May 31, 1992. Mrs. Wiener moved that the time extension be granted to the Croquet Foundation of America through May 31, 1992. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

10. Best Buddies of America, Inc.; No. 334-92. Mr. Heeke reported he asked this to be pulled from the Approved Agenda, since he had a concern about the ability to safely park and have valet parking at this particular location, as this home is located on a dog-leg turn. Mayor Marix thought they needed to tell people about where this will be held and why this Council is concerned about the parking there. Mr. Heeke responded this is to be held at the Kennedy home on North Ocean Blvd. Mayor Marix suggested the principals should take this matter up with the Police Department and ask what suggestions they may have on this matter, and she suggested this be approved subject to the Police Department's approval. Mrs. Douthit believed this is right across the street from Colonial Lane which is one way east-bound, which compounds the problem.

Mrs. Wiener asked if there was approval on this by the Police Department to which Mrs. Peters responded affirmatively. Mrs. Wiener stated she has noticed there is a constant stream of traffic up there, since the Kennedy trial, slowing up at this location and it has been a traffic problem, and an event like this could compound it very much. She thought perhaps it might even be a good idea to have a police car in that area getting people to move along, as she viewed this as a serious problem, since there is a blind curve there.

Chief Terlizzese addressed the Council concurring with the concern about the traffic situation and they have spent a lot of time in this area of Town this Season, as there is great interest and people driving by and getting out and parking their cars. He thought if there is going to be a charitable event there, part of the approval be done conditionally with the proviso that there will be valet parking and two police officers, off-duty to handle the traffic and pedestrians. President Heeke asked if this would solve the problem at this location as if there were several problems arriving at the same time, he didn't believe there would be much room to maneuver the cars and the stacking would be right on the street. Chief Terlizzese stated he believed there would be congestion and traffic control concerns and that is why he suggested two police officers.

Mayor Marix believed in addition to the people who would be coming to the fund-raiser, there will be others who will be coming to watch, as well as the media coverage, and she believed a representative from the family should meet with the Chief and talk about how many people are coming, where are they going to put the cars, etc. Mr. Heeke suggested it be approved subject to the parking situation, the traffic control meeting the satisfaction of the Palm Beach Police Department. Mrs. Wiener asked if the number of people coming to the function could be limited? Chief Terlizzese thought if there were over one hundred people there, there would be some serious concerns. Mrs. Douthit felt there may be a far greater turn-out, by virtue of the location than any normal charity would, as many will spend the money to see the house. Chief Terlizzese suggested there be a limit to the number of people which can be easily accommodated. Mayor Marix was concerned about the media also and thought the whole thing needed to be gone into in great depth.

Mr. Heeke suggested perhaps there could be a shuttle service from some other location to the Kennedy property. Chief Terlizzese stated this might work except for the news media. Mr. Heeke suggested this item be deferred until the end of the agenda, and discussion will be had on when a special Town Council meeting will be scheduled for consideration of the refinancing of the bonding issue and in the meantime, the Chief should get in touch with some member of this organization and we will address this at the end of the meeting, to which the Council agreed.

XVI. OLD BUSINESS

Old Business

A. Other

1. Consideration of Future Water Supply Study by James M. Montgomery, Consulting Engineers, Inc. - Progress Report on Negotiations with the City of West Palm Beach and Related Matters by Messrs. William Sundstrom and Howard Osterman

Future Water Supply Study by James M. Montgomery

a. Consideration of Proposed "Desk-Top" Study by James M. Montgomery Consulting Engineers, Inc. of Proposed Aquifer Storage and Recovery System

Mr. Wodraska addressed the Council, noting they were before the Council on 1-14-92, explaining the status of their negotiations with the City of West Palm Beach on the Town's future water supply and at that meeting, they explained the concept of Aquifer Storage and Recovery, taking treated water, putting it underground and thus creating a new source of water. He stated at that meeting, they told the Council they would be back at this meeting requesting this Desk Top Study be done, which is about $15,000 cost and this would be to take a look at the literature and feasibility and find out what is available and the engineers are proposing this will take sixty days and they will report back to them on a May-time-frame, when a decision will be made as to whether or not go forward to Phase 2, which would probably be putting down a test well. He explained that exploratory well would be a $200,000 investment. He stated they wished to put it into sequence, with first this Desk Top Study which should tell them if it is reasonable to make this next step and the objective is to create the independence and the options available for the future water supply situation.

Mrs. Douthit stated they are looking into the possibility of putting this treated water underground, in what she would term as a reservoir and she understood there would probably be needed more than one of these, and probably up to four or five. She pointed out this would be filled on a daily basis from the West Palm Beach Water Plant at a bulk rate. She recalled in the past they were talking about Desalinization or Reverse Osmosis and reservoirs would be needed for an RO System.

Mr. Wodraska explained the water that they would use for the RO would come from the Floridan Aquifer which is on the mainland. Mrs. Douthit believed this water would be coming through the filters at a slower rate so a storage area would be needed for the finished product. Mr. Wodraska advised that facility would probably be built in the City of West Palm Beach and they would use their present treatment plant and storage facilities there. He reported the economics of the Aquifer Storage and Recovery is much more attractive and in talking to the regulatory agencies, he found that many communities have been looking at Reverse Osmosis but find there are limitations. Mrs. Douthit wondered if fifteen or twenty years down the road, would the reservoirs be useful for a different system. Mr. Wodraska responded if the ASR reservoirs are created for a new system that doesn't exist presently, he thought would carry the Town into the future and they could put off the decision of the Reverse Osmosis in the foreseeable future and this might be an option for West Palm Beach.

Mayor Marix stated she believed this was a very experimental process and the Desk Top Study was to look into different possibilities, then they would want to dig the well for around $200,000? Mr. Wodraska stated that was correct, however, it is in production at Boynton Beach and in Charlotte County and he would not characterize it as experimental, but the key is to find the right geological zone that can hold the water. Mayor Marix asked if they might find a place in the north end or the south end, but if one place in the island is found, would it be suitable for the entire island? Mr. Wodraska responded that is the purpose of doing the Desk Top Study and installing a test well. He advised the depth that the well has to be put in that particular zone could save literally millions of dollars depending upon finding an effective zone and how far down the piping system would have to be installed. Mayor Marix asked if this would all be found out with the Desk Top Study for $15,000? Mr. Wodraska stated they would do the feasibility study to find out the alternatives, then install the test wells and the other key point is what is the retrieval rates. Mayor Marix asked if they had given up on the project they started out with? Mr. Wodraska responded they have not and they are still exploring all of the alternatives and negotiating with the City of West Palm Beach. He stated they have identified an alternative which wasn't going to be explored and now gives the Town some flexibility which in the past it did not have.

Mayor Marix commented she has had a number of phone calls on this and there is a large concern about this. Mr. Wodraska asked if the callers were concerned about the aesthetics? Mayor Marix responded that is one of the concerns. Mr. Wodraska stated they have taken great steps to ensure

Future Water Supply Study

the wells will be unobtrusive and if the concern is the technology, one of the reasons for the Desk Top Study is to examine who has done this before, where it has been done, what information is available and what can be gleaned and taking a look at the flexibility before the next step is taken, so it is an engineering, logical next step to go forward if they want to develop this alternative. Mr. Heeke believed it is a continuation of the mandate to them to remain as flexible as possible for the Town in order to determine what the best answer will be. Mr. Weinberg asked if Mr. Wodraska could state in terms of the underground wells, what would be the approximate diameter and what would be the surface appearance?

Dr. Patrick Gleason from Montgomery Engineers addressed the Council, stating he is the head of the Water Resources Technology Center and from the aesthetic standpoint, they would like to ensure the architectural appearance would be compatible with the surrounding area. Helen Madeksho, Deep Well Construction, addressed the Council indicating that basically the well would be between twelve and twenty-four inches in diameter and the result of the feasibility study would determine that. She advised the well itself would not be visible, and what would be visible is the pump unit on top of the well, and they would be about two to four feet high and the diameter would be whatever the well would be. Mayor Marix asked if it would be noisy? Ms. Madeksho responded it would have a small hum and would not be obtrusive or obnoxious.

Mr. Weinberg commented in addition to get more water economically, it is important to understand if this system is adoptable for the Town and it could save many millions of dollars over the Reverse Osmosis. Mr. Heeke stated there is also a possibility of savings on the water rates. Mr. Weinberg believed it would also save on construction costs. Mr. Heeke believed the Desk Top Study was the next step.

Mrs. Wiener noted this particular new item has just been discovered and asked if there might be others out there which should also be considered? Mr. Wodraska advised he is working with the City of West Palm Beach in looking at alternative systems and he was not aware of any other technologies and he believed he was looking at all known technologies. He reported the ASR has been put into effect on a production basis, and he thought was an appropriate alternative for the Town to look at. Mrs. Wiener stated the reason she asked the question is when they originally went into the study, they didn't hear about this ASR until very recently and she had a concern that there may be a number of things down the road which they are not yet aware of and they would have these Desk Top Studies. She didn't believe the Town was interested in continuing to study until the deadline and along with that, she asked how much had been spent on this project from the beginning? Mr. Doney responded it is approximately $100,000 from December, 1990.

Mrs. Wiener asked if the Council has ever discussed a cap on this? She has no problem with spending the fifteen thousand for the Desk Study, but thought that after spending the amount of time and money they have already spent, there should be something more definitive than another Desk Top Study. She wondered where they were in relationship to West Palm and the new Federal Government Guidelines that have come in - and how much of those Federal Government Guidelines fit into what we were looking for in the first place - a better quality of water. Mr. Heeke believed they were also looking for a supply. Mr. Wodraska responded that one of the objectives that the Town has instructed them to look at is how can we go forward and deal with future water restrictions and put the Town in the best position possible to cope with future water restrictions, and in exploring the Reverse Osmosis alternative, the response by the regulatory agencies was - that's probably not going to get you any relief from water restrictions. He stated when they explored the ASR alternative, they said you would then be really creating a new source of water and in the whole concept of water conservation, the water that's dumped into the ocean - that is lost during the rainy season - would be captured and stored and really the Town would be a leader in water conservation practices and the regulatory agencies indicate that would cause them - because they look at sources and they determine whether that source is being adversely impacted before they impose restrictions, so that's why they moved in that direction and say they think it is a good alternative to look at.

