TOWN COUNCIL MINUTES OF MEETING HELD ON FEBRUARY 9, 1993

I. CALL TO ORDER AND ROLL CALL - The Town Council meeting of February 9, 1993 was called to order at 9:30 AM in the Town Council Chambers by President Heeke. On roll call, the following elected officials were found to be in attendance: Mayor Marix, President Heeke, President Pro Tem Weinberg, Councilwomen Douthit and Wiener. Also in attendance for all or portions of the meeting were Town Attorney Randolph, Town Manager Doney, Chief Elmore, Chief Terlizzese, Mrs. Crozier, Mrs. Peters, Mr. Dusey, Mr. Boggs, Mr. Bowser, Mr. Moore, Mr. Frank, Mr. Bitzer and Mrs. Martinuzzi. Roll Call

II. INVOCATION AND PLEDGE OF ALLEGIANCE - Invocation was given by Father Warren of Bethesda by the Sea Episcopal Church. Pledge of Allegiance was led by President Pro Tem Weinberg. Invocation

III. COMMENTS OF THE MAYOR - Mayor Marix gave her comments: "Having been elected to the Palm Beach Town Council twenty-three years ago, where I served eight years, and now ending my ten years as Mayor, I claim total seniority over the Elected or Appointed Officials. After several thousand hours of meetings: certainly 50,000 pages of reading, and hundreds of hours of seminars, the knowledge, background, facts and know-how I have acquired are like an incredible well-stocked library --- from Z to Z. In addition, I have served with three Mayors, three Town Managers, and many Council members. As a thank you to the wonderful voters for giving me the honor of serving during all these years, I Offer the use of this so-called Library, not only to the Elected Officials, Administrative Personnel, but also to all those of you that I can help. I trust that I have left a lasting legacy of good achievements and goals for the betterment of all. I leave you with a message of total caring and continued dedication.....may I end with "Thanks for the memories?" Comments of the Mayor

IV. APPROVAL OF AGENDA - Motion was made to approve the agenda by Mr. Weinberg. Mrs. Douthit wondered if the Architectural Commission appointment to fill the seat of Mrs. Smith should be filled by this Council? Mr. Heeke asked if that amendment was accepted by Mr. Weinberg, as the motion maker and there was no response. Motion was seconded by Mrs. Douthit. On roll call, the motion carried unanimously. Approval of Agenda

V. APPROVAL OF MINUTES OF OCTOBER 13, 1992, JANUARY 19 AND 26, 1993 - Motion was made by approve the minutes of October 13, 1992, January 19 and 26, 1993. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously. Approval of Minutes

VI. PRESENTATION Presentation

A. Recognition of Lesly Smith - Architectural Commission - Mayor Marix presented Lesly Smith with a plaque recognizing her six years of service on the Architectural Commission.

VII. RESOLUTION NO. 9-93 - Certifying Election of February 2, 1993 - Attorney Randolph read Res. No. 9-93 by caption: Res. 9-93

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA DECLARING THE RESULTS OF THE GENERAL ELECTION HELD ON FEBRUARY 2, 1993 BETWEEN THE HOURS OF 7:00 AM and 7:00 PM ON SAID DATE FOR THE PURPOSE OF ELECTING A MAYOR AND THREE COUNCILMEMBERS OF THE TOWN OF PALM BEACH, IN ACCORDANCE WITH SECTION 5.05 OF THE TOWN OF PALM BEACH CHARTER; AND SINCE THERE WAS NO MAJORITY VOTE IN THE GROUP ONE RACE, THERE SHALL BE A RUN-OFF ELECTION TO BE HELD ON FEBRUARY 16, 1993; DIRECTING THE MAYOR OF SAID TOWN TO ISSUE HER PROCLAMATION OF SAID RUN-OFF ELECTION AND ADOPTING THE OFFICIAL BALLOT TO BE USED IN SAID RUN-OFF ELECTION; AUTHORIZING THE TOWN CLERK TO ARRANGE FOR VOTOMATIC MACHINES AND ABSENTEE BALLOTS TO BE USED IN SAID RUN-OFF ELECTION; AND DESIGNATING THE TOWN CLERK OF THE TOWN OF PALM BEACH AND THE SUPERVISOR OF ELECTIONS OF PALM BEACH COUNTY TO SERVE AS THE CANVASSING BOARD.

Motion was made to approve Res. No. 9-93 by Mrs. Wiener. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

VIII. MAYOR'S PROCLAMATION TO CALL RUN-OFF ELECTION ON TUESDAY, FEBRUARY 16, 1993 - Mayor Marix read the Proclamation to call the run-off election on Tuesday, February 16, 1993.

IX. OLD BUSINESS Old Business

A. Ordinances - Second Reading

1. Ordinance No. 2-93 - Amendment to Section 6-34(b) of the Town Code of Ordinances Regarding Projections (in Lake Worth), Bulkheads, Pierheads, Groins - Attorney Randolph read Ordinance No. 2-93 by title: Ord. 2-93

AN ORDINANCE OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA AMENDING CHAPTER 6, ARTICLE III, "BULKHEADS AND PIERHEADS ON LAKE WORTH", OF THE TOWN OF PALM BEACH CODE OF ORDINANCES SUBSECTION 6-34(B) "PROJECTIONS" IS HEREIN AMENDED; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION: AND PROVIDING FOR AN EFFECTIVE DATE.

Motion was made to adopt Ordinance No. 2-93 on second reading by Mrs. Wiener. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

2. Ordinance No. 3-93 - Amendments to Retirement System Ordinance Regarding the Age and Service Conditions for the Lifeguard Division - Attorney Randolph read Ordinance No. 3-93 by title: Ord. 3-93

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 15 OF THE CODE OF ORDINANCES

AT SECTION 15-15, SO AS TO AMEND THE AGE AND SERVICE CONDITIONS FOR NORMAL RETIREMENT FOR LIFEGUARDS; AMENDING SAID CHAPTER AT SECTION 15-33 SO AS TO FUND THE ADDITIONAL COST TO THE RETIREMENT SYSTEM THROUGH AN INCREASE IN LIFEGUARD MEMBER CONTRIBUTION RATES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Motion was made by Mrs. Douthit to approve Ordinance No. 3-93 on second reading. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Ord. 4-93

3. Ordinance No. 4-93 - Amendment to Code Enforcement Board Ordinance - Attorney Randolph read Ordinance No. 4-93 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 2 OF ARTICLE X, SECTION 2-186 OF THE TOWN CODE OF ORDINANCES RELATING TO THE CODE ENFORCEMENT BOARD TO AMEND THE FEE SCHEDULE TO PROVIDE FOR STANDARD FINE FOR ZONING ORDINANCE 2-74 VIOLATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Motion to adopt Ordinance No. 4-93 on second reading was made by Mr. Weinberg. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Ord. 5-93

4. Ordinance No. 5-93 - Hazardous Substances and Waste - Attorney Randolph read the Ordinance No. 5-93 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA AMENDING CHAPTER 7, FIRE PROTECTION AND PREVENTION OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, FLORIDA, BY ENACTING A NEW ARTICLE III, "HAZARDOUS SUBSTANCES AND HAZARDOUS WASTE" AND NEW SECTION 7-27 "HAZARDOUS SUBSTANCES AND HAZARDOUS WASTE - RECOVERY OF COSTS" TO PROVIDE FOR REIMBURSEMENT TO THE TOWN OF PALM BEACH COSTS ASSOCIATED WITH INVESTIGATING, MITIGATING, MINIMIZING, REMOVING OR ABATING THE RELEASE OF HAZARDOUS SUBSTANCES AND HAZARDOUS WASTE; PROVIDING FOR A GENERAL REPEALER CLAUSE; PROVIDING A SAVING CLAUSE; PROVIDING AN EFFECTIVE DATE.

Mrs. Douthit moved approval of Ordinance No. 5-93. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Ord. 6-93

5. Ordinance No. 6-93 - Water Conservation Ordinance - Mr. Randolph read the Ordinance NO. 6-93 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, TO BE KNOWN AS THE "TOWN OF PALM BEACH WATER CONSERVATION ORDINANCE;" PROVIDING A SHORT TITLE; PROVIDING A PURPOSE; PROVIDING DEFINITIONS; PROVIDING RESTRICTIONS; PROVIDING EXEMPTIONS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR VARIANCE RELIEF: PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

Motion was made by Mrs. Wiener to approve Ordinance No. 6-93 on second reading. Seconded by Mr. Weinberg.

Mr. Heeke explained the County has had a water conservation ordinance in effect since 1991 and it supersedes the Town, which at that time did not have a specific ordinance addressing the same issues and with this Ordinance, the Town is in control of the water conservation measures and not under the County, therefore any fines collected would stay in the Town. Mayor Marix stated she had a few comments on this suggesting that perhaps more Committee meetings need to be had, as they are passing this conservation ordinance, however in the papers she has received this week there was a $22,000 estimate to remove the building across the bridge and that area will be sodded and irrigated, which she believes will use more water than is presently being used and it seemed to her that they should have considered the recommendation such as xeriscaping and use some trees from the Town's tree bank.

Mrs. Douthit suggested the South Florida Water Management District to whom all of us pay taxes, clean up its own act as for every gallon of water used in the Town of Palm Beach, the South Florida Water Management is dumping 33 gallons into Lake Worth.

On roll call, the motion carried unanimously.

B. Other

Consideration of Appeal of Final Judgement RE: Lake Worth Inlet Sand Transfer Plant.

1. Consideration of Whether to Appeal Circuit Court's Final Judgement Regarding Lake Worth Inlet Sand Transfer Plant - Mr. Randolph reported the status - on 1-20-93, the Circuit Court entered a final judgment in regard to the lawsuit on the Sand Transfer Plant. He recalled the purpose and intent of the law suit was to have the County resume the operation of the plant, which they had discontinued. He advised the Court did enter a final judgment indicating that based upon the evidence presented, it did not feel the County had the responsibility to continue the operation of the Plant.

Attorney Randolph stated the contract entered into with the County in 1955 was the center focus of the lawsuit, which reads: "The County agrees that it will operate and maintain the Sand Pumping Station, as originally constructed, but the County shall not be required to furnish funds for new or additional construction considered as capital outlay and should such be required, it shall be furnished by the Town; it being the intent of the parties hereto that the County shall be required only to operate and maintain the sand pumping station as originally constructed."

Mr. Randolph explained the Court did rule in its final judgment that the greater weight of the evidence required a finding that due to the nature, magnitude and extent of the renovations and repair on the facility, over the years, the Plant no longer existed as originally constructed at the time the County discontinued the operation, so basically the final judgment interpreted this portion of the contract that the Plant was no longer as originally constructed. He stated there was a great deal of testimony with regard to that although there was only one witness who was originally involved in the negotiation and the actual drafting of the contract back in 1955 and that was Mr. George Frost, who was working for the County at the time.

Mr. Randolph noted they have thirty days within which to appeal the judgment of the Court. He advised the case is not fact-intensive as courts are usually reluctant to overturn a Circuit Court decision if the Circuit Court has relied on facts and applied their reasoning to the facts. He believed the case was sort of isolated to that one issue as to whether or not the plant was as it was originally. He did not think an appeal would be too expensive and he thought it was worth arguing that point of law to an appellate court, since it deals with the interpretation of the contract. He advised it is difficult to judge what the chances are on an appeal and believed the appeal legal costs would be in the neighborhood of $25,000.

Mrs. Wiener thought there were a number of ramifications required in the overall matter and she feels strongly that the newly elected officials are as fully aware of this matter as the sitting elected officials are, and we are talking about an expense of money which may go forward and the discussion is about what should be done to get it going and she believed this should sit with the newly elected Council. Mrs. Douthit did not agree noting this is an effort to move things along and the flow of sand has been cut off for approximately two years due to the breakdown of the sand transfer plant and that contributed to the erosion difficulties and she strongly felt that everything possible needed to be done as they are in Midtown and for the rest of their beaches and she thought the matter should definitely be appealed. Mr. Heeke agreed, noting the process of the appeal continues the process of advocacy between the two parties as they might be looking for different solutions without slamming the final door. Mrs. Douthit did not believe this was the only answer to solving the problem as they should be looking for alternate methods.

Mrs. Wiener felt they never went into a discussion as to whether they should take care of this and go to court at the same time so there is an overall situation which should be handled by the new Council. She thought they may have missed the boat by not doing the work that needed to be done and still proceeding in the courts. Mr. Heeke thought this was a subject that needed to be discussed by the new Council. Mrs. Douthit recalled the repairs were discussed as she thought they needed a new intake pipe which was going to cost approximately $400,000 and this problem has been going on for two years and she considered this "Old Business" as the County closed down a good two years ago.

Mrs. Douthit moved to appeal the decision. Mr. Heeke passed the gavel to Mr. Weinberg to chair the meeting and seconded the motion stating his reason is because the issue of appeal is one thing and the discussion about ongoing negotiations and trying to get this Plant operational is an entirely different matter. He recalled matters in the past have been appealed so as not to run into a time restraint or a bar of the Town's rights and those are the reasons he seconded the motion.

On roll call, the motion carried unanimously.

2. Consideration of Appropriation of Town's Share of the Cost for the Three-Year PEP Reef Monitoring Program - Mr. Doney explained this item is on the agenda to address the actual dollar amount which will be appropriated under the three year monitoring contract. He recalled at the June 9, 1992 Town Council Meeting, the President of the Council was authorized to execute the PEP Reef Monitoring Agreement and last week, after the final changes were made by the DNR, the University of Florida and the Town, there have been revisions to the actual Monitoring Agreement and the text of the Agreement between the parties. He requested the Town Council authorization for an appropriation of $163,334 from the previously appropriated Capital Improvement Fund monies for the proposed Mid-Town Beach Nourishment Project. He advised these monies would then be expended on an actual incurred expense basis for the PEP Reef Monitoring, in accordance with the Agreement and the Actual Test Plan.

Consideration of Appropriation of Town's share of cost for Three-Year PEP Reef Monitoring Program

Mrs. Douthit moved that the $163,334 be approved for the Monitoring Program, as it was agreed upon some time ago and is less that what was agreed upon, and this is one-quarter of the charges for the three year monitoring program as the DNR is picking up 75% or $500,000, and these monies come from the Capital Improvement Funds monies which were budgeted for the Mid-Town Beach Nourishment Project. Mrs. Wiener knew this was monies the Town has already agreed to expend and there are no curious strings attached to it, and she would like to second the motion with the proviso that as they continue on with the Reef and the testing, that an update on the monitoring could be received every two weeks or so. Mrs. Douthit believed that two weeks was too frequent as the surveys only happen quarterly. Mrs. Wiener asked if the reports could then be on a monthly basis, so the Council can be aware at each Council meeting of what is going on. Mr. Heeke asked Beth Mitchell of American Coastal Engineering what would be a realistic reporting time frame? Mrs. Douthit believed it should be quarterly to which Miss Mitchell responded that would provide surveys and if they had some specifications as to the type of information the Council is looking for, they would be happy to come once a month and report. Mrs. Wiener stated all she wants is a written report of what has actually been going on for a one month period and even if they report there is nothing new, at least the Council would be aware and up to date. Miss Mitchell agreed. Mrs. Wiener seconded the motion with the proviso that monthly monitoring reports would be received. Mrs. Douthit thought it was much too often and thought it should be every couple of months as in the course of this, she doesn't want panic buttons to be pushed because the levels are going to be down due to a storm.

Mrs. Wiener indicated she was not concerned about that, and since they have no problem in reporting, she would like to see it on a monthly basis. Mr. Heeke stated if they have nothing to report, they will say so and asked Mrs. Douthit if the amendment to the motion for monthly reports would be acceptable to which she agreed. On roll call, the motion carried unanimously with the amendment.

3. Audit Report

Audit Report

Audit Report

a. Audit Report for Fiscal Year Ending September 30, 1992 - Discussion and Acknowledgement of Receipt - Mr. Doney advised the representatives from Coopers and Lybrand are here in the event there are questions as well as Mrs. Crozier, the Finance Administrator. He indicated a memorandum has been sent by Mrs. Crozier and he concurred with the items identified and concurs with her opinion that the Town remains financially sound. He advised the Undesignated Fund Balance of $4,219,904 which represents 15% of the FY93 General Fund Budget.

Motion was made by Mrs. Wiener to accept the Audit and authorization be given to transmit to the State of Florida Department of Finance. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Staff Response

b. Management Letter and Staff Response - Acceptance - Mr. Heeke noted the Staff Response has been prepared by Mrs. Crozier to Mr. Doney dated 2-4-93. Mr. Doney explained it is a requirement under the Florida Statutes for the auditors to provide a Report to Management and the Mayor and Town Council of items which have been identified which need to be corrected or addressed. He noted there were eleven items last year and eight have been addressed to the satisfaction of Coopers & Lybrand and he asked if he should address the items individually to which Mr. Heeke asked the Council who indicated they have had the material and have read same and no-one seemed to have a problem with it. Motion was made to accept the Staff Response to the Auditor's comments by Mr. Weinberg. Seconded by Mrs. Douthit.

Mr. Doney thought it was important the Town's auditors have identified and recommended additional checks and balances in the Data Processing and Finance Operation and this relates very heavily to the concern about staffing for the Town of Palm Beach and noted they are cross-training and cross-utilizing personnel to their maximum opportunity. He felt that any reduction in the present staff of both Finance and Data Processing would overburden those departments. Mr. Heeke believed that was a matter that should come before the Finance & Taxation Committee and called for the roll call. On roll call, the motion carried unanimously.

Mr. Heeke complimented the Finance Department on their performance as there is much complexity involved in the audits and the day-to-day operation of the financial matters of the Town as it isn't an easy task and it seems to get more complex each day.

Development Reviews

X. DEVELOPMENT REVIEWS

A. Appeal

Appeal by Dean Vegosen

Re: Permit for Lot 2, LaCosta Way

1. Appeal by Dean Vegosen, Lewis, Vegosen & Rosenbach, P.A., of Building Official's Decision Denying Permit for a Fence Regarding Lot 2, LaCosta Way - Attorney Vegosen addressed the Council exhibiting drawings, and noted that a few months ago, the applicant came before the Council requesting an abandonment of an easement, which the Council did not approve, but the Council did agree that Dr. Rosenberg could landscape the southern five feet of that area, subject to an Agreement, which has been submitted for review. He advised that the Building Department denied his client's request for a permit to install a fence around the property which ran along the north property line. He advised it doesn't go along the east property line as Mr. Peltz has a fence on that boundary. He indicated the permit was denied by the Building Official on the basis that it involved crossing the ten foot easement. He did not think there was any reason to deny a fence to be placed there. He advised the neighbors who objected to the abandonment have been notified of this hearing and he did not believe there were any objections. He didn't think there was any harm that could be done as they will landscape which will shield the fence from any surrounding properties. He knew the Town would have an interest to access the utility easement, and his client was willing to execute a Removal Agreement with respect to ten feet of fence, or they could provide access all along this strip. He submitted the Removal Agreement would be a lot less to deal with than the removal of the landscaping of approximately one hundred feet. He thought the fence should be allowed in that area.

Mr. Moore clarified that the statement was made that the application was for the abandonment of the ten foot easement and actually it was for the abandonment of five feet and the northern ten feet which abuts the property owned by the residents on the north side of South Woods Road and the five feet on the north area where they propose to erect the fence was not discussed at the Town Council meeting when the easement was requested to be abandoned. He advised what was discussed was the southerly five feet because that is what they wanted to have abandoned. He recalled the discussion centered around whether there would be any type of construction or structures or any other type of encroachments within the five foot area. He advised when the building permit was applied for, there was no discussion about the northern five feet, so there was a process for the applicant to have a fence removal agreement within the north ten feet. He advised what the Council granted when they denied the easement abandonment, they granted Dr. Rosenberg authorization to landscape the southern five feet. He noted that because the way the Ordinances are written, the Town doesn't normally permit planting in any portion of the easement, so when Dr. Rosenberg left with the denial of the south five feet, he did have in hand an agreement that he could apply for a standard removal agreement in the event the area had to be accessed and it could be accessed but the landscaping removal would be the responsibility of Dr. Rosenberg.

Mr. Moore stated when they applied for a building permit, the Building Department denied it, as they cannot cross the five feet because of the Council's decision that no structures be placed within that five feet and the Council has heard Mr. Vegosen's request to appeal that decision as he understood the Town Council did not want any structures in that area. He stated it is a technicality of whether the fence may cross that five feet or not, and he pointed out all utilities for the house are served from an easement in the front of the house at the cul de sac.