Mrs. Wiener asked if as part of the Desk Top Study, can they come back to us on paper with the response from the Water District whether or not this would be an acceptable method to them which would relieve us from the water restrictions to which Mr. Wodrasks responded that part of the contract would bring them back probably in May. Mrs. Wiener stated she would like to know that before moving forward beyond what they are now doing, and would like a very definitive reaction from the Water District. Mr. Wodraska responded that was one of the reasons that prompted them to look at this direction, and we have heard this as your objective, and by doing this first Desk Top Study, we would come back to you - probably in the May-timeframe with those kind of answers.

Mrs. Wiener had another question, asking if they didn't do the Desk Top Study but sent a letter to the Water District referring to ASR, and ask them - could we in fact be released and then if we were released, then go onto the Desk Top Study, rather than the other way around? Mr. Wodraska responded he has spoken with the officials from the Water Management District and has been told that the only way the Town would receive relief from water restrictions was to go to an ASR alternative.

Mrs. Wiener made the statement that she is trying to save some money along the way and wondered if it was possible to get this assurance from the Water District, as if they have that then she would say do the Desk Top Study.

Mr. Wodraska responded he felt that he had already gotten that. Mrs. Wiener stated the Town has been involved with a lot of agencies and they tell us one thing and by the time we see it on paper a few months later, it's not quite the same.

Mayor Marix wondered if the better placement of this bubble would be on the mainland, as she knew they've got deep well injection and other things over there - so it's a bit strange that West Palm Beach has not investigated this. She commented that also they say this is the only way they can add to the water supply by desalinating ocean water.

Mrs. Douthit felt that since this is a whole new system, she wondered if perhaps twenty years down the road, if we have this, why couldn't they pump in the RO water? Mr. Woldraska explained they get 70% of the water supply from rain and during the five months of the Hurricane Season there is a such a quantity of water lost by dumping it into the ocean. He thought by looking at the Aquifer Storage and Recovery alternative, they probably are not going to have to get into the RO alternative, as the technology and the concept you are talking about is solid or the thought process, why couldn't you take RO water and put it into the same zone - that would work, but would that be the most cost effective way of going forward?

Future Water Supply Study

Mrs. Douthit stated she wasn't proposing that now, but was merely saying that down the road, if they go with this and something goes amiss - there is no rain water - something and they have to revert back to the RO which presumably would be more sophisticated at that time but we would then have the storage here on the island. Mr. Wodraska stated that was correct. Mayor Marix didn't understand why West Palm Beach was not trying this too.

Mr. Heeke thought there were a lot of things that West Palm Beach has not done and that is why they are in this particular position, and asked them all to bear in mind, the City of West Palm Beach are sellers of water and they'd rather sell it at other than bulk rates to us, so he was not so sure their usage - they would have it forced on to them for purposes in addition to rate saving. He stated the Town really doesn't know what the real prospects are without the Desk Top Study and he thought they needed to proceed with authorizing this so a response as early as possible and believed he heard them say with in about sixty days.

Mrs. Wiener moved that the Town Council authorize the Desk Top Study with the proviso that payment for this study will only be made if there is a clear indication from the Water District one way or the other as to whether or not this will solve our restriction problem. She wanted to have it in black and white. Mr. Heeke asked if this was a realistic objective? Mr. Wodraska responded he believed he could get a letter of response from the Water District. Mr. Weinberg seconded the motion. Mr. Winterfield addressed the Council, stating that this is not simply a continuation of the study, but is for a specific application and therefore, he thought it would be appropriate for competitive negotiation, as if one looks at the letter of Feb. 7th, one sees that a great deal of the study is for the education of Montgomery. He noted by their own count, there are eight systems operating in the State, and they all had engineers - perhaps one of them would care to bid at a substantially reduced price. He indicated that the attachment to the bid indicates hourly rates calling to the Council's attention, the fact that a Reproduction Typist is calculated at $40.00 an hour. He felt that much of the information could be gathered by Town personnel. He felt it was not a wise use of Town funds to sign on to a study like this without looking very closely to determine whether some of it can be done by Town personnel and/or whether there are other competent people who could do the job or could bid on the job.

Mr. Heeke stated this was the reason they had a RFP before.

Dr. Sten Lilja then addressed the Council, agreeing with Mr. Winterfield recalling it has been three years ago when this project was embarked upon and he didn't believe they were any closer to a solution now than they were then, after having spent close to $200,000 and now they are proposing to spend more and there will be additional consultant's fees to make the determination if the Town will spend over one million dollars to sink a test well, which in his opinion will tell them either the particular well will work or not, but it will not tell us that in a subsequent well, it would work. He stated Palm Beach is one of the most well-to-do communities in the country and they should be able to pursue a quality solution which will stand up as time goes by. He felt this would be a pure gamble and could be a catastrophe, if carried out. He wished to put this on the record so it could not be said later that they didn't know. He stated also going parallel with what he has said goes the gamble there may be regulatory changes in the future. He believed there was a conception that by going into business for themselves would provide them with cheaper water, which he felt was based on the assumption that the Town, as beginners could do better than the West Palm Beach Water Department, who has a lot of experience and he viewed this as either absurd or insinuates that the Town would not be treated fairly by West Palm Beach. He felt that this is a good time to show appreciation for what West Palm Beach has done for the Town is the past and our confidence for the future. He believed there were enough problems in the Town without getting into the retail and distribution of water, without any wholesale supply competitor to fall back on, price-wise or emergency-wise.

He addressed the technical aspects - if the ASR should be considered at all, it ought to be in direct and intimate partnership with the City of West Palm Beach, who should have control of the whole process, including the distribution. He felt Palm Beach should participate extensively with capital in return for a solid performance contract, perhaps through a formal part ownership type agreement. He felt strongly that if ASR should be considered at all, it should be West Palm Beach who puts the water into the ground and decides when it should be discharged and also the area available for wells would be much larger in West Palm Beach than here. He was skeptical of the general suitability of the ASR as there are too many unknowns and hazards, such as leakage. He felt also a problem could be underground contamination as there is already concern that wastewater injection is creating contamination. He stated a report by the consultants states that the City of West Palm Beach Water Plant draws its supply from the Biscayne Aquifer and that aquifer is resupplied by Lake Okeechobee, which means during a draught particularly, Palm Beach would be hoarding a critical commodity and he was convinced the South Florida Water Management District would step in and regulate and the Town would be no better off than it is now.

Dr. Lilja wondered how rainwater would be collected as had been referred to earlier. He heard the lady from Montgomery state the wells would be 12 to 24 inches and this scares him as the difference between 12" and 24" is astronomical. He felt the Town's aim should be to make itself less dependent on regulation and he is aware that regulation of brackish water for desalinization is not far away. He thought the study has now sidetracked Reverse Osmosis at least for the time being and rejected the sea water possibility and he felt that was totally wrong as he knew it was being successfully used in other places. He was not in favor of the DuPont offer but now feels perhaps they should talk to them about possible RO alternatives compared with the endless questions and possible problems outlined in the last memorandum from Montgomery dated Feb. 7, 1992 and the proposed testing. He felt it may have been inconclusive testing and now feels that the possiblity of a turn-key operation looks quite attractive.

Dr. Lilja believed that it was wishful thinking if they thought by putting water into the ground which has been marginally treated to meet more stringent future Federal regulations, will come back as clean as it went down. He suggested they use the ASR to store wastewater for lawn watering.

On roll call, the motion carried unanimously.

Motion was made by Mrs. Douthit to authorize the funding up to $15,000 for the Desk Top Study to be taken from the Undesignated General Fund. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Charitable Solicitation Ord. and related Zoning issues

B. Consideration of Charitable Solicitation Ordinance and related Zoning issues. Mr. Randolph stated the reason this matter has come up is due to the number of newspaper articles which have appeared with regards to charitable events proposed to take place in various hotels within the Town, and this is for discussion and feedback from the Council on the way the staff is handling these matters. He believed the Zoning Department and the Town have always looked at the Zoning Ordinance to make a determination as to whether a hotel in a residential area is acting in accordance with the Zoning Ordinance as to accessory uses. He pointed out there are uses which the Town has determined to be clearly accessory to the Use of a Hotel and there are other uses which have to be looked at from time to time to make the determination as to whether or not they are accessory. He stated there are several things looked at by the staff in order to make a determination as to whether or not a Use is properly an Accessory Use to a Hotel, and advertising is one of the things that is looked at. He advised the staff also looks at the history of hotel uses within the Town to make a determination a use is a new use or a use which is normally accommodated at the Hotel and whether or not the event that is being undertaken is being undertaken by a guest of the hotel, as opposed to someone from the outside. Mr. Randolph thought there was some confusion in regard to advertising as he doesn't believe the Town intends to advise people that they are prohibited from advertising an event and what the Town does is deals with the hotel and tells the hotel in determining whether or not a use is accessory, that advertising is one of the things that is looked at. He recalled there have been hotels coming before the Council in the past with applications for Special Exceptions, etc., and the hotels have been told that they cannot separately advertise their Dining Room to the outside, so from that standpoint, the Town has advised these hotels as to how they should advertise, but the intent is to advise them that if they do advertise, that will be a sign to the Town that they are carrying on an activity which is not an accessory use of the Hotel. He reported what has been done with those hotels is to advise them they may advertise the hotel and the fact there are dining facilities, pool, etc., but there should not be an advertisement which separately identifies a dining room as a restaurant and advertise to the outside in that respect.

He believed there was some confusion and they probably needed to look at whether or not the Zoning Ordinance needs to be modified to clarify the situation. He thought if the Town finds a particular hotel is carrying on a use which is not accessory to the use of the hotel, it should be dealt with through the hotel and the Code Enforcement Board and not with the organization that is putting on a particular function there.