Attorney Vegosen wished to acknowledge there has been a change in plans as why the utilities were going to be brought to the house from the front, they are now going to be brought from another point on the property and they are talking about bringing the utilities down the easement along the adjacent lot. He noted the other side of the easement is already crossed by a fence which has been placed by Mr. Peltz and he didn't believe there was an issue as his fence comes north of the five feet and it is only 42" from the northern property line. He stated the issue is whether the

Council will allow the fence to cross the southern five feet and they would provide complete access to the easement area by a removal agreement or they could gate the fence so there would be access.

Mr. Heeke recalled the discussion at the previous Council Meeting about there being no structures. Mrs. Douthit stated she was shocked at this as this is new construction and the original agreement was made no less than two months ago and this request is in total violation of what was agreed upon and this is more of a request than was before them previously. She doesn't know what is entailed with the utilities now coming from another direction. Mr. Heeke recalled the motion to approve the landscaping was definitely there would be no construction of any type there and it would involve only hedging and now that they have the deal they are returning asking for a fence.

Dr. Marvin Rosenberg addressed the Council indicating the deal that was struck is very much appreciated and he will conform to that in every possible way, however, as they know, there is a requirement that the pool be completely enclosed by a fence and that is the purpose of this request for the fence to be placed at the northernmost part of the property. Mr. Heeke recalled the pool was discussed at the previous meeting and the Council was aware of that when the previous arrangement was struck. Dr. Rosenberg agreed but stated he is requesting some air space as the return of the fence from the northwest corner southward to enclose the pool would transverse that easement and there would be no structures within the easement as the posts are 18' apart and the first post would be at the northeast portion of the property so there is nothing in the easement but the fence transverses it and he viewed this as airspace. Mr. Heeke reminded Dr. Rosenberg it is on someone's property and he hoped it was on his property and not the neighbors to which Dr. Rosenberg responded it was on his property. Mrs. Douthit pointed out it is on the easement to which Dr. Rosenberg agreed it does transverse the easement. Mrs. Douthit noted they struck a deal two months ago and she would like to make a motion. Mr. Heeke asked that Dr. Rosenberg be allowed to finish.

Susan Polan addressed the Council indicating she was in receipt of a letter from the Mayor dated Dec. 15th noting the request was denied but Dr. Rosenberg was allowed to install landscaping material only in the south five feet of the ten foot easement in question and additionally they declared there would be no structures and Dr. Rosenberg would be required to enter into an Easement Agreement regarding the landscaped strip and record same, with the conditions mentioned. She noted the Council already spent over an hour on this subject at a previous meeting and it was clear to her and to the other neighbors that there would be no structures and they really didn't want to see a fence of any kind.

Mrs. Douthit moved to deny the appeal, as this was all thoroughly discussed at a previous meeting and thoroughly understood. Mr. Heeke asked if the motion was to uphold the Building Official's decision to deny the permit for the fence to which Mrs. Douthit agreed.

Dr. Rosenberg reported he met with the neighbor who was directly affected across the street and he had no problem with the fence and this particular neighbor was going to meet with the other neighbors who held property contiguous with Dr. Rosenberg's property and they have no problem with the fence as outlined as it will be completely invisible. Mr. Heeke explained the problem is the Town Council put specific conditions on the landscaping and the word "fence" was included in that agreement as something that would not be allowed and now he is back asking for it. Dr. Rosenberg indicated he was requesting a reconsideration and if it is not forthcoming, he can live with it. Mr. Heeke felt a deal was a deal. Attorney Vegosen asked if they could tell him what the objection was to reconsider this. Mr. Heeke responded he should read the minutes as they did cover this matter in great detail.

The motion was seconded by Mrs. Wiener. On roll call, the motion carried unanimously to deny.

B. Variances, Special Exceptions and Site Plan Reviews

<u>Old Business</u>

1. Variance No. 6-93 - Dale and Helen Finfrock, 221 Park Avenue; to allow construction of first and second floor additions to a nonconforming residence providing a rear yard setback of 5' in lieu of 15' required, and a side yard setback of 4' in lieu of 10' required, increasing lot coverage from 48.9% to 50.6%. R-C District. Deferred from January meeting. Mr. Heeke reminded the applicant the vote on this would have to be three positive votes as they are sitting as a four person Council and perhaps he would like to defer this to the next meeting of Council at which time there will be a full Council. Bill Wescott speaking for the Finfrocks requested they go ahead with this today. He stated he was retained by the Finfrocks to do the historic research and to stabilize the structure which goes back to before the turn of the century. He has been before the Council last month on this matter. He advised the issue here is the historic preservation of this property as the Finfrocks do desire to preserve this historic residence and they also want to have a healthy home and as it stands now it is not a healthy home. He advised his design has taken into consideration the redoing of the air conditioning system. He advised another matter is there never has been a proper kitchen in this home and they now cook out of a closet and the safety aspects of that are not desirable. He advised the design requires a new kitchen and the new air conditioning system. He advised Mrs. Finfrock's health has been severely impacted so the request is on the first floor to add fifteen square feet and on the second floor thirty five square feet, which is the total square footage impact. He has deleted the second floor alcove and on the first floor they have shrunk the kitchen and laundry room so the request is for an additional 15' square feet and on the second floor, to cure the sick building syndrome, they will install a new air conditioning system. Mr. Heeke noted the request of the Council has been responded to by Mr. Westcott. Var. 6-93

Mr. Moore agreed that Mr. Westcott has shrunk the application considerably and has complied with the Council's request. He reminded the entire house is nonconforming. Mr. Heeke noted this is an area which is constantly improving itself and becoming an attractive neighborhood in the Town.

Mrs. Douthit noted she could find no hardship but in all fairness, the lots are small and she didn't believe there was anything on that street that does conform to the present zoning. Mrs.Wiener moved to approve Variance No. 6-93. Seconded by Mrs. Douthit. On roll call the motion carried unanimously.

Consideration of Settlement of Lawsuit Re: Southeast Bank vs. Town of Palm Beach - deferred

C. Other

1. Consideration of Settlement of Lawsuit Regarding Southeast Bank, N.A. v. Town of Palm Beach - Mr. Heeke reported he does have a Conflict of Interest on this item and handed the gavel to President Pro Tem Weinberg to chair this portion of the meeting. Attorney Randolph explained the presentation will take some time and he believed there were objections to the settlement and with only three members addressing this issue, he suggested this matter be deferred to the next portion of the Town Council meeting, where there will be four members sitting as the Council and the Mayor. Mrs. Wiener agreed and she moved that this matter be deferred to the next Council meeting on March 9, 1993. Attorney Chuck Sanitore on behalf of the Preservation Foundation addressed the Council in support of the deferral.

The motion was seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Mr. Heeke assumed the chairmanship of the meeting.

Approval of Warrant List & Funds 1993

XI. APPROVAL OF WARRANT LIST AND FUND EXPENDITURES FOR JANUARY 1993 - Motion was made by Mrs. Douthit, seconded by Mr. Weinberg to approve the Warrant List and Fund Expenditures for January, 1993. On roll call, the motion carried unanimously.

Any Other Matters

XII. ANY OTHER MATTERS

Workshop on Water

A. Mr. Heeke advised at the City of West Palm Beach's Workshop on Water and on the Interlocal Agreement was set for Feb. 16, 1993 at 6PM in the City Commission Chambers and he requested authorization for the water consultants to represent the Town before the Commission and answer any questions they may have. He stated this would be Messrs. Ostermann and Sundstrom. Mrs. Douthit so moved. Seconded by Mrs. Wiener who suggested Mr. Dusey, Mr. Bowser and Mr. Doney to also attend that meeting as well as the Mr. Randolph to which Mrs. Douthit agreed. On roll call, the motion carried unanimously.

Mr. Heeke noted the negotiations have been proceeding with the full staff as the last two meetings he has met with Mayor Graham and her staff and in attendance were Mr. Dusey, Mr. Doney and Mr. Randolph, as well as Mr. Ostermann and Mr. Sundstrom. He indicated the discussions were greatly detailed between the respective staffs and he was impressed with the manner in which Mayor Graham leads the meetings and understands the complex issues. He visualized when the City of West Palm Beach Commission finishes their work that it will be brought back to the Town Council of Palm Beach for approval at which time the Council may either workshop or special agenda it to have full input from the Town's citizens.

Mayor Marix pointed out the situation in the City of West Palm Beach is quite different as the Mayor is a strong Mayor due to their Charter and the strong person in the Town of Palm Beach is the President of the Council and that is why Mr. Heeke was attending those meetings as it wasn't her job to do it.

Loftin Street Property

B. LOFTIN STREET PROPERTY. Mr. Heeke explained this is an ongoing matter about utilization of that particular space and Mayor Graham would like to see this area beautified. He has written a memo to the Town Council and furnished copies to the officials in West Palm Beach giving his feeling that it would be a grand idea as opposed to a high density office building, which would burden traffic at the northern bridge. He also made the suggestion that perhaps those buildings could be swapped for an equity interest in the utility system of West Palm Beach, so they would be more of a partner in the operation of that and these are ideas the new Mayor and Council can discuss in the future.

Recognition of Departing Mayor & Town Council

XIII. RECOGNITION OF DEPARTING MAYOR AND TOWN COUNCIL MEMBERS -President Heeke turned the gavel over to President Pro Tem Weinberg to chair a portion of the remainder of the meeting.

President Pro Tem Weinberg presented a plaque to Paul R. Ilyinsky in recognition of his service as a Town Council member for his five years of service.

President Pro Tem Weinberg presented a plaque to Bernard A. Heeke in recognition of his service as a Town Council member for six years.

President Pro Tem Weinberg presented a plaque to departing Mayor Yvelyne deM Marix in recognition of her service as the Mayor of the Town Council for ten years.