Mr. Doney expounded on the attorney's remarks, noting there are as a matter of the Planning, Zoning and Building Department and the Code Enforcment Board's interpretation, permission been granted to utilize hotel facilities when individuals of an organization would register as a guest of the hotel and if the Mayor and Town Council feels that staff may not be enforcing this properly, additional direction be given.

Mr. Moore advised the problem becomes further complicated by the location of the hotel in question as the hotels located in the R-C Zoning District which is a district where hotels are a non-conforming use, such as the Brazilian Court Hotel and the Chesterfield Hotel, whereas the Breaker's is a Planned Unit Development and the Ocean Grand is in the R-D District which is a Permitted Hotel Use by Special Exception. He stated accessory uses are also permitted by the Special Exception. He recalled this issue was discussed recently when the application of the Chesterfield Hotel came before them for a parking lot. He advised by design, the restriction on the hotels which are in the R-C Zoning District are much more stringent than the hotels located in the R-D-2 zone or the PUD of the Breakers. He advised they see from time to time in the Palm Beach Daily News advertising which is placed in the paper which would alert them that a function is planned to be held.

Mr. Moore reported the problem is if the accessory uses talk to a principal use and the principal use is a hotel renting rooms, so if rooms are rented in conjunction with the other functions, it is looked at as to the type of accessory use and a determination is made as to whether it is customary, and incidental to hotels and in general, hotels located in South Florida. He advised once a determination is made, as the Chesterfield was thinking about having a talk show broadcast from their hotel and they were told that would not be an appropriate accessory use and they were denied the right to do so. He indicated if the Council wishes them to have a more liberal attitude towards this type of function at a hotel in the RC District, more guidance would be needed and the Zoning Ordinance would need to be adjusted to recognize the nonconformity and create a Special Exception category for accessory uses for hotels, even though they be nonconforming.

He advised the other determination which has to be made is as to whether or not this is a function for hotel guests or rental of a space for profit. He stated this is a tough call from an administrative standpoint.

Mr. Randolph reported each of these are looked at on an individual basis, and sometimes they are very clear and sometimes they are not very clear. He stated the staff has to treat them all the same and as an example, suppose a commercial seminar was to be conducted at a nonconforming hotel and they wished to advertise - in that instance it would not be a use which could be considered an accessory use to the hotel and the Town has forbidden that sort of activity. He thought that sometimes when they would get into the situation where there would be a musical event at a hotel, there the line becomes more obscure because then a determination has to be made as to whether or not that musical event is something that is normally accessory to the use of the hotel. He felt there were many things to look at in making the determination, such as whether or not they would be advertising to the outside; whether or not it haw been put on by guests of the hotel; and historically, if that is a use which has been conducted in that hotel for years. He advised they have been doing this on an administrative basis for years, and feel that it is being done property but he wished to bring it to the Council to explain how it is being conducted and if there was any input to pass on to staff, they are here to listen.

Mayor Marix felt this was a very important item, but she thought they needed to think of several things, one being the problem of parking and perhaps they need to address that so parking would be provided. She believed another problem is people renting a room for one night and then they were considered a hotel guest and could stay within the guidelines of the Code she felt that was an area they needed to look at. She believed the hotels do have a problem here but she thought they needed to look at these problems as hotels in residential areas have a uniqueness about them and perhaps they needed to look at some special way in which this could be handled.

Charitable Solicitation Ord. and related zoning issues (cont'd)

Mrs. Wiener stated she thought there were a series of problems here, as they are talking about three different districts. She believed everyone thinks hotels should be treated the same and that is what people have been thinking about, as no-one has brought up the fact there are hotels in three different districts, two in a residential area. Mrs. Wiener asked if either of the hotels were landmarked? Mr. Moore recalled at the Chesterfield, there is a easement facade granted to the Preservation Foundation and the Brazilian Court is currently under consideration.

Mrs. Wiener felt what they have done is these hotels will be here forever, but because of the fact these two are located in residential districts, there are certain things these two hotels cannot do, which would be permitted in other hotels in other Districts.

Mrs. Wiener indicated she gets irritated by the circumvention of Town regulations by these hotels, one of them in their advertising. She asked if the hotels were aware of the fact that they were operating in residential areas? Mr. Randolph stated they are aware of the grandfathered aspect. Mrs. Douthit stated there are always parking problems in these particular areas.

Mr. Ilyinsky asked if a wedding could be held at the Brazilian Court? Mr. Moore responded that would be an accessory use customarily incidental to hotels and would be allowed. Mr. Moore explained the Brazilian Court does have a separate agreement with the Town which allows them to have three functions per year which would be outside of the rules and regulations. Mayor Marix suggested perhaps a way to handle this would be to allow a certain number of events they could have, providing they take care of the parking properly. She thought if it is discovered there are more events being held than what was allowed, they would lose the right to have them. Mr. Moore thought perhaps another option would be to provide a Special Exception Use within that zoning district which would allow such events. Mrs. Wiener stated she had a problem with that as this is a residential area and the fact that the hotels were there first should have been taken into consideration at the time the other residential development took place. She felt the only answer which made any sense was the Mayor's suggestion that a certain number of events be allowed each year and in that way, it would be the Hotel's decision as to what they would want to have there. Mr. Randolph responded he did see some difficulty in that because if they can show the hotel has been used for specific functions, even before the change in the zoning, they would have a good argument that they could continue those type of uses and they could not be limited to the number of uses they carry on as a hotel, if they can show they are truly "accessory" uses.

Mrs. Wiener asked what was the Town Attorney's recommendation? Mr. Randolph stated he was not sure they could come up with an answer today and perhaps there are things which could be looked at to try and resolve the situation.

Mayor Marix asked President Heeke to allow her to put a plug in for Committee meetings as this is exactly what should be discussed at the Committee level and recommendations then made to the entire Council.

Mrs. Douthit moved the Town regulate in the same fashion the events but a request be made of the Chesterfield and the Brazilian Court to come up with some sort of a compromise on this matter. Mr. Ilyinsky suggested this should be turned over to the Ordinance, Rules & Standards Committee. Mr. Moore reported this may not help as this goes back to the zoning issue of nonconformity and accessory uses. Mayor Marix suggested it be referred to the Committee and find out what they want and what they are willing to give up, so they understand the problem and then at the next Zoning season, this could be turned over to the Zoning Commission, with the outcome of what has come out of the meetings which should be held with the representatives of the hotels and discussion at the Committee meetings.

Mr. Heeke believed there was another aspect, recalling one of the hotels wished to have a Club where the facilities could be enjoyed by memberships, particularly by their special guests and that was turned down. Mrs. Wiener believed it truly was a zoning matter.

Mr. Moore asked if he could have a consensus on this before he launched into an effort to try and address the issue and then put it on the calendar of the Zoning Commission next year. He asked if they wanted them to look at some limited expansion of what normally would be outside of the customarily incidental use and if that is the consensus they are giving, he would follow through and initiate discussions with the hotels themselves.

Mayor Marix recalled she has had many complaints on this subject and being told there are a lot of people waiting to see what happens so it isn't quite as academic as it might sound. Mr. Moore stated he was very aware of this.

Mr. Winterfield addressed the Council, noting there is a more delicate problem here and that is the use of residences for fund-raising, which he viewed as a nonresidential purpose and he suggested they look at the whole Ordinance comprehensively. Mr. Heeke stated that is not the subject at hand. Mr. Winterfield viewed it as an allied problem and there may be another one which is even more acute and that is if a tax-exempt organization is host to a commercial event, there should be no question that this would not be allowed.

Mr. Heeke stated he was very protective of the residents who live in these areas and if there was a limitation on the extension of the use, perhaps holding six functions a year with only two allowed in any given month and a maximum number of attendees, that may be a possible solution. Mrs. Wiener thought it also needed to relate to the current activities over a certain period of time. Mr. Moore stated he will look at it and have discussions with the hotel representatives. Mrs. Wiener asked Mr. Moore to also discuss with the representatives the advertisements which are out of order.

Mr. Erik Gilbertson addressed the Council pointing out that next to his property is a hotel which has little parking and they have lost three or four spaces by constructing more commercial space.

Sign Ordinance

SIGN ORDINANCE. Mr. Moore stated the other matter which they wanted to discuss was logos. He has researched when the language went into the Ordinance as for years they were prohibited by policy and in the early seventies, when the Architectural Commission came into being and some of

Sign Ordinance (cont'd)

the thinking was directly related to the protection of the local shop keepers versus the large conglomerates which occupied space on Worth Avenue. He stated this was handled by policy but in 1988, the wording was put into the Ordinance to prohibit and further refined language in 1990. He believed there were pros and cons on both sides of the issue and it is a zoning matter and they have, by complaint, handled this and this was not enforced forcibly. He suggested the matter be placed on the Zoning Commission's agenda next year to revisit this subject, to which the Mayor and Town Council agreed.

Mr. Heeke stated he had a problem with ARCOM approving the signs without the logos and then people just go ahead and put them up later, which he views as quite wrong. Mrs. Wiener stated her problem with this is it is on the books and it could have been handled a little more gently administratively, then left alone until it now comes before them. She felt if something is on the books, it should be enforced, and she knew there were many logos on signs in the Town and some of the printing of the signs can be construed as a logo. She knew there were some taken down, however, she felt they needed to go by the book. Mr. Heeke agreed with Mrs. Wiener as it is in the Code right now. Mrs. Douthit believed the logos which now remain should be removed.

Mrs. Douthit moved that all logos which are now in existence should be removed and the Zoning Commission study this and come back with their recommendation. Mr. Randolph advised the last part of the motion is alright, but he objected to the first part that the logos be removed, as it is on the books, and the staff will handle it in accordance with what the in place Ordinance now demands.

Mrs. Wiener asked if there was any other way to approach the problem, as she didn't believe there was any other way to handle it, except through the Zoning Commission. Mr. Randolph advised this provision is in the Sign Ordinance and if they wished to look at the Sign Ordinance, they could do that in the interim. Mayor Marix wondered if it is altered, what happens to the Zoning? Mr. Randolph stated it could be taken out of the Sign Ordinance, but it would also be deleted from the Zoning Ordinance, during the Zoning Commission hearings. Mr. Heeke believed they were trying to guess just exactly what the Zoning Commission is going to come up and it may be there. Mrs. Wiener summarized this noting there is nothing that can be done about changing the law until next year's Zoning Season.

Mrs. Douthit amended her motion to state that this matter be referred to the Zoning Commission for study next year. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Luncheon break was taken. Meeting called back to order by President Heeke.

XVII. NEW BUSINESS

A. Ordinances - First Reading

Ord. 2-92

1. Ordinance No. 2-92 - Establishment of a Dispute Resolution Board - Attorney Randolph read the Ordinance No. 2-92 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, ESTABLISHING A PROCEDURE FOR EMPLOYEE GRIEVANCE RESOLUTION; PROVIDING FOR DEFINITIONS; ESTABLISHING A GRIEVANCE RESOLUTION BOARD; ESTABLISHING POWERS AND DUTIES; PROVIDING FOR THE RETENTION OF THE RIGHT TO BYPASS THE GRIEVANCE RESOLUTION BOARD AND GO DIRECTLY TO THE ADMINISTRATIVE AND PERSONNEL COMMITTEE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Motion was made by Mrs. Wiener to approve Ordinance No. 2-92. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Ord. 3-92

2. Ordinance No. 3-92 - Amendment to Chapter 3, Section 3-17 of the Town Code of Ordinances Regarding Alcoholic Beverages - Attorney Randolph read Ordinance No. 3-92 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 3 OF THE TOWN CODE OF ORDINANCES AT SECTION 3-17; PROVIDING FOR THE PROHIBITION OF CONSUMPTION OF ALCOHOLIC BEVERAGES IN CERTAIN PUBLIC PLACES; PROVIDING AN EXCEPTION FOR PATRONS SEATED OUTDOORS IN CONJUNCTION WITH A PERMITTED RESTAURANT; PROVIDING AN EXCEPTION FOR THE CONSUMPTION OF BEER AT THE PAR THREE MUNICIPAL GOLF COURSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Motion was made by Mr. Ilyinsky, seconded by Mrs. Douthit to adopt Ordinance No. 3-92 on second reading. On roll call, the motion carried unanimously.

B. Resolutions

Res. 8-92

1. Resolution No. 8-92 - General Obligation Refunding Bonds - Series 1992 _ Attorney Randolph read the Resolution No. 8-92 by caption:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, FLORIDA, AUTHORIZING THE ISSUANCE OF NOT EXCEEDING $12,000,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 1992, OF THE TOWN OF PALM BEACH, FLORIDA FOR THE PURPOSE OF REFUNDING ALL OR A PORTION OF THE TOWN"S OUTSTANDING 1973 LAND ACQUISITION BONDS, 1975 SEWER BONDS AND 1980 sewer bonds; PROVIDING THE FORM AND TERMS OF THE BONDS; PROVIDING FOR THE PAYMENT OF THE BONDS FROM A TAX ON ALL TAXABLE PROPERTY IN SAID TOWN; PROVIDING FOR THE RIGHTS, REMEDIES AND SECURITY OF THE HOLDERS OF THE BONDS; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; PROVIDING FOR CERTAIN OTHER MATTERS DEEMED NECESSARY AND PROPER IN CONNECTION WITH THE ISSUANCE OF THE BONDS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. James Davis of Smith, Barney, Harris & Upham addressed the Council, recalling at the 1-22-92 meeting of the Town Council, authorization was given to explore the possibility of refunding all or a portion of the outstanding General Obligation Debt and all have been furnished the documentation on same. He advised if the Resolution is approved today, they will print and mail the Official Statement and plan to market the bonds next week and would need a Special Meeting of the Town Council to make the award resolution and sign the bond purchase agreement.

Mrs. Wiener asked if there were any changes, percentage wise from the time they wrote to the Town until now? Mr. Michael Hole of Smith Barney reported they looked at all of the outstanding bonds from 1973 through 1986 and subsequently found there were no savings involved with refunding the 1985 and 1986 issues but there were substantial savings with the 1973, 1975 and 1980 and as of 1-22-92 the total savings were $600,000 as at that time the interest rates were at an historic low and that is when they asked the Town if they were interested. He advised since that time interest rates have continued to creep upwards and as of last week, the savings was approximately $380,000, or a change of .4% and went from an average of 5.2% up to 5.6% and that slight change does reduce the savings. He advised since last week, the market has stabilized and has firmed up and rates have been reduced slightly and if they had been in the market yesterday, the savings would have been approximately $468,000 or 3.66%. Res. 8-92 (cont'd)

Mrs. Wiener asked if they thought it may go down a little more? Mr. Davis reported it is hard to judge that as this week, there is a Treasury auction and until that is complete, it is difficult to tell how that will effect the market. Mr. Hole advised this refunding is structured that there will be no increase in the pay-back time, and the amortization schedule is exactly structured to match the old bonds and the only difference is the payment will be less.

Mrs. Wiener asked if they would have an actual figure on the reading of the second reading? Mr. Hole responded there is no second reading as the resolution today authorizes them to go into the market and come back to the Council with the locked-in interest rates and an award resolution.

Mayor Marix asked exactly how they figured the charges? Mr. Doney responded there are various costs and a budget has been prepared which includes all costs. He reported the management fee of Smith, Barney is $1.50 per bond or a total amount of $16,800. He stated the other expenses are for the paying agent, the printing of the preliminary Official Statement and the Official Statement, bond ratings, etc. He informed the Mayor and Council that Moody's has continued to rate the Town at a triple A and Standard & Poor's has continued to rate the Town at a double A. He advised the total cost of this particular budget is $67,000 and the gross underwriting discount on a not-to-exceed basis which includes the sale of the bonds is $109,648.00. After discussion, the meeting date for the Special Town Council Meeting was set for Feb. 19, 1992 at 3 PM.

Mr. Davis advised one of the things they do at Smith Barney is to use minority banking firms and in this instance, they would like to use a woman-owned firm, Smith Mitchell & Associates, which will be of no cost to the Town, but would like this approval, to which the Council had no objection.

Motion was made by Mrs. Wiener to approve Res. No. 8-92. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

2. Resolution No. 9-92 - Encouraging Florida Department of Community Affairs to Find the Countywide Future Land Use Element Not in Compliance. Res. 9-92

Attorney Randolph read Resolution No. 9-92 by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, REQUESTING THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS (DCA) TO FIND THE PALM BEACH COUNTYWIDE FUTURE LAND USE ELEMENT (CFLUE) TO BE "NOT IN COMPLIANCE."

Motion was made by Mrs. Douthit, seconded by Mr. Weinberg to adopt Resolution No. 9-92. On roll call, the motion carried unanimously.

3. Resolution No. 10-92 - Opposing Palm Beach County Charter Amendment Regarding Countywide Planning Council. Attorney Randolph read the Resolution No. 10-82 by title: Res. 10-92

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, OPPOSING THE EFFORT TO EMPOWER THE PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS WITH THE AUTHORITY TO MAKE LAND USE DECISIONS WHICH WOULD BE BINDING WITHIN MUNICIPAL BOUNDARIES AND URGING ALL TOWN VOTERS TO VOTE AGAINST SUCH EMPOWERMENT IN THE MARCH 10, 1992 COUNTYWIDE REFERENDUM ON THIS MATTER.

Mr. Louis C. Pryor addressed the Council on behalf of the Palm Beach Civic Association, noting they have closely examined the pros and cons and are against the referendum. He stated they believed that all members of the Association and all registered voters, analyze these issues from the point on how they want their tax dollars spent and by whom, so this is a very important issue. He believed the main threat would be voter apathy. He noted a flyer has been prepared and circulated by the County, to over 400,000 voters in the County, costing the taxpayers approximately $100,000 and is slanted very much in favor of a "Yes" vote. He read from the flyer: "Citizens of Palm Beach County will be able to object to future land use changes before the Board of County Commissioners, when any change is proposed to any local government." He believed that meant that any citizen in the County could object to anything that was proposed for the Town of Palm Beach and he urged all to vote against this referendum question.

Mayor Marix estimated the citizens in the Town of Palm Beach would be paying $9,000 for this particular flyer and she was very concerned about that. She asked if any monies could be gotten out of them to pay for the opposite side? Mr. Randolph advised they have a legitimate argument that what they are doing is totally proper, and the only way to resolve this would be in court. Mayor Marix asked if other communities would like to join the Town in this type of action? Mr. Randolph responded there may be an appropriate time to make this challenge. Mr. Heeke asked if the County could be taxed with our legal costs and expenses to pursue this? Mr. Randolph stated he will look at this and advise.

Mrs. Wiener compared this with the Health Care Act question to which Mr. Randolph agreed, noting there is a feeling among a lot of municipalities that what the County is doing is improper. Mrs. Wiener noted some of the Press is opposed to the Municipal League and the Municipalities' stand on this which she can't figure out. Mr. Pryor responded as a citizen, stating the answer to that is this is a "turf" battle between one particular municipality in the north and certain County Commissioners, but notwithstanding that are not the voters of even that municipality better able to control their local elected officials than those who are elected by the citizens of the County.

Mrs. Douthit pointed out that now with the single districting, and if they should have the say over what is done in Palm Beach, there is no accountability.

Res. 10-92 (cont'd)

Mr. Pryor reminded all that the Health Care Act was proposed originally in 1988 and turned down the first time, and when the cap was reduced to half, this Act was approved in November of 1988 and that is still being appealed in the Courts, so voters should not believe that however much the attorneys believe the County is on weak ground, it doesn't mean to say that they shouldn't get out and vote against it.