President Heeke assumed the chair and called for the unveiling of the portrait of Mayor Marix and presented her with a gift from past and present elected officials, noting Mayor Marix had eighteen years of dedicated service as before she was elected as Mayor, she served on the Town Council, and has set an example that he felt no-one could surpass. Mayor Marix thanked everyone for the beautiful necklace with inscription. Mr. Doyle Rogers addressed the Mayor and Council, indicating the Palm Beach Civic Association would like to participate in the recognition of the departing Mayor Marix and Town Council President Heeke who both have served with great distinction and deserve gratitude for their leadership and service. Mr. Robert M. Grace addressed the Mayor and Council, noting he and Mrs. Marix ran against two incumbents in 1970 and that was something that was definitely not done in those days, and they were successful. He noted Mayor Marix always had a commitment on preserving the unique beauty and fragile quality of life that is characteristic of this community. He recalled he and Mayor Marix did not agree many times, however, he never doubted her motivation and here 23 years later, she has remained loyal to those commitments which people sensed in her 23 years ago. He knew over those years excellent Mayors and Councilpersons have served and stepped aside but Mayor Marix turned out to be the long-distance runner and he saluted her and stated all Town citizens should do likewise.

Mr. Grace suggested to the new Council that just as Mayor Marix did in her time, set a precedent by being the first lady in Town government, the new Council was about to set a precedent by being the first Town government upon which there will be a majority of ladies and he implored them to conduct their business in a way which will make the Town citizens proud of this feminine government, asking them to reflect on the meaning of leadership and realize that it does not consist of finding out how the majority feels and then following.

Adjourn Sine Die

XIV. ADJOURN SINE DIE - Meeting adjourned sine die on motion of Mrs. Douthit.

XV. SWEARING IN OF NEWLY ELECTED OFFICIALS - The Honorable Gavin K. Letts, Judge, Fourth District Court of Appeals Judge Letts gave the oath to newly elected Mayor, Paul R. Ilyinsky, Council member Hermine L. Wiener, Council member Lesly Smith. Swearing In of Newly Elected Officials

XVI. CALL TO ORDER AND ROLL CALL. Meeting called to order by President Pro Tem Weinberg. On roll call, the following elected officials were found to be in attendance: Mayor Ilyinsky, Mr. Weinberg, Mrs. Douthit, Mrs. Wiener and Mrs. Smith. Roll Call

XVII. ORGANIZATIONAL ITEMS

*A. Election of Town Council President - Pursuant to Section 3.01 of Town Charter - Mayor Ilyinsky noted there is going to be a run-off election and the Council is one seat short at this time and he suggested the election of the Town Council President be at the March meeting when a full Council is seated and in the meantime Mr. Weinberg will act as the Council President. Election of Town Council Pres.

*B. Election of Town Council President Pro-Tem - Pursuant to Section 3.01 of Town Charter - Mayor Ilyinsky noted this will be put over to the March meeting also.

XVIII. COMMENTS OF THE MAYOR - None. Comments of The Mayor

XIX. PUBLIC HEARING Public Hearing

A. Landmark Designation for 260 Via Bellaria - Consideration of Resolution No. 6-93 - Mr. Frank reported the Landmark Preservation Commission has found that 260 Via Bellaria meets the following criteria for designation as a landmark: Res. 6-93

(A) Exemplifies and reflects the broad cultural political, economic or social history of the nation, state, county or Town.

(C) Embodies distinguishing characteristics of an architectural type or as a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmanship.

(D) Representative of the notable works of a master builder, designer or architect, whose individual ability has been recognized or has influenced his age.

Mr. Frank noted the architects are Maurice Fatio and John Volk. Mrs. Peters confirmed the proof of publication has been received and will be filed for the record. Mrs. Peters gave the oath to all of those who will be testifying for the public hearings.

Mrs. Day of Research Atlantica, Inc. gave her report on the property, noting the residence was designed in 1931 for Mr. & Mrs. Charles Chadwick and is of wood frame construction with a stucco exterior, and designed in the eclectic style. She noted this is a transition piece which spans the years between the boon times to the art deco era of the 1930's. She advised this is a U shaped planned house with the main facade facing Lake Worth. She stated the northern facade where the entrance is located is punctuated by a chimney and a barrel tile roof. She reported the windows are primarily casement, although there are some fixed glass windows on the residence. She pointed out the bay window which faces Lake Worth has 32 panes of fixed glass. The loggia and pool face the Lake and in 1940, John Volk was hired to do some additions to the property and a gate and entryway was designed for the northern side of the house, as well as a second story addition over the loggia. She advised the front door is quite Art Deco and this style is primarily repeated in the interior also and the panels which flank either side of the front door where designed by a French artist and were originally on the ship the S. S. Normandy. She recalled statements that these are the remnants of ocean liner art deco and the originals are still there in the entry hall. She advised the house is owned now by Mr. & Mrs. Frederick Supper and she wishes to commend Mrs. Supper for her enthusiastic participation in this project.

Mrs. Wiener asked Mrs. Day if eclectic was now being considered as a style of architecture? Mrs. Day responded it could be considered as a style, particularly when it blends the Mediterranean revival, one style into the Art Moderne section. Mrs. Wiener asked if the panels to which Mrs. Day referred were inside or outside of the residence to which Mrs. Day responded they are inside. Mrs. Wiener believed they are only concerned with the outside and she thinks it is a wonderful house and it should be landmarked, however, interiors are something that should not be discussed.

Mrs. Wiener moved the report be made a part of the record. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Mrs. John Volk addressed the Council indicating that the Suppers are happy to cooperate with the landmarking program.

Mr. Randolph read Resolution No. 6-93 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 NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Motion was made by Mrs. Wiener to approve the landmarking of 260 Via Bellaria which meets Criterion A, C and D. and adopt Resolution No. 6-93. Seconded by Mrs. Douthit with thanks to the Suppers for their cooperation which the maker of the motion accepted as an amendment to the motion.

B. Landmark Designation for 120 North County Road - Consideration of Resolution No. 7-93 - Mr. Frank explained the property at 120 North County Road has been approved by the Landmarks Preservation Commission with the following criteria: (C) and (D). He advised the architect was Bruce Kitchell. He stated this property was reviewed by Town Council after being landmarked in 1992 and there was some controversy over certain portions of Res. 7-93 the site being landmarked and most of the objections were confined to a parking area behind the building. He recalled Council requested this matter be taken back to the Landmark Preservation Commission who did restudy it and have a different recommendation which is to landmark the Floral Park Lots 178 and 179, which is only the east and south facades up to the ridge of the roof.

Mrs. Day of Research Atlantica addressed the Council noting this was part of a commercial block designed by Bruce Kitchell. She recalled the entire design and building process was in 1929 through 1935 and this building is the largest and the most prominent of the group, since it is the corner lot and is the Romanesque Revival Style and has some Italian and Mediterranean Revival influences. She commented it is of brick construction covered with stucco and has a hip style barrel tile roof. She felt the most prominent design feature which is hidden by the awnings are the arches which are Gothic and almost Moorish in feeling and the applied coquina and cast stone detailing is one of the things which makes this building unique. She pointed out the roof line was designed in brick with the dental molding and classical moldings at the roof line which have been stuccoed over and painted to look like they are part of the facade.

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

Mrs. John Volk, Chairman of the Landmarks Preservation Commission addressed the Council noting they have reviewed this very carefully and have felt it was a compromise in releasing the back of the building, but she felt for the streetscape and the sake of the Town, these facades should be landmarked. Mr. Weinberg asked if the owners were in agreement to which Mr. Frank responded the owners were resisting the landmarking in its original form, however, he didn't believe there was any objection to the landmarking of the facade.

Mr. Randolph read Resolution No. 7-93 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.

Motion was made by Mrs. Wiener to approve the landmarking of 120 North County as recommended by the Landmarks Preservation Commission for the facade only as it meets Criteria C and D and also approve the adoption of Resolution No. 7-93. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Meeting was adjourned for lunch.

Meeting reconvened by Acting President Weinberg.

Approval of Agenda

XX. APPROVAL OF AGENDA. Motion was made to approve the agenda by Mrs. Wiener with withdrawal of Item XXV.B.4 - Variance No. 11-93 Bessemer Building Corp.; Addition of XXV.D COMMUNICATIONS FROM CITIZENS; ITEM XXVI.1 ANY OTHER MATTERS-DISCUSSION ON THE HEALTH CARE DISTRICT; ITEMS XXIII. NEW BUSINESS A.1 AND 2 APPOINTMENTS OF LANDMARKS AND ZONING COMMISSIONERS BE POSTPONED TO THE NEXT MEETING. Motion was seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

APPROVED AGENDA (ITEM XXI)

Licenses & Permits

XXI. LICENSES AND PERMITS

A. Charitable Solicitations

Charitable Solicitations

1. Israel Tennis Centers Association, Inc.; No. 175-93
2. Palm Beach Crime Watch; No. 182-93
3. Hispanic Cultural Arts, Inc.; No. 205-93
4. Croquet Foundation of America; No. 216-93
5. National Wheelchair Sports Fund, Inc.; No. 255-93
6. The National Italian American Foundation, Inc.; No. 298-93
7. Jewish Arts Foundation, Inc.; No. 299-93
8. Hispanic Cultural Arts, Inc.; No. 305-93
9. Israel Cancer Research Fund; No. 308-93
10. Polish Cultural Society of the Palm Beaches, Inc.; No. 311-93
11. The Mary Obolensky Underwood Foundation for Leukemia Research; No. 320-93
12. Pilchuck School; No. 333-93
13. Best Buddies International, Inc.; No. 334-93
14. The Nature Conservancy; No. 349-93
15. The Catherine Moore Tankoos Breast Cancer Research Foundation; No. 350-93
16. Friends of Youth Award, Inc.; No. 351-93
17. Brown University; No. 352-93
18. Palm Beach Pops; No. 354-93

B. Beverage License

1. Application for a Change in Classification of an Alcoholic Beverage License from 2COP to 4COP by Nikiforos Georgios Stoupas d/b/a Casablanca Cafe Americain, Inc., 101 North County Road.

Regular Agenda

REGULAR AGENDA -

Motion was made by Mrs. Douthit, seconded by Mrs. Wiener to approve the Regular Agenda as amended. Motion carried unanimously on roll call.

XXII. LICENSES AND PERMITS

A. Charitable Solicitation

Charitable Solicitation

1. American Friends of the Hebrew University, Inc.; No. 101-93 - Mrs. Peters explained the American Friends of the Hebrew University were late in filing the results of their last year's solicitation and they need a waiver to the advertising rule as the application for this year's event was not received on a timely basis. Mrs. Fran Kaye addressed the Council noting she is new to the position and she had no knowledge there was a Results form due and it was late in being filed. Mrs. Wiener moved the Charitable Solicitation Permit be granted to the American Friends of the Hebrew University with a waiver to the advertising rule. She asked Mrs. Kaye to ensure the forms are filed in the future on a timely basis. Seconded by Mrs. Smith. On roll call, the motion carried unanimously. No. 101-93

2. Food Relief International; No. 272-93 - Mrs. Peters explained they were late in submitting their application and they need a waiver to the advertising rule. Mr. Weinberg called for a representative to speak on behalf of Food Relief and there was no response. A motion was made by Mrs. Douthit, seconded by Mrs. Wiener to move this item to the end of the agenda to allow the representative to address the Council. Motion carried unanimously on roll call. No. 272-93

XXIII. NEW BUSINESS

A. Appointments

Appointments

1. Landmarks Commission - Two Three-Year Terms to Expire March 1, 1996 - This matter was deferred to the March Town Council meeting. Landmarks Commission

2. Zoning Commission - Two Three Year Terms to Expire February 1996 - This matter was deferred to the March Town Council meeting. Zoning Commission

B. Other

1. Consideration of Palm Beach Civic Association's Proposal that Town Council Employ a Professional Management Consultant to Provide a Report with Specific Recommendations for the Delivery of Town Services at a Lower Cost (After Analyzing the Town's Organizational Structure and Operating Policies, with Special Emphasis on Town's Budget Systems and Procedures) - Mrs. Douthit suggested this be sent to the Finance & Taxation Committee meeting. Mr. Doney suggested the entire Council be involved and they set a date for a Workshop Meeting. Consideration of PB Civic Assoc. Proposal for Prof. Management Consultant

The former Mayor, Mrs. Marix addressed the Council suggesting that perhaps this could come up under Old Business, however, on the other hand, the new members need to be thinking about it as there is much to read about this subject. She believed this is a very important subject as they are dealing with a twenty eight million dollar budget. She suggested a Workshop meeting be held after the new member to the Council is sworn in and a determination made as to what direction the Council wishes to go on this matter, and that would be to hire a consultant or appoint a Mini-Grace Commission, however, she thought Mr. Doney should be in contact with the people who put on the Seminar which she and Mr. Doney attended on Rightsizing Government and see if they have any suggestions as to what kind of people should be invited to this Workshop and there be a lot of input from all kinds of people and she thought this should be done before they hire a consultant. She thought they needed to pay attention to where they wanted to go as a Town Council so a Workshop should be set for shortly after the run-off election.

After further discussion, a motion was made by Mrs. Douthit that a Workshop be held on this subject on March 12, 1993 at 9:30 AM. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

2. Consideration of Palm Beach International Airport (PBIA) FAR Part 150 Noise Study Update Mr. Doney asked that Mr. Jakubiak summarize his memorandum of Feb. 3, 1993, as the Town's representative on the Technical Advisory Committee (TAC) and he noted Lisa Waters is in the room from the Department of Airports and we should hear from her. PBIA FAR Noise Study

Mr. Jakubiak advised the last time the issues relating to noise abatement were considered by the Town Council at the March 10, 1992 Town Council Meeting, a letter was sent by then Council President Heeke relating to eight issues considering the FAR 150 Study. He stated three of those issues were rather important which the Town Council acted upon and he wanted to give them an update:

(1) the first issue was the elimination of Stage 2 aircraft and coming into 100% the Stage 3 aircraft. He recalled the position of the Town was to phase in at 100% the Stage 3 Aircraft as earlier as possible but no later than the year 2000.

(2) the second issue related to the expansion and the intensification of the uses of the airport facilities. He recalled the Town opposed any expansion which also included any consideration of extending the east/west runway.

(3) the third issue considered and supported was the fanning of aircraft, in addition to equal distribution on all four runways, they wanted equitable distribution at that time.

He advised the TAC is now ready to submit one final alternative and that was the reason for his updating memorandum. He stated they have short term and long term alternatives. He advised the short term alternative is to commence within the next 12 months, with a long term alternative be gradually implemented from one year to five years.

He recalled the TAC is composed of various representatives from surrounding communities and there are positions stated by TAC that are contrary to the Town's position. He was trying to bring the important issues forward to consider and advise the staff on how they would like to proceed in future TAC meetings, and the alternatives propose there be a Public Workshop followed by a County Commission Workshop which is now scheduled for May 25, 1993 and at that meeting, they are requesting an elected official be appointed and a staff person to attend that meeting and represent the Town's interest.

PBIA
Noise Study

Mr. Jakubiak noted there are some exhibits provided with his memorandum and Exhibit One refers to the base case scenario and the 1991 base case is where the TAC started in 1991. He stated the short term alternative is called Alternative 7 and the long term alternative is Alternative 1. He stated both the short and long term alternatives are similar except the long term alternative does assume 100% Stage 3 compliance and they should bear in mind that at this time the Airport has stated there are 74% rated Stage 3 aircraft for air carriers and for corporate jets, the percentage is at 66% but they do not fall under Federal guidelines for 100% Stage 3 compliance and it is projected that this percentage figure will carry on to about 1996.

Mr. Jakubiak noted he has provided the Council with noise contour maps which comes from the consulting study relating to the airport and these two maps compare Alternative 7 with the Base Case scenario and the long term alternative with the Base Case scenario.

He advised the Short Term Alternative - Exhibit 1A, the contour does fall over the Town of Palm Beach and Exhibit 1B shows the contour no longer exists over the Town of Palm Beach. He didn't think the Council should assume, because the noise contour does not extend over the Town, that the noise will disappear since corporate jets do not fall under the Federal guidelines and they are Stage 2 aircraft which are noisy aircraft.

He referred to Exhibit 2, which shows from the consultant's data, he has graphed out the runway usage of all four runways and this is based on the average of planes per day and both the short term and long term alternatives are compared to the Base Case scenario. He thought the graphs did show inequitable distribution primarily on the east and west runways and that would conflict with the Council's position that there should be more equitable distribution and Ms. Waters may be able to provide information as to why the northwest runways are not in greater use. He believed they wished to continue in the mode of more usage on the east and west runways.

Mr. Jakubiak pointed out on the northwest and southeast runway 1331, the Airport Officials have stated runways 1330 and 1331 are now gong to be shortened due to the widening of Southern Blvd., and that will have a negative effect, especially since this is the runway the Town asked for more usage.

Mr. Jakubiak felt the Council should address the fanning issue, as this Council has previously stated that it supports fanning and they needed to reconfirm that position or revise it if they feel it is necessary since the TAC will be voting on the fanning issue.

Mrs. Douthit knew there were other runways that existed however, in all of her 35 years of experience of using this airport, she has never come in or gone out of the airport other than on the east/west runway Mrs. Wiener asked if fanning of airplanes has been abandoned? She would like to see more usage of the north/south runways and she thought they needed to work on that.

Lisa Waters, Noise Abatement Officer for the Palm Beach County Department of Airports gave her comments. She has provided information over Bruce Kelly's signature which she believed was submitted with Mr. Jakubiak's memorandum and what she tried to do was to highlight a few of the areas she thought the Council may have questions. She clarified the short and long term alternatives which were referred to by Mr. Jakubiak and that is all of the short term actions outlined in his memorandum are included in the long term alternatives and they are implemented immediately. She told of the only factor phased in over a five year period in the long-term is the phase-out. She stated all of the alternatives would be implemented within a year after the study is completed and will be carried on throughout the five years.

Miss Waters addressed the north/west/southeast runway which is used primarily by the commuter operators and by the air carrier operators when the weather permits and when there has been in the past construction program s which required the utilization of that runway. She advised when the have the required utilization because of the crosswind, it is 1300 feet shorter and passenger loading and baggage loading would have to be curtailed in order to use that runway. She reported the TAC and the Department of Airport's concerns, the County concerns and the FAA concerns are safety and if they looked at the figures included by Mr. Jakubiak, they show an outline of the runway itself and the distance is shown between populated areas off the end of their much longer runway, the east/west runway, as it corresponds with the crosswind runway. She noted they have been quite fortunate in Palm Bach County at this Airport that they have not had an incident which does occur at a lot of other airports and that is airplanes overrunning the runway, or having to abort a takeoff and overrunning the runway trying to stop their aircraft. She advised there is an elementary school off the end of the northwest end of the airport and that is a primary concern. She told of airspace constraints which are not controlled from the County's perspective nor by the State but are controlled by the Federal government which limits the climbout of aircraft on the northwest and the southeast runways. She felt those limits create a substantial noise impact on those areas off the ends of those runways as those airplanes cannot climb out like they can in going east or west.

Ms. Waters referred to the standing issue - there were nine sets of alternatives totally run and two of them included the elimination of fanning. She stated this is a community issue and not a technical issue as the technical facts point towards the elimination of fanning within noise impacted areas once the flight paths are narrowed and controlled. She pointed out that as shown in the noise contours, the impact in Palm Beach narrowed by about ten blocks and 180 people and those were the individuals impacted by noise and that was presented to their Committee and now is being presented it to the Town Council for their information and they can act on what they think is best for this community.

She stated the Runway 1331 is a State Department of Transportation project and is not a Department of Airports project or a County project, although they have applied to the FAA for what is called an "Adaptation to Standards" which means they do not have to lose that 250' with the widening and she is not anticipating they will approve the Adaptation, so for the purposes of the study, they included what the noise impact of that reduction might be and that is the reason why it is in there. She recalled the consultants did show in their analysis that the air carriers that could use that Runway would not be curtailed significantly by the loss of 250'.

Mayor Ilyinsky asked what the plans were for the expansion of the airport? Ms. Waters stated they are none in the near future and they might have been had the economy been any better. She reported the expansion of the gates development plan was built on data that came about right before deregulation and the assumption was there would be other carriers coming into the airport with each wanting their own ticket counter and gate, etc.,

PBIA Noise Study

but actually what happened was the opposite and they are left with a fewer amount of air carriers, some slightly stronger than the ones that have dropped by the wayside and those carriers do not want to expand their ticket counters and their gates, so that development program has been pushed back considerably and the airport has instituted a Northside study, since the commercial aspect of the airport is on the north side to evaluate what the needs will be and it has been found the needs are not additional gates and terminals but parking.