Mayor Marix asked what are the provisions for recall and she thought they needed to look into that.

Motion was made to approve Resolution No. 10-92 by Mrs. Wiener, seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Mr. Doney called the attention of the Mayor and Town Council to the letter sent by Commissioner James C. Grey on this issue as well as a informational meeting called by Save our Environment at the West Palm Beach City Council Chambers on Feb. 13, 1992 at 9 AM.

Appointments:

C. Appointments

Seaview Park Commission

1. Seaview Park Commission - Four Three-Year Terms to Expire February 1995

Mr. Heeke noted two of the members presently serving are eligible for reappointment and they were Joyce McIntyre and James L. Myers, Jr. He noted there were ten people who have expressed an interest in serving on this Commission. Mr. Ilyinsky moved Mrs. McIntyre and Mr. Myers be reappointed to the Seaview Park Commission for a three year term to expire Feb. 1995. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Mr. Heeke noted there are two seats remaining on the Commission and expressions of interest from Pierre Halimi, Gail Austin Cooney, Robert E. Henning, Paul Thibadeau, Liza Leidy, 1695 N. Ocean Way, Judge Lewis Kapner, Ralph Lubow, Ann Gardiner Drake, Renee Fisher, and Camille Nicholas Kassatly. Mr. Ilyinsky nominated Paul Thibadeau; Mr. Weinberg nominated Ralph Lubow and Ann Gardiner Drake; Mrs. Wiener nominated Liza Liedy; Mrs. Douthit nominated Mrs. Cooney and Mrs. Kassatly; and Mr. Heeke nominated Judge Kapner. Ballots were distributed and the members of the Council voted for those nominated. While the ballots were being tallied, the next agenda item was considered.

Zoning Commission

2. Zoning Commission - Two Three-Year Terms to Expire February 1995 and One Three-Year Term to Expire February 1994

Mr. Heeke noted Mr. Beal is completing his first term and is eligible for reappointment. Mr. Heeke noted Col. Stern is completing an unexpired term and is eligible for reappointment and Mr. Flower's term will expire in 1994, however, he no longer resides in the Town and that slot needs to be filled. Motion was made by Mr. Ilyinsky that Mr. Beal and Col. Stern be reappointed. Mrs. Douthit stated she would like to see Mr. Robert Deziel fill out Mr. Flower's term. Mr. Heeke called for a second to Mr. Ilyinsky's motion and there was none. Mr. Heeke requested the terms be filled individually.

Motion was made to reappoint Alexander Beal. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Mr. Ilyinsky nominated Col. Stern; Mr. Weinberg nominated Martin Richmond. Mr. Heeke called for further nominations and there were none and the nominations were closed. Mr. Heeke asked the Clerk to call for the vote and Mrs. Wiener and Mr. Weinberg and Mrs. Douthit voted for Mr. Richmond. Mr. Heeke and Mr. Ilyinsky voted for Col. Stern. Mr. Richmond was declared the winner and appointed to the Zoning Commission for the three year term to expire in Feb., 1995.

Mr. Heeke noted the next matter is to fill the slot of Mr. Flower to expire in Feb., 1994. Mrs. Wiener nominated Milton I. Klein for Zoning Commissioner. Mrs. Douthit nominated Robert Deziel. Mr. Heeke called for further nominations and there were none and nominations were closed. Mrs. Wiener wondered if Mr. Deziel should be considered as he has been before the Council many times on various zoning issues, and she viewed this as he being in a situation of conflict. Mayor Marix felt they needed to appoint people with serious zoning understanding and background and there are many good fine people, but the Town needed someone to decipher the zoning regulations and the potential that goes with them and felt this was tremendously important. Mr. Heeke believed the Zoning Commission was advisory and sorting out recommendations and if there were a matter pending before the Zoning Commission that one of Mr. Deziel's clients or his firm's clients were deeply involved in, Mr. Deziel would have to declare a conflict and not be able to vote on it. Mr. Heeke asked the Clerk to call for the vote and Mrs. Wiener and Mr. Weinberg voted for Mr. Milton I. Klein and Mr. Ilyinsky, Mrs. Douthit and Mr. Heeke voted for Robert Deziel. Mr. Deziel was declared the winner and will serve out the term of Mr. Flower.

Building Board of Adjustments & Appeals

3. Building Board of Adjustments and Appeals - One Three-Year Term to Expire July 1995, One One-Year Term to Expire July 1993 and Two Alternate Members

Mr. Moore pointed out there has been a change in the make-up of this Board and it is being expanded and it is not recommended the members be Town residents, as their expertise must be in the construction area.

Mr. Heeke called for nominations and Mr. Weinberg nominated Mr. Scott Sloan to serve in the three year slot until July of 1995. There were no further nominations and Mr. Sloan was declared a member of the Building Board of Adjustments & Appeal.

Mr. Heeke called for nominations for the one year seat expiring in July of 1993 and Mrs. Douthit nominated Mr. James Williams and Mrs. Wiener nominated Vance Carpenter for the one year term. Mr. Moore pointed out there is also two alternate positions which have to be filled. Mrs. Douthit suggested Mr. Carpenter be appointed to the one year term and Mr. Williams be the one

Appointments:

alternate, to which all agreed. Mr. Heeke, as Chair, declared that Mr. Carpenter has been selected for the one year term and Mr. Williams has been selected for the first alternate.

Mr. Heeke announced the appointment of the citizen-at-large will be deferred until the next meeting for the other alternate seat.

Landmarks Pres. Comm.

4. Landmarks Preservation Commission - Three Three-Year Terms to Expire March 1, 1992

Mr. Heeke noted Mrs. Volk, Mrs. Mackintosh and Mrs. Gingras are all presently serving and are eligible for reappointment. Motion was made by Mr. Ilyinsky to reappoint them. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Mayor Marix understood Mr. Wood was still very much interested in serving on the Landmarks Preservation Commission and he should still be considered as active, although he would not be considered at this point in time, but in the event there is a vacancy, she would like to see him remain a candidate.

D. Other

Request for De-designation & permission to remove tree at 1100 North Lake Way

1. Consideration of Request for De-designation and Permission to Remove a Specimen Ear Leaf Acacia Tree Located at 1100 North Lake Way by Mr. Carl H. Asplundh, Jr.

Mr. Asplundh addressed the Council requesting the de-designation as the tree is decaying and he questioned the reason why it was originally designated as a specimen as he didn't believe the Ear Leaf Acacia is a specimen, and he be granted permission to remove the tree.

Mrs. Douthit asked if the tree was in the way of any proposed construction? Mr. Asplundh responded he is in the middle of construction. He stated he bought the house in 1982 and lived with the tree these years, but now it is very much in the way of a new house he plans to build and the new planting he proposes to install and the tree as presently located is a hazard in the location as he intends to put in a new driveway.

Mr. Ilyinsky believed all the necessary documentation has been received and he would move that the de-designation of the Ear Leaf Acacia tree located at 1100 North Lake Way and authorization be given to remove the tree. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Mr. Dusey asked if Mr. Asplundh would commit to planting a Dahoon Holly tree on the property? Mr. Asplundh stated he had no problem with the request as long as the tree did not have to be replaced in the exact location of the Acacia, to which Mr. Dusey agreed.

Seaview Park Appointments

SEAVIEW PARK APPOINTMENTS: Mr. Doney advised he and the Town Attorney have recapped the votes and there is a tabulation on the voting for the Seaview Park Commission. He advised the most votes were to Mr. Lubow and a tie for the second place between Mrs. Drake and Mrs. Leidy. Mrs. Wiener moved that Liza Leidy be the appointment to the Seaview Park Commission for a three year term to expire in 1995. Seconded by Mr. Weinberg. On roll call, the motion carried 3-2 with Mr. Ilyinsky and Mrs. Douthit voting against the motion.

2. Consideration of Date and Time for Special Town Council Meeting on Budget Matters in March or April 1992

This matter was deferred to the March 10, 1992 Town Council meeting.

Selection of Civil Eng.

3. Consideration of Selection of Civil Engineering Consultants and Authorization for Town Manager to Execute Contracts Regarding Same

Mr. Doney advised that the Town's Civil Engineering Selection Committee interviewed seven consulting civil engineering firms who had been short-listed from a group of seventeen firms and the top three were:

Hutcheon Engineers
Barker, Osha and Anderson
Mock, Roos & Associates

Motion was made by Mr. Weinberg to approve the three firms mentioned by Mr. Doney and the Town Manager be authorized to enter into professional services agreements with these three firms.Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Selection of Elec. Eng.

4. Consideration of Selection of Electrical Engineering Consultant and Authorization for Town Manager to Execute Contract Regarding Same.

After discussion, there was a motion by Mr. Ilyinsky to authorize the contract be awarded to the highest rated electrical consultants, starting at the top and they are:

1. Johnson, Levinson, Slider, Inc.
2. Dale G. Walker, P. E.
3. Ralph Hahn & Associates, Inc.
4. Teele & Associates, Inc.

Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

FY91 Annual Report & futur Annual Reports

5. Consideration of FY91 Annual Report and Future Annual Reports

Mr. Doney announced the staff prepares a draft of this report and then it is circulated to the Mayor and Town Council for their input, and there is a potential to save some monies on this report and that is the reason he asked for this matter to be considered by the Mayor and Town Council. He indicated they have spent to date approximately $1730, with typesetting and various work with the Palm Beach Daily News and if they were to complete a camera ready document with photos, the

FY91 Annual Report & future Annual Reports (cont'd)

cost would be approximately $2000 and the printing and distribution costs would be an additional $5500. He stated there are a number of comments addressed to this by the Mayor and Town Council and if it is the desire to include this as an insert in the Palm Beach Daily News, there be a substitute page 3 which would elaborate on the responsibilities of the Mayor and Town Council and it would be in a different format and content, so there would need to be some re-drafting. He advised they have attempted to draft what was accurate and what they envision as having reader appeal, however he needed some direction as to whether or not to pursue it by finalizing it and make this Annual Report upon request or revise the report and release it for distribution and printing through the Palm Beach Daily News. He also thought they needed to discuss future Annual Reports so that staff wise, the time is used effectively towards what the Mayor and Town Council believes is the best method of distributing the report.