Mr. Weinberg asked if she could indicate where they fan and where they don't fan and the reasons why. Ms. Waters advised currently there is fanning off of all the runway ends, twenty degrees north of straight-out, except to the east where it is twenty degrees north only; and to the west it is twenty degrees north and straight out; to the northwest, twenty degrees north and south and straight out; and to the southeast the same thing. She stated as part of the 1985 study, a compromise was reached called "the fanning no-fanning compromise" whereabouts the southbound fanning turn to the east was eliminated primarily because at that time there were fourteen to eighteen flights per day which were going to Miami and Ft. Lauderdale and the rationale was not to put them on the eastern runway at all and send them on the southeast runway and those planes ere DC-9s and 727's which are a smaller variety which can operate on that shorter end of the runway, so they were not flying over Palm Beach and the eastern areas at all but were sent straight out or fanned to the south. She advised at the present time there are only four operations a day which go to the south and two are wide bodied 757's and 767's, which when departing to the south, due to the Lantana airport which is only four miles south of the airport and it is uncontrolled, they are required to hold down those departures to 1500 feet until they are off the coast and this does impact the residents in West Palm Beach but also the South Palm Beach area as well.

Mr. Doney asked a question on a statement in the memorandum: "When these same actions are applied, the future 1996 operational data which includes one hundred per cent Stage 3 air carrier fleet mix, the population within the LDN 65 with contour drops to approximately 2,369 persons." Mr. Doney commented that the Town of Palm Beach will not be affected by the 65 LDN Contour, however, there will be residents of the Town who will experience unfortunate aspects of noise and asked if his understanding of that was correct? Ms. Waters confirmed that was correct as the 65 LDN Noise Contour delineation is a Federally Aviation Administration standard of noise impact and by no means is it a community standard. She stated some contours do go out farther than 65 and go to 60 or 55 and the fact is that even though the noise contour line for the threshold over the ground on which noise levels will be common at 65 or greater as they get closer to the airport, the people in West Palm Beach and all other areas on the side of that line will continue to see and to hear airplanes, but the difference is over the annual basis, the noise levels will not be about 65 LDN.

Mr. Doney understood the County Commission is the one with the ultimate decision making on this but leading up to that there will be a TAC meeting and the CCAN meetings and County Commission workshops and he thought it would be helpful if Ms. Waters identified those dates for hearings and proposed actions. Ms. Waters confirmed there is a Technical Advisory Committee Meeting planned for Feb. 10, 1993 at which there will be no votes taken on these issues talked about today but the vote will be taken at the March 10th Technical Advisory Committee meeting. She advised on March 9, 1993 there will be a large Public Workshop set up for all residents of Palm Beach County interested at the Armory Art Center in Flamingo Park in West Palm Beach between 5 and 9 PM; and the next Workshop will be May 25, 1993 and they will go before the Board of County Commissioners at 2 PM and brief them on the status of the 150 Study where Technical Advisory Committee and the Department of Airports will make their recommendations of operational alternatives, and of land use recommendations on how to prevent incompatible development around the airport in high impact areas.

Mrs. Wiener asked if she was correct in assuming that other than change in the types of aircraft, which is to the advantage of the airplane companies, which evolves over a period of time, that basically that is where the only relief will be? Ms. Waters stated that was correct with the exception of some minor changes in runway utilization. Mrs. Wiener hoped there would be some areas where they could get help, noting Miss Waters did talk about the fact that corporate jets do not fall within the Federal guidelines and wondered if there was anything there that the Council could do? Ms. Waters responded there are some plans for incorporating corporate aircraft departure procedures to allow them to climb out a little faster, cut back their power when they are over a residential zone. She stated the FAA has set up a Task Force to do the same thing with air carrier airplanes, however, those characteristics of procedure would not be available as although that is part of their study in the year coming up, they will be able to evaluate those procedures and pick what is best for the community. She recalled one of the items which will be discussed at the TAC meeting tomorrow will be the status of that Task Force's efforts to develop what is called "close-in" and "far-out" procedures for airplanes. Mrs. Douthit recalled at one time there was talk about having a separate airport for private corporate planes. Ms. Waters stated that was correct and North County is presently under construction but the problem is there are a limited amount of planes which will be able to operate on that runway because of its length. She anticipated the growth rate over the five years is about four or five per cent and they do have a relatively high percentage in comparison to other airports and particularly in South Florida. The FAA does exempt all corporate jet operators from their policies and the only thing in our favor here is the existing environmental operating fees and it is expensive for those operators to come in and out of here.

Mrs. Wiener felt what needed to be done was to tighten up and find those loopholes and do something about it. Mr. Weinberg indicated as he looks at the graphs it looks to him that 288 people in Palm Beach are going to have the noise, whether they like it or not. Ms. Waters stated that would be with the continuation of the fanning. Ms. Waters thought without fanning it would narrow it down to approximately 180 people and this would depend upon the Town's policy as the reason the fanning was left in was because of the opposition of certain areas to the east to eliminating fanning. Mrs. Wiener believed when they take that figure, the noise is still going to be there and they will be getting a lot more of it as it would still be the same amount of planes, Ms. Waters responded the areas in all of the other directions have also had this conversation and the thought has been the best way to control it is to eliminate the fanning procedure and whatever monetary relief and assistance is available to those people remaining in the contours would go all to those people in the contours, so currently, this alternative only keeps fanning to the east and fanning is eliminated in all other directions based upon the rationale that that is the best way to eliminate not only the ground area but the number of people impacted by noise. She advised West Palm Beach is equally divided on this issue as well, particularly within the Homeowners Associations as they have yet to hear a formal discussion by the Commission and the Mayor as to the elimination of fanning, but as with Palm Beach it does eliminate several thousand people and several hundred dwelling units from the noise impacted area when fanning is eliminated.

PBIA Noise STudy

PBIA Noise Study

Mrs. Wiener thought that looked great on a graph but when it comes right down to it, it doesn't sound so great if they were one of those people underneath it as they can't talk on the phone, they can't talk over the breakfast table or over a drink in the evening, and in addition the dirt which comes down from the airplanes is another factor, and she felt strongly that this community should be working together on this and a few should not be sharing the total burden of this.

Mrs. Douthit believed that fanning in the easterly direction should be allowed. Mr. Doney asked if anyone wishes to modify any of the previous policies they should let him know. Mr. Doney suggested they appoint an elected official to attend the May Workshop of the County Commission. Mrs. Douthit felt Mr. Weinberg should continue to serve in that capacity. Mr. Weinberg stated he is also a representative on this Committee for the Municipal League and what may be good for some of the communities would be bad for the Town. Mrs. Wiener suggested they appoint someone else from the Municipal League as his representation on the Committee for the Town was necessary. Ms. Waters noted the Town of Palm Beach does not have an appointment on the Citizens Against Noise Committee and only Commission Districts do so when the Municipal League appointment runs out, he could not be on that Committee as a representative from the Town of Palm Beach but he could contact his County Commissioner and try to get an appointment in that way. She advised the development order specifically mandates what representatives are on the CCAN. Mr. Doney thought that it would be difficult for Mr. Weinberg as the Town of Palm Beach's representative, as it may be in direct opposition of what other municipalities may want.

Mayor Ilyinsky felt that since Mr. Weinberg has been the Town's representative on airport matters, he should be the elected official that would represent the Town at the County Commission's Workshop Meeting in May to which the Council agreed.

Stephen Duggin of Via Del Lago addressed the Council recalling the Town Council's President in March of 1992 refers to fanning and states the Town does support fanning of aircraft to twenty degrees and he believed this should have meant all aircraft but they will find that this is interpreted by the Airport and by the Noise Abatement Office to really mean the fanning of the noisier aircraft and all Stage 3 aircraft are now being run in a straight line over the island and are not being fanned. He stated as the airport moves to compliance, the policy will really be to send all of the quieter aircraft out in a straight line. He knows these aircraft do not reach the 65 decibel level but they still create noise and it is his belief that noise is not being equitably distributed.

Mrs. Douthit believed when they discussed fanning at the March meeting, they meant that all aircraft would be fanning. Mrs. Wiener agreed. Ms. Waters explained that going back to 1985 and the original study the fanning - no fanning compromise that was reached stated because of the lower decibel noise levels, Stage 3 airplanes would go straight out and Stage 2 airplanes would be fanned on an alternating basis. She stated what brought on that study in 1985 was the development order for the airport and the Development of Regional Impact (DRI) that was done for the new terminal and that study which also included the study of noise, basically eliminated the fanning.

Mrs. Wiener asked if there could be anything done about that? Mrs. Douthit suggested it be rearranged and that all airplanes taking off in an easterly direction should be fanned. Ms. Waters responded that is something that is not being analyzed as part of this study but in the five year program when they are at 100% Stage 3, a recommendation has been made that fanning be considered. Mrs. Douthit thought that was hogwash. Mrs. Wiener commented they certainly did not want to shoot the messenger but this is where the tax dollar goes down the drain as they are talking at their meetings and they are meeting and joining together and having studies and there are many people on the payroll and it is a wonderful thing, but it doesn't solve the problems. She commented now they find out that all the problems they thought were solved are not being solved and the Town of Palm Beach is not happy about it. Mrs. Smith asked if Ms. Waters was stating that since 1985, nothing has been done to alleviate the noise level of the airplanes going over Palm Beach. Ms. Waters stated she was not telling them that in the least and as a matter of fact, the contours which Mr. Jakubiak prepared, show exactly to what extent the noise has been reduced. She recalled in 1985, the number of people within that contour was about 15,000 and it has been reduced to approximately 10,000. Mrs. Smith thought she was stating nothing has been substantially done to reduce the noise to those 10,000 or even 1,000 people who are affected. Ms. Waters disagreed noting quite a bit has been done as there are policies currently existing and there are environmentally operating fees and the noise limits that restrict the noisier airplanes from operating at the Palm Beach Airport and all sorts of night time restrictions have been instituted. Mrs. Smith responded she knows about the night time restrictions but there are many airlines which cannot conform since they don't have the money to switch over to the Stage 3 aircraft, but the noise is unbearable for those people at the east end of the runway. Ms. Waters stated it probably is unbearable for those at the east end of the runway. Mrs. Smith asked how much good does it do for the Town Council to sit here and say they don't like it? Ms. Waters felt to participate in the process was very important and part of the compromise reached in 1985 was due to the involvement of West Palm Beach and Palm Beach's involvement and other communities and there cannot be a noise study for an airport without community involvement. She stated there are many communities involved in different areas around the airport and they all just cannot agree, so it comes down to a consensus building process and there are items which will come about as part of the study that the Town of Palm Beach will not be pleased about, but there are items which they will be pleased about. Mrs. Douthit asked if they couldn't agree that all airplanes should be fanned over Palm Beach as she was under the impression that the fanning was to cover all airplanes, not just the extra noisy ones. Ms. Waters stated that is in discussion as part of the long range plan over a five year period when the Stage 3 airplanes are at 100%. Mrs. Smith felt the corporate jets should also be a part of the fanning as they are very, very noisy. Ms. Waters advised even when the airport is 100% Stage 3 with their carrier airplanes, the corporate jets will not be 100% Stage 3, so fanning if it remains in its' existing form will continue with those Stage 2 airplanes. Mrs. Smith thought they could institute stricter controls at the Palm Beach airport and if they didn't conform they shouldn't be allowed to be there. Ms. Waters explained there is a new Federal policy which restricts them from a legal standpoint of what they can do, however, the airport and the communities are willing and in fact so are some of the operators, but unfortunately it cannot be done fast enough for all of those concerned.