Mrs. Wiener asked if there was a figure available of what the last Calendar costs? Mr. Doney responded it was approximately eleven thousand dollars and it was five years ago. Mrs. Wiener felt they are comparing apples and oranges as the Palm Beach Daily News does hit approximately 32% of the households in Palm Beach and if they are spending the money for that number of households, they are not even getting a majority of people in the Town. She felt calendars do sit in front of the people all of the time. She felt staff had worked this up and distributed it the Mayor and Council and now they are getting into the act. She liked the idea of the calendar which would be distributed to every household, as this was a cleaner, neater kind of thing that gave information which was useful to them all through the year.

Mr. Doney felt if the calendar was to be considered, it should be for the future and not for this particular annual report to which the Mayor and Council agreed. Mr. Heeke advised they only have to make the report available. Mrs. Wiener knew that but felt this information is what they wanted to the people in the Town to have. Mr. Doney explained another option would be to make available the year end adopted budget which gives a description by program of the various activities that each department is associated with and the various programs and budgets which have been approved by the Mayor and Town Council, so it is a matter of preference or whatever the Mayor and Town Council would want.

Mayor Marix asked if the decision as to whether or not to go back to the calendar could be made when there is more an idea of what the money is, and what the mailing would be cost, and that could be a part of the Budget discussion, once they had all those figures completed.

Mr. Heeke knew there were computer programs to make calendars and perhaps that is another avenue that could be explored with the Data Processing Manager, Mr. Myers.

Mr. Doney advised Mr. Jakubiak and Mr. Crouse did a lot of the advance preparation and the other factor is there are a lot of annual reports received by everyone and the fact is not everyone reads them thoroughly so they need to look at the expectations of what they are doing. Mayor Marix believed there perhaps could be a mailing to all of the citizens in the Town and indicate to them if they wanted an Annual Report, they are available in Town Hall and they could call and we would mail it to them. She recalled there were a great many people who objected to the Calendar, so even if they were going to mail it, it would probably be better to do it on request.

Mayor Marix asked to expound on the remarks made by Mrs. Wiener on six people looking this over after staff has worked on it, recalling she had remarked to Mr. Jakubiak how very much better this year's proof was over last year, with the exception of the Town Council action page, which troubled her a great deal as if anyone did read it, it would look like the Mayor and Council do absolutely nothing during the year, and that is why she suggested that particular page be reworked. Mr. Doney indicated he has talked with the Mayor about this and he respectfully disagrees with her, as this is what has been done in past years. He believed if they wanted to go to the expense of having a professional do this type of work, they could make a very attractive report. Mayor Marix responded she was asking for it to be attractive but was simply asking the information on that page was a real downer and she believed the public would be much more interested in knowing what kind of things are really done. Mr. Heeke believed it didn't touch on things like zoning and what was done at the Town Council meetings, and things of that nature and he believed an overview of what really happens during Town Council meetings was what needed to be covered. He believed this could be covered during the budget season.

Mayor Marix didn't believe that addressed what they were going to do with this year's annual report. Mr. Heeke responded he will make himself available and will work with Mr. Jakubiak and Mr. Doney but the question still remains what do they do with it after it is revised? Mr. Doney suggested a camera ready copy be made, once the Mayor and Town Council page is revised, and have it reproduced and advise by News Release that it is available and perhaps through the civic organizations, copies can be made available.

Mrs. Wiener felt to meet the minimal requirements and state the Annual Report is available is not good enough and she believed it needed to be sent out as this report contains valuable information as to times committees meet, and who serves on the committees.

Mr. Doney indicated he would research what it will cost to have it sent bulk mail. Mr. Heeke stated the names of the people who serve on the Commissions need to be disseminated to the public.

XVIII. DEVELOPMENT REVIEWS

Major Matters Architectural Commission

A. Major Matters Previously Considered by the Architectural Commission at Their Meeting of January 22, 1992

Motion was made to receive the Architectural Commission Report of 1-22-92 by Mrs. Wiener. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

The major matters were:

B55-91 - Revision of plans for C. Claude Mimun, 1144 N. Ocean Blvd. Approved.
B79-91 - New Residence for Michael Burrows, 1495 N. Ocean Blvd., deferred.
B78-91 - Modifications to residence of Richard Brams, 120 Via Vizcaya - approved.
B4-90 - Modification to residence of Leonard Sessa, 6 South Lake Trail - Deferred.
B26090 - Gates and Garden Wall for Mr. & Mrs. John F. Cunningham, 353 El Brillo Way - Approved.
B57-91 - Modifications to residence of Barbara Tuck Cresci, 235 Chilian Avenue. - Deferred.

Major Matters: Arch.Comm. (cont'd)

B1-92 - Renovation for John L. Hanson, 975 N. Lake Way - Approved.
B2-92 - Renovation for Mr. & Mrs. Heinz Koop, 201 Sandpiper Dr. - Approved conditionally.
B3-92 - Addition to pool cabana of Mrs. Adele Wells Meyer, 215 El Bravo Way - Approved conditionally.
B4-92 - Addition to residence of Nina Berkow, 16 Sloan's Curve Drive - approved.
B5-92 - Addition to residence of Alfred Taubman, 958 N. Lake Way, - Deferred.

Short break was taken.

President Heeke called the meeting back to order.

XI. LICENSES AND PERMITS:

Licenses & Permits

A. Charitable Solicitations:

Charitable Solicitations

11. Best Buddies of America, Inc., No. 334-92. President Heeke called on Chief Terrlizzese to report on this matter. He reported he has had a conversation with John Shriver, the Chairman of the fund-raising event for Best Buddies of America, Inc., who assured him they would park approximately forty to fifty cars on the Kennedy compound, and any other vehicles will be parked off the roadways. Chief Terlizzese advised they are having a valet service and will hire security people for inside the grounds of the estate for the night of the event and off-duty police officers will be hired to work outside a half hour before the event begins and a half hour after the event ends. Chief Terlizzese stated Mr. Shriver does not anticipate more than 100 people, so he believed this was under control and he has no objection to granting a permit under those conditions. Mr. Heeke asked if they would be able to direct north and south traffic to which Chief Terlizzese responded affirmatively.

Mrs. Wiener wished to comment on the fact that they said they can accommodate the number of people they anticipate because they have had events there before, but it has not been with the public knowledge and publicity it has now received, and that is her concern. Mrs. Douthit agreed, believing it would take more than two off-duty police officers. Mayor Marix asked if there was some way they could make some arrangements that if other officers are needed, they will arrange for that payment. Chief Terlizzese suggested that be a condition of the permit. He felt if they were able to park everybody inside the grounds, as they say they can, he didn't anticipate any problems. Mr. Weinberg asked if that many cars could be accommodated on the grounds of the Kennedy property to which the Chief responded affirmatively.

Mrs. Wiener believed there should be a limit on the number of people that would be allowed. Chief Terlizzese explained it was by invitation only and only 100 people are going to be invited. Mr. Heeke suggested that also be a part of the conditional permit. Mayor Marix suggested they limit how many cars could come and they try to have more than one or two people in their cars. Mr. Heeke did not know how that could be enforced.

Mrs. Wiener moved the Town Council approve the Charitable Solicitation Permit for Best Buddies of America, Inc., for an event at the Kennedy House on Feb. 28, 1992, with two police officers as agreed to between Mr. Shriver and Chief Terlizzese, and that there be a limit of 150 people in attendance. Mayor Marix suggested there also be a condition on the parking of cars on the property. Mrs. Wiener believed there would have to be some off-site parking.

Chief Terlizzese advised they have agreed to meet with him a few days prior to the event to work out the final details. Motion was seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

B. Variances, Special Exceptions and Site Plan Reviews

<u>New Business</u>

1. Variance No. 3-92 - John Switzer, 10 South Lake Trail; to allow construction of a garage at the NE corner of the property providing a front yard setback of 5' in lieu of 35' required. R-A District. Var. 3-92

Architect Robert Bell addressed the Council on behalf of the applicant, John Switzer. He recalled at one point this property was subdivided and the private road extended to the north from the existing cul-de-sac and several new building lots were created by the Sub-Division. He advised that Mr. Switzer purchased the lot with an existing residence on it. He believed there was an existing garage associated with the lot to the south which was demolished. He advised a single car garage was added to the residence that Mr. Switzer now occupies. He stated the variance request is to allow the construction of a new garage at the northeast corner of the property with a front setback of five feet in lieu of required 35' side setback.

Mr. Bell gave the reasons why the variance should be granted:

(1) Existing residence has only one single car garage.

(2) The new garage will allow owner to keep his vehicles enclosed and not exposed in the driveway areas and the new garage would be nearer to the kitchen and service areas.

He referred to the Site Plan noting they have to setback from the "T" in the roadway they would be setting back approximately 24', whereas 35' is required and they are seeking an eleven foot variance.

Mrs. Douthit asked how long ago was the house remodeled? Mr. Switzer responded he closed on the home in May of 1990 at which time renovation was initiated and occupancy was taken in September, 1991. He advised his wife passed away in December and he has had to hire several people to take care of his three children and needs the area for parking spaces for laundress, nanny, and housekeeper. Mrs. Douthit asked if the southern exposure was access to the single car garage or is it a second outlet to the roadway? Mr. Bell responded it is mainly a turnaround area.

Mrs. Douthit asked if it could not be redesigned somewhat and put in the southern area as the variance is not a minimum variance. Mr. Bell responded it is not possible as everything they have to add would have to intrude into that area which is the entry to the garage. Mrs. Douthit pointed

Var. 3-92 (cont'd)

out it was only a little bit and there could be more put in the easterly direction. Mr. Bell advised if that was done, they would have to be redesign this area completely.

Mrs. Peters read a letter of objection from Mrs. J. William Metzgar of 277 Esplanade Way who owns property on Antigua Lane; and one from M. Cannon Mochorowski of 100 Sunrise Avenue who owns Lot 3 across the dead end cul-de-sac and he opposed the addition being built any closer than what the setbacks are in the Code.

Mrs. Wiener asked if this was a self-imposed hardship? Mr. Moore responded Mr. Switzer is not the developer of the property.

Mr. Moore indicated the house is a landmarked house and the current garage on the south side of the property was approved by the Landmarks Commission and Mr. Switzer was the owner of the property when that was added, and he also has added two additional structures on the north side of the property, one being a garage. He stated the staff does not find a hardship other than needing to accommodate more vehicles on the property. He advised the T turnaround was a variance to the original Sub-Division requirement which required a cul-de-sac and the developers obtained that variance and Mr. Switzer was not the owner of the property at that time.

Mrs. Douthit asked if this variance could be deferred for one month for them to look at redesigning this on the more southerly end of the property. Mrs. Wiener asked if the architect has sat down with the Building Department to explore any alternative plans to which he responded negatively.

Motion was made by Mrs. Wiener to defer the Variance 3-92 for one month. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Var. 4-92

2. Variance No. 4-92 - Susan Katzenberg, 1495 Via Manana; to allow construction of an addition providing a rear yard setback of 8'8" in lieu of 10' required, increasing lot coverage to 25.7% exceeding the 25% maximum allowed. R-B District.

Mrs. Katzenberg addressed the Council, noting what she is asking for is sixteen inches closer to the property line. She advised she has made a terrible mistake as she has a patio off of her dining room already in existence and an existing wall around the patio and she glassed it in, not knowing there would be a problem. Mrs. Wiener noted this increases the lot coverage from 24.8' to 25.7', and only 25% is allowed. Mayor Marix asked how far over are they? Mr. Moore responded it is approximately eighty feet, and she had an existing wall and patio area and glassed it in but it was done without the benefit of a building permit. Mr. Heeke recalled most of these houses in this subdivision were built to the maximum. Mr. Moore advised had this not been built, staff would have encouraged the setback be adhered to and this would have been a minimum type variance, however this is an after-the-fact matter.

Mayor Marix wondered why the person who put in the wall would have not secured the proper permit? Mrs. Katzenberg responded she had Sasser's Glass do it and she knew they were a reputable company and no-one mentioned anything about a permit.

Mrs. Douthit asked if it could now be altered to adhere to the setbacks? Mr. Moore responded that would be difficult as they have used the walled in structure to hold the glass in that area.

Mr. Heeke commented he could see no hardship. Mrs. Katzenberg asked for the opportunity to explain why she needed this addition as she has five children and her kitchen is quite small and she thought to push the door out and add the glass, this would give her more area and everyone could dine together. Mr. Heeke advised this is not a hardship as it has to run with the land. Mrs. Katzenberg stated she has no area to add onto it. Mr. Heeke responded there are a lot of houses in the Town with that problem. Mayor Marix asked what the square footage of the house was and Mr. Moore responded it is 2,756. Mrs. Katzenberg responded it is a two story house and it is about 4500 square feet.

Mrs. Peters read letters of objection from Dr. Andre Golino, 1500 South Ocean Blvd.; Blanche Badagliacca, 224 Mediterranean; Regine Saini Perez, 212 Mediterranean; and Edward Kendall, 1494 North Ocean Blvd.

Mrs. Katzenberg announced she would be most willing to put in additional landscaping if that would help. Mr. Moore reported the issue of the size of her house is not what is at issue here as the property had to be built up to meet the Flood Insurance requirements. He advised the addition is not visible as it on the first floor.

Mr. Heeke felt if the variance was granted, they would be rubberstamping any illegal additions in the Town and be setting a dangerous precedent. Mayor Marix felt that Sasser should be made to remove the glass as they should have known a permit was necessary to do this type of work. Mr. Heeke asked Mr. Moore if there was any way this could be constructed within the setbacks to which Mr. Moore responded the lot coverage is the main issue and due to the fact the stem wall is already existing, and that is what they built on top of and the applicant has stated she felt this could be glassed in. Mr. Moore stated they have two choices, either have them remove it or grant it with conditions, recalling the Council did allow a screened in enclosure in the north end some years ago but when the house was sold, the screen enclosure was to be removed.

Mrs. Douthit moved the Variance No. 4-92 be denied. Mr. Heeke handled the gavel to Mr. Weinberg to chair the meeting and seconded the motion. On roll call, the motion to deny carried 4-1 with Mr. Ilyinsky voting against the denial.

Spec. Excep. 3-92

3. Special Exception No. 3-92 - Absolutely LTD., Inc. d/b/a Au Bar, 336 Royal Poinciana Plaza; to allow Absolutely LTD., Inc., a new owner, to operate a restaurant and lounge in the C-PC District.

Mr. Moore advised this is before the Council due to a change in ownership. Mrs. Peters read a letter of objection from Mrs. Henry Goldsmith of the Palm Beach Towers , 44 Cocoanut Row, due to the noise factor. Mrs. Margaret Heimann , President of Absolutely Ltd., Inc., advised the Mayor and Council it was not possible for anyone to hear any noise as there are no open doors or windows, although at one time, they were serving on the patio but due to the heat, ceased that operation but it is a good distance from the Towers to Au Bar and she doesn't believe there is a problem with noise. Mayor Marix asked if there were other complaints received? Mr. Moore stated the only complaint was when the tables were placed outside and when the complaint was made known to Au Bar, they removed the tables. Mrs. Heimann advised they were only open about ten days in 1990 and when the complaint was made, they immediately stopped service out of doors. Mr. Moore advised John Grosskopf of the Towers works very closely with his department and if there was a complaint, he would have reported it to the Building Department and he recalls there were none. Mrs. Wiener felt if one person heard it, there should have been others from the apartment owners that face that way. Mayor Marix asked what was the date of the letter? Mrs. Peters responded it was dated Feb., 1992. Spec. Excep. 3-92

Mr. Heeke asked Mrs. Heimann if she would have any problem with a condition being placed on the granting of this Special Exception that there would be no service on the patio. Mrs. Heimann responded she would not as they presently do not use the patio for service but just keep it landscaped.

Mrs. Wiener believed the reason this was before the Council was to identify the new corporation that has taken over the managing of this particular business. Mrs. Heimann responded she is President and Howard Crane who is the Comptroller in New York is a stockholder and the lease was taken out in the new corporation's name on December 1st as the previous leaseholder did not renew. She advised they have all of the appropriate licenses and a liquor license issued by the State of Florida and this is the last thing they need to do to make themselves a permanent presence. Mrs. Wiener asked if this was basically a paper reshuffling to which Mrs. Heimann responded she thought so.

Mrs. Wiener moved Special Exception No. 3-92 be approved and they grant them the authorization to operate Au Bar and the condition would be there by no outside service. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

C. Other

1. Proposed PUD Application for Mar-a-Lago Property - Consideration of Date and Time for Special Town Council Meeting to Hear Application - PUD App. for Mar-a-Lago Property

After discussion, a motion was made by Mr. Ilyinsky to hold this Special Town Council Meeting on March 5, 1992 at 9 AM in the Town Council Chambers. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

2. Amendments to Breakers PUD - Consideration of Resolution No. 6-92 Res. 6-92

Attorney Randolph read the Resolution No. 6-92 by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RELATING TO THE APPLICATION OF FLAGLER SYSTEMS, INC., FOR MODIFICATION OF TENTATIVE APPROVAL OF A PLANNED UNIT DEVELOPMENT; AMENDING RESOLUTION NO. 6-71, RESOLUTION NO. 9-72, RESOLUTION NO. 13-74, RESOLUTION NO. 10-81 AND RESOLUTION NO. 17-90.

Motion was made by Mr. Ilyinsky to approve Resolution No. 6-92. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

3. Amendments to Sloan's Curve PUD - Consideration of Resolution No. 7-92 Res. 7-92

Attorney Randolph read the Resolution No. 7-92 by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING RESOLUTION NO. 35-78 RELATING TO PHASE III (TOWN HOUSES AND SINGLE FAMILY DWELLINGS) OF THE FINALLY APPROVED PLANNED UNIT DEVELOPMENT, PROVIDING FOR THE PHASE III HOMEOWNERS ASSOCIATION ACCESSORY USE OF A SINGLE FAMILY RESIDENCE SITE.

Motion was made by Mr. Ilyinsky to approve Resolution No. 7-82. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

4. Consideration of Date and Time (after 5:00 p.m.) for Second Reading of Zoning Ordinance No. 1-92 (First Reading Occurred on February 3, 1992 at 5:01 p.m.) Zoning Ord. 1-92

After discussion, motion was made by Mrs. Wiener to set the date for the second reading of Ordinance No. 1-92 for 5:01 PM on Tuesday, February 25th, 1992 in the Town Hall Council Chambers. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Mr. Heeke requested the Colony Hotel be heard at this time as they have been sitting here for a long time, to which the rest of the Council agreed.

6. Special Exception No. 13-86 - Request for Three (3) Year Time Extension - The Colony Hotel, Inc., 155 Hammon Avenue; permission to expand the existing hotel building by constructing a three-story addition thereto containing twenty-eight (28) hotel units and a two-story, five unit apartment building. RD-2 and R-C Districts. Spec.Excep. 13-86

Attorney Raymond Royce addressed the Council for the applicant, Colony Hotel, indicating he has with him today, Mr. Hyland, his partner, and Mr. Fred Daneiliski, Director of Operations of the Hotel, and their request is an extension of an approval given a number of years ago. He advised a great deal of work has been accomplished and a great deal of monies expended but they do need more time to complete the program, in view of the economic situation and the financing standpoint.

He advised a number of improvements were made to the Colony Hotel and to the Waller House, many of which were imposed by the Council, including sprinkler systems, water and sewer improvements, etc. He believed the aesthetic improvements made are good both for the Hotel and the Town. He advised the density has been decreased in the Hotel, so they feel they have shown good faith and acted in compliance, spent a great deal of money and have tried to be a good citizens and neighbor for the Town.