Mr. Weinberg believed there was an improvement in the fact they were able to change the curfew as it used to be 10 PM to 7 AM and now it is 10 PM to 10 AM. Ms. Waters clarified the 10 PM to 7 AM curfew stands but the west flow is what is being curtailed.

PBIA Noise Study

Mrs. Douthit made a motion that the letter of March 15, 1992 continue with regards to the policy of the Town of Palm Beach and that the Town Council underlines the fact they wish to have fanning of all planes. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

A short break was taken.

Meeting reconvened by Acting President Weinberg.

3. Consideration of Letter Dated December 21, 1992 from Mayor Nancy Graham, City of West Palm Beach, Regarding Town-Owned Building at Northwest Corner of Intersection at North Olive Avenue and El Campeon Boulevard - After discussion, a motion was made by Mrs. Douthit, seconded by Mrs. Wiener that this matter be deferred to the March 9, 1993 Town Council Meeting to be considered by a full Council. On roll call, the motion carried unanimously.

4. Consideration of Selection Team Recommendations for Architectural Firm(s) and Authorization for Town Manager to Execute Contract(s) Regarding Same - Mr. Doney summarized the memorandum from Mr. Bowser through Mr. Dusey identifies the selection process and the top two firms which were recommended by the Selection Committee were:

(1) Digby Bridges, Marsh & Associates, P.A.
(2) Slattery & Root, Architects

and the recommendation is the Town Manager be authorized to execute a continuing services agreement with the two firms with an expiration date of January 1, 1997.

After hearing the comments of Mr. Bowser on the selection process, a motion was made by Mrs. Wiener to approve the two firms recommended by the Selection Committee as architectural consulting firms over the next four years and the Town Manager be authorized to execute the Continuing Service Agreements with those firms. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Appeal of Denial of Right-of-Way Permit by Environmental Design Group

5. Appeal of Public Works Director's Decision to Deny Right-of-Way permit by Environmental Design Group to work in Right-of-Way at 640 South Ocean Boulevard (on South Ocean Boulevard and/or El Brillo Way) - Mr. Frank Moroni of the Environmental Design Group representing Mr. & Mrs. John A. MacDougal at 640 South Ocean Blvd. addressed the Council, indicating they are making a special request to set up a crane on a side street, El Brillo Way as the permit request was denied. He would like special consideration to set up the crane for a few hours. He stated over the last few months five Cocoanut palms have been lost on the property and they have been renovating the house and replaced the landscaping and now they wish to replace the five Cocoanut palms in the east yard to complete the renovation.

Mr. Dusey reported at this time of the year, they normally constrain the work in the rights of way to emergency type work and he believed the planting of the palm trees could wait until after May 1st, when there is less traffic. He advised the original request was to block a lane on South Ocean Boulevard which was denied and they made the request for the side street, but it is a narrow street and the crane would completely block the roadway. Mr. Weinberg asked how many hours would they be needing to block the roadway? Mr. Moroni believed it would be four hours. Mrs. Wiener asked if an emergency vehicle could get through there if the crane was blocking the road? Mr. Dusey stated they could have access from a back way. Mrs. Douthit asked if any of the neighbors had any objection and Mr. Dusey stated they have not been notified, as the request was denied and he believed that it would only block the access of one residence. Mr. Moroni explained that house has been boarded up all season and there is no-one in residence. Mrs. Wiener asked if there was any way the crane could be located on the property itself to do this work to which Mr. Moroni responded it was not possible as the house was entirely surrounded by walls.

Mrs. Douthit moved for approval on the grounds that the one neighboring resident whose access would be blocked is not in the house and for the sake of more palm trees in the Town, and the time would be no more than five hours. Mrs. Smith asked if they were assuming the resident which is affected would not be returning to Town? Mr. Moroni stated he would be willing to get in touch with that resident to ensure they are not contemplating returning soon, but the house is completely boarded up with storm shutters and there is no-one there. Mrs. Wiener commented she doesn't wish to go against staff and asked Mr. Dusey his feeling about this? Mr. Dusey responded his concern is the policy question and if the Town Council doesn't mind the blocking of the street, they will issue permits like this in the future. Mrs. Wiener and Mrs. Douthit did not agree as there may be circumstances and each application should stand on its own. Mrs. Smith asked if the emergency vehicles were aware of the fact there was a back way in to this area. Mr. Dusey responded the applicant would be required to notify the Police and Fire Departments as to where the closure is occurring. Motion was seconded by Mrs. Smith with the conditions. On roll call, the motion carried unanimously.

XXIV. PUBLIC HEARING

Public Hearing

Class I Dune Vegetation Removal

A. Consideration of Class I Dune Vegetation Removal, Replacement or Maintenance Permit Application at 2100 South Ocean Boulevard - Mr. Robert Barron, Coastal Management and Consultant addressed the Council indicating he has designed this project and has carried it through the permitting process. Attorney Rebecca Larson representing several of the ground floor residents addressed the Council, indicating her clients have been deprived of a view of the ocean.

Mr. Barron read the project description which consists of the removal of a portion of the existing sea grape canopy by staged pruning; removal of all non-native species from the Dune; removal of a strip of sod upland of the Dune followed by the installation of coastal native species; gaps on the seaward fore dune will be stabilized by revegetation; fertilization; temporary irrigation and maintenance pruning and monitoring will follow to ensure the establishment of a diverse and healthy dune system. He recalled it had been a long process for the neighboring property to go through the permitting process and there had been testimony that the pruning would cause the death of the dune and increased erosion. He added the entire testimony that led up to the permit issuance was read by an objective Department of Administrative Hearing Officer of the State of Florida and among his conclusions were the dune management program is not likely to have any material adverse impact on the dune process, the dune eco system, the dune itself or the vegetation growing on the dune; nor will it have any effect on any other property in the Town. He advised the neighboring project has been completed and there is no observable damage to any of the seagrapes or to the dune and very little measurable damage to the supplement plantings and the project has been stabilized and removed from irrigation and is existing on its on with ongoing management to remove the occasional exotic vegetation which comes up. He felt in the absence of demonstrative negative consequences, he feels this is an approvable request. He reported if this is approved, there will be created the largest preserve for rare and endangered coastal plants in Palm Beach and the second largest in the County.

Attorney Larson addressed the Council noting the seagrapes in front of her clients' property has now grown to 30' and in their natural state, these seagrapes are usually three to five feet tall and that is the level they seek to trim them to at this time. She referred to the Hearing Officer who was Judge Parrish to which Mr. Barron referred, did make other findings which she viewed as significant, and that was the present height of the seagrapes is unnatural and without the buildings, the seagrapes would be at three to five feet. She believed if there were a 200 year storm, the seagrapes growing at the crest of the dune would have no positive effect on the dune as tall seagrapes are more vulnerable to being blown over. She thought most importantly all of the other projects, including the neighboring project, that have done this type of trimming are beautiful and show no detrimental effect on the dune. She advised an aerial survey of the coast of Palm Beach indicates that the property at 2100 property is the only property in Palm Beach which has this 30' wall of seagrapes. She advised other condominiums including 2000, Beach Point, Enclave and Atrium have attractively and safely trimmed their seagrapes with no repercussions.

Mr. Moore reported the application has been reviewed under the terms of Ordinance No. 10-92 and the Town's environmental consultant on these matters, Mr. George Gann-Matzen has reviewed it also and consulted with the applicant and his report of 2-8-93 has been furnished and he called on Mr. Gann-Matzen to address the Council.

Mr. George Gann-Matzen, addressed the Council, noting the differences he has seen between this project and the 2000 project, are not major or deleterious. He has provided a list of modifications he would suggest be conditions on the issuance of this Permit and has discussed them with Mr. Barron, and with one exception he is in agreement.

Mr. Gann-Matzen read the recommendations he proposed:

(1) no broadcast use of herbicides to control exotic species should be allowed;
(2) the dune should be maintained free of exotic species as long as the vegetation is maintained at 28.5' in elevation;
(3) installation of plant materials should take place after pruning to 37', not after re-establishment of vegetation at 28.5';
(4) initial trimming should take place between April 1, 1993 and June 1, 1993, to prevent unnecessary damage to vegetation associated with winter storms and to allow for sufficient establishment prior to the hurricane season;
(5) the final plant list should be approved by the Town prior to installation;
(6) quarterly monitoring reports as described in Palm Beach County Permit No. CP-657-92 should be submitted to the Town;
(7) monitoring items a-f should be mandatory;
(8) monitoring items g and f, which are currently under negotiation between 2100 and Palm Beach County, should be provided to the Town based upon final agreement between 2100 and the County.

He stated the items labeled g and h would be going above what should be required and should not be a part of the requirements of the Town. Mr. Moore stated the Plan has been reviewed by Palm Beach County and they have initiated several conditions and one of the requirements of the Town's Ordinance is that before permits can be issued, the applicable County, State or Federal permits must be in hand. He believed that that is the case here and they do have the County approval.