Spec.Excep. 13-86 (cont'd)

Mr. Heeke stated his concern about the request for a three year extension, although he sympathizes with the economic situation, however he didn't want to do anything that would cause harm inadvertently by doing something that quickly fiscally. Mrs. Douthit was agreeable to granting this, but was wondering if the air conditioning problems have been solved. Mr. Royce responded to the best of his knowledge, the problem has been worked out. Mrs. Wiener recalled another hotel on the Island has been held up also with a similar situation.

Mr. Ilyinsky agreed but wondered if they needed the three year period. Mr. Heeke suggested perhaps they could have some phasing completed within that time and asked Mr. Royce what his next phasing would be? Mr. Royce stated their next project was the Surfside Hotel which currently has 23 units and that it is to be converted to ten units, which would be a decrease in that density and he suggested perhaps they could commence that within eighteen months.

Mr. Adrian Winterfield addressed the Council noting it was sixty eight months ago the Colony came before the Council asking for a three year extension, three years later they state they need another three years. He felt there was noquestion as to how much had been done. He requested the letter request of the Colony be made a part of the minutes. He thought it was wonderful for the Council to consider the financial problems as a hardship but there should be limits. He invited their attention to the Zoning Ordinance, wherein it states a reasonable time limit can be prescribed, within which the action for a Special Exception or Variance shall be begun, or completed, or both - but he did not think 68 months was a reasonable time.

Mr. Royce responded noting the letter they sent did state they could draw up plans as the authorization does not expire until May, but knowing they weren't going to ready by that time, Mr. Hyland pointed out they could come in with plans to preserve the time, if they have to, but they didn't want to do it in that way and he realized it has been a long time as the Waller House restoration took almost three years. He noted they were involved in a lawsuit with the contractor and there were tremendous cost overruns. He didn't believe the Town was harmed by the fact that they have gone slowly on this project. He pointed out the density of the units has already been reduced by 23 units.

Mr. Ilyinsky moved the extension of three years be granted but it be conditioned upon the applicant commencing the Surfside work within eighteen months. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Video Capabilities during town meetings

5. Consideration of Increased Video Capabilities During Town Meetings

Mr. Moore advised the Zoning Commission asked him to look into an increase of video capabilities or to have two screens or either have a huge screen in the middle of the room. He indicated he asked Mr. Frank to investigate it and his memorandum is part of a packet sent to Mr. Doney and the recommendation is to purchase another screen to be put on the other side of the room, so everyone would have equal viewing opportunities.

He believed they could further refine this situation as far as getting quotes and prices on it, rather than approximations and it be presented during the budgetary process. He advised he didn't want to pursue this any further until the Council wished it to be pursued. Mrs. Douthit agreed it should wait until budget time.

Mayor Marix believed it was recognized there is a serious financial problem and before any monies are expended, she would like to make an urgent requirement of all applicants, for whatever reason they are before the Council, to have enlarged photographs or posters. She knows it is difficult for them to do plans in that fashion, however, she had made this request approximately six or eight months ago and has seen just one blown up photograph in that time. She didn't believe they were taking advantage of having very clear pictures which they can all look at and enjoy and which should cost the Town nothing as it would all be at the applicant's expense. She believed before they went into this at budget time, she would like to see it be made a requirement of the submitting process that these people bring great big pictures of the area and then it can be evaluated if it works or not.

Mr. Moore reported this is already a requirement for ARCOM and Landmarks and the Zoning Commission, and if the Council so instructs, the applications will be rejected if they are not provided. Mrs. Douthit believed they should be providing everything within two hundred feet of the area on which they want to do the work. Mayor Marix thought they needed to try and find a solution which will help everyone.

Mrs. Wiener believed all that was needed was a transparency and that could even be shown on the back wall of the Council Chambers, if necessary. Mr. Heeke believed that was an alternative to the large placards and he believed they should have that or the overblown photographs, as all of them have complained about not being able to see the plans that have been presented to the Mayor and the Council.

Mr. Moore suggested that if the pictures are not furnished by the date of the meeting, then the staff will reject the plans until they do bring in the information that is requested.

Mr. Randolph felt this was going to cause some legal problems with that and suggested they see what they can do to accommodate this from the guidance that is being received today from the Mayor and Council.

Mr. Moore reported the architects are refusing to bring them in and noted that the Architect on the Switzer variance was on the phone yesterday and out of an abundance of caution, Mr. Moore had pictures of the area taken and was going to give a slide presentation on what he had ordered to be filmed, as it is a landmarked house. He stated they are not complying. He stated if the Council orders him to reject the applications if the pictures are not submitted, he will certainly do so and he will call Mr. Bell tomorrow and tell him what is necessary. Mayor Marix believed that they should put a time limit on it and if the pictures are not received by two or three weeks before the meeting, then they should be informed they can't appear before the Council, if the attorney thinks that is legal. Mr. Moore felt it should be before the legal advertisement appears in the newspaper. Mayor Marix stated for them to tie them up and not provide what is being asked for, is gall. Mr. Moore stated he gets the picture and will be rejecting plans, if this is not provided. (Mayor Marix left the meeting)

Video Capabilities during town meetings

Mrs. Wiener stated that was not her direction at all, as if the idea is to make it so impossible for anybody to come before the Council and to give them everything laid out like that asking if they were children that they had to have everything laid out for them? Mr. Heeke did not believe what was being requested was difficult to present. Mrs. Wiener felt it was adding and adding and adding to the requirements. She suggested they just be asked to provide a transparency. Mr. Heeke recalled these have been required for some time and the applicants and their architects and attorneys have not been abiding by it and this is nothing new. Mrs. Wiener thought it was quite cumbersome. Mr. Zimmerman pointed out the exhibit presented by Mr. Bell today was a colored elevation of the proposed garage and that would show them more than any photograph. Mr. Heeke agreed. Mr. Zimmerman believed the pictures that the Mayor is talking about could not be taken, because of landscaping, trees and other things that are in the way and it just won't work. Mr. Heeke stated he had no problem with what Mr. Bell had before them as actually he preferred that type of exhibit.

Mrs. Douthit agreed that the camera would put it up on the screen and that type of elevation plan would be acceptable. Mr. Moore commented he is hearing them say that that type of plan is acceptable in lieu of a picture with the proposed addition drawn onto the picture.

Mr. Ilyinsky asked if they could move on with the agenda. Mrs. Douthit agreed the plan presented was quite clear as to what was there and what wasn't there. Mr. Heeke asked if Mr. Moore could try and get the applicants and their architects to understand what was shown today by Mr. Bell is acceptable. Mrs. Wiener recalled Mr. Moore was going to call up Mr. Bell and yell at him and she thought first of all, they should not be raising their voices to each other. Mrs. Douthit pointed out this requirement has been on the books for a long time. Mrs. Wiener agreed but noted the requirement was not happening. Mrs. Douthit stated that is why it came up, but it has been a requirement for ages. Mrs. Wiener recalled Mr. Zimmerman telling them it just wasn't working and it wasn't practical to make this request.

Mr. Heeke stated they would move ahead on the agenda.

XIX. COMMUNICATIONS FROM CITIZENS - 3-MINUTE LIMIT PLEASE

Communications from citizens

A. Erik Gilbertson addressed the Council congratulated Mrs. Douthit on her election and to the other Councilmen who were sworn in today.

B. Adrian Winterfield addressed the Council on four items:

1. Asked the status of Bank Julius Bear to which there was no response.

2. On the granting of a Liquor License at the Golf Course - he wondered if they were going to offer beer at the Tennis Courts and at Town Hall?

3. Annual Report - the mandated report is not addressed to the public but to elected officials. He brought to the Council's attention that there should be a monthly report made to the Council by the Mayor.

4. Colony Hotel - He thought the Council demonstrated today its use of its' power which it used today on this matter. He did not think the analogy of comparing this hotel to the Breakers was appropriateas the Breakers is a PUD and phasing is part of that process. He thought Council was satisfied for this to go on and on with regards to the Colony and he wondered if they would ever say to an applicant when an extension is applied for that they didn't start within the alloted time and should make a new application?

XX. ANY OTHER MATTERS

A. Town-owned properties and rights-of-ways - request of Mrs. Hoffstot to hold a Workshop meeting. After discussion, it was decided to hear this matter at the Town Council meeting scheduled for March 10, 1992.

Town-owned properties & rights-of-ways

B. Upcoming meetings. Mr. Doney called to the Council's attention to the list of upcoming meetings.

upcoming meet.

C. Florida Tax & Budget Reform Commission Meeting.Mr. Doney advised the meeting of this Committee is scheduled for tomorrow from 2 PM to 7 PM. Mrs.Douthit indicated she would be attending and urging there be no bond issues without a referendum vote. Also the lobbying expenditures of the Palm Beach County Commissioners be denied. She also thought there should be some attention to the School Board'scurriculum as now one can take a course and get creditfor such things as Theatre Lighting.

FL Tax & Budget Reform Comm. Mtg.

Mary Ratliff of the Committee for Good Government addressed the Council advising the Committee will be represented at this Commission Meeting speaking on the Save Our Homes Petition Drive, and they hope the referendum will be put directly on the ballot as they do have that power and this would save a lot of dollars.

D. Mrs. Wiener invited all members of the Council to attend a Rotary Meeting on March 19, 1992 at which time Mr. Peter Mettler, who is a member of this F&T Commission will be the speaker.

Rotary Mtg.

E. Charter Change. Mrs. Douthit suggested that next year there be a change in the Charter thatone hundred signatures be required in order to geta candidates' name on the ballot instead of thetwenty-five now required. Mrs. Wiener suggested there should be a Charter Commission appointed as there are so many other things that could be addressed.

Charter change

XXI. ADJOURNMENT - Meeting was adjourned at 5:36 PM.

Adjournment

Grace T. Peters
Town Clerk