Mr. Weinberg asked how the Town would monitor this project? Mr. Moore advised the consultant employed by the applicant, Mr. Barron, would provide evaluation which would include photographs and assessment of the growth. He believed there was a test section at the south end of the property and these monitoring reports would be submitted to the County for their review and to the Town for Mr. Gann-Matzen's review and this would be on a quarterly basis.

Mr. Moore advised the item that they are at odds with with Mr. Barron is the time frame in which Mr. Gann-Matzen believes the cuttings should be done and that should be addressed by the Council.

Mr. Weinberg called on Mr. Barron for his comments on this question. Mr. Barron reported he has been in touch with Mr. Gann-Matzen about this and he has no problem with pruning at the present time and his reasons for that is he has over 160 projects of this nature in Palm Beach County and South Florida and he has 20 projects underway where the seagrape pruning is not an issue. He advised he has a number of clients in Delray Beach who regularly and year round for a period of twenty years have maintained seagrapes to this level with no damage whatsoever, so he thought it was a low risk situation and needs to be balanced by the fact that if they ask the 2100 people to wait until April, they are asking them to wait another entire season as this is a seasonal residence and by the time they prune the seagrapes in April, most of the residents would be on their way home. He advised the Permit conditions imposed on them by Palm Beach County require that in the unlikely event there is any mortality in the seagrapes, they would be required to replant them and the Association has already acknowledged that and will accept that burden.

Mr. Barron referred to the monitoring program which has been mandated by Palm Beach County is an extensive, dune restoration program that he has ever seen and the monitoring over a three year period will actually cost more than the installation of the project itself and requires participation of the University of Florida to do a root density analysis which will tell them the extent to which the roots are changed by this entire project and includes quarterly photographic documentation and measurements and is quite substantial.

Mrs. Smith asked why, since they have designated this as one of the outstanding examples of coastal dunes in Palm Beach County, waiting six weeks would make such a difference as it is known to have occasional freezes in the area. Mr. Barron agreed there are occasional freezes but in his 18 years of experience in doing coastal restoration, he has never seen but one that did any significant damage to the dune system, he views this as extremely low risk. Mrs. Smith noted they are talking about six weeks to the beginning of the growing season and she is not concerned what happens in any other place but here in Palm Beach. Mr. Barron advised he has experience on projects both north and south of here and he has no reason to be concerned over the potential risk by proceeding at this time. Mrs. Smith recalled four years ago the temperature dropped below the freezing line and most of us lost plantings. Mr. Barron advised that particular freeze did not do substantial enough damage to any of the dunes under his purview to cause him to be concerned. Mrs. Douthit recalled in her thirty five years of gardening here, no-one ever pruned anything until after the full moon in March.

Mr. Gann-Matzen agreed with Mr. Barron that this is a low risk, but he has to point there could be a possible problem as if the trimming were allowed to proceed now and there was a problem later down the road, no-one would be surprised. He agreed the risk of freezes or heavy winds associated with winter storms is low, but the risk is there and he merely wished to point that out. He stated there are two issues - one is the potential for freezing temperatures and they should understand that this dune is different in that it does have thirty foot seagrapes that will be trimmed down to two feet and there virtually is no other vegetation under the seagrapes. He stated when they are trimmed there would be stumps sitting there with no protection so freezing events would damage the trunks which would be beginning to resprout. He believed if there was a serious high wind storm, they could look forward to a lot of transport of sand off the dune and to the back dune areas as there would be no vegetation on top of the dune to hold it in place.

Mr. Barron advised they are obligated by the County to replant this area on a density of 36" centers and they would probably be increasing it for the sake of aesthetics, so they do plan to have this replanted as they prune the seagrapes, which would essentially eliminate the wind problem. He felt the low risk coupled with the fact that the Association is accepting the responsibility of replanting, and he felt there was justification to proceed now. Attorney Lawson added that with respect to the April trimming, they are talking of a low risk situation and the Town has some insurance due to the fact her clients have agreed to insure that if the low risk situation does occur, they will remedy it. She recalled that taking this permit application through the County has been a lengthy process, and basically when they started the process, they were still within the trimming season of last year.

Mr. Weinberg asked what the guarantee was exactly? Mr. Barron advised it is part of the Permitting conditions with the County and normally would be the Permitting conditions from the Town, and additionally, the mandate is that as long as the dune is being pruned, it will be maintained free of exotics and in other way managed for its benefit.

Mrs. Smith asked if the recommendations made for conditions by Mr. Gann-Matzen would be part of the granting of the approval by the Town Council and asked if Mr. Gann-Matzen would be the one to see that they are carried out and was he under contract with the Town to which Mr. Moore responded affirmatively.

Mayor Ilyinsky believed it should be granted as the applicant has agreed to replace them if there is a disaster. Mrs. Douthit reiterated her statement of not pruning until after the full moon in March. Mrs. Wiener commented she has a little problem with low risk versus no risk and asked what would happen if there was a frost and the plants would have to be replaced, would there be any change to the dune? Mr. Gann-Matzen advised this proposed process is going to be superior to what is there now and there would be no negative consequence in the long term, if all the plants would die and would have to be replanted; but in the short term, he would be more concerned with high winds which would blow sand off the top of the dune, however, if they are willing to remedy that and replace that sand if it is blown off and replace the plantings, then in the long term, it probably would not matter.

Mrs. Douthit made a motion to approve, providing the pruning is done after the full moon in March. There was no second to the motion. Mr. Barron reiterated they do plan to plant as they go along pruning and there the wind issue would be moot if more plants were being installed in this area. Mr. Weinberg asked how long would it take to do the job? Mr. Barron responded it could be completed within a week, depending upon the ease of access to get their equipment in and out.

Mayor Ilyinsky pointed out the Town' consultant has not stated it is a bad idea but just wanted to be sure the Council was aware there may be a risk in doing it now and he did not believe they should be held up for six weeks as they have given assurances they will replace sand or plants if anything does go wrong. Mr. Barron responded that these same risks would be inherent in any landscaping project at this time of the year.

Mrs. Wiener understood that the bottom line is the same one way or the other and therefore she would make a motion to grant permission to 2100 South Ocean to move forward with all of the guarantees that have been included and those guarantees as a matter of fact be supervised by the Town and that the work and the replanting be done in as rapid a time as possible. Mr. Weinberg handed the gavel to Mrs. Douthit to chair the meeting and seconded the motion. Mr. Moore clarified that the conditions submitted by Mr. Gann-Matzen would be adhered to with the exception of the time for trimming, Item 4, but the other conditions would be a part of the motion to which the maker and seconder of the motion agreed.

Mrs. Smith recalled the statement was made that the existing seagrapes do not have any importance and asked if he was stating the seagrapes themselves do not contribute to this being one of the outstanding coastal dunes in the eco-system. Mr. Barron disagreed that he made the statement the seagrapes have no importance but what he said is they have an unnatural situation there and seagrapes while an integral part of the dune system in this particular case have overwhelmed the dune and are a dominant species and what he wants to do is put some balance back into that and reinstall some of the many species that would have been there before it was developed. Mrs. Smith wanted to be sure they were an integral part of the dune to which Mr. Barron agreed noting the Plan does call for the addition of smaller seagrapes.

On roll call, the motion carried unanimously. Mrs. Smith commented she will join the Town in monitoring this project.

XXV. DEVELOPMENT REVIEWS

Development Reviews

A. Major Matters Previously Considered by the Architectural Commission at Their Meeting on January 27, 1993 - Mr. Moore explained Item B84-92. Mr. & Mrs. James Stern Zisson should be removed from the agenda as it has been appealed and the attorney for the applicant, Mr. Paul Prosperi has agreed to waive the 30 days provision to have the appeal heard and requests this item be placed on the March 9, 1993 Agenda.

Mrs. Douthit moved for approval of the Major Matters considered by the Architectural Commission at their meeting of January 27, 1993 with the exception of B84-92 - New Residence for Mr. & Mrs. James Stern Zisson, 1679 N. Ocean Blvd. Seconded by Mrs. Wiener.

The major matters were:

B73-92 - New residence for Sidney Kimmel, 1020 N. Lake Way. - Deferred.
B87-92 - Construction of new two family structure for Brazilian Development Co., 240 Australian Avenue. - Deferred.
B99-92 - Demolition and construction of new residence for Mr. & Mrs. Robert Mesiter, 1375 South Ocean Blvd., - Deferred.
B25-92 - Revisions to residence of Alice Meerwarth, 243 Merrain Rd. - Approved.
B59-92 - Landscape Plan for Bernard Green, 583 N. Lake Way - Approved.
B66-92 - Revisions to residence at 248 Bahama <lane (Sandy Palm Beach Properties, Inc.) - Approved.
B62-91 - Driveway Posts for Agi Rosos and Jacques Hava, 101 El Bravo Way. - Approved.
B58-92 - Gate revision to residence of Dr. & Mrs. Marvin Rosenberg, 2 La Costa Way. - Approved conditionally.
B22-92 - Revision to Landscape Plan for Mr. & Mrs. Francis Guyott, 4 La Costa Way. - Approved.
B51-92 - Landscape Plan for residence of James Sirigotis, 256 Miraflores. Deferred.
B1-93 - Addition to residence of Mr. & Mr. Richard Furland, 745 Hi Mount Road. - Approved.
B2-93 - Addition and Remodeling to residence of Jane Cummings, 583 E. Woods Road. - Approved conditionally.
B3-93 - Porte Cochere Addition for Mr. & Mrs. Parker Bryant, 159 Australian Ave. - Approved.
B4-93 - Revisions to residence of Joel Martino, 109 Ocean Terrace - Approved.
B5-93 - Cabana for June Barrymore, 260 South Ocean Blvd. - Approved conditionally.

On roll call, the motion carried unanimously.

B. Variances, Special Exceptions and Site Plan Reviews

New Business

Var. 8-93

1. Variance No. 8-93 - Kathy Klaine, 157 Dolphin Road; to allow construction of a single family residence to continue at a front yard setback of 26.41' in lieu of 30' required. R-B District. - Attorney Bill Sned addressed the Council on behalf of Kathy Klaine noting there was a surveyor's error at 157 Dolphin Road. Architect Robert Bell addressed the Council exhibited plans and elevations of the proposed residence. He noted on the street there is not a single residence on the street which has a thirty foot setback. He is basically asking for the setback in the front to be at 26.41' in lieu of the 30' required. He stated his reasons are (a) - the surveyor's error in staking out the house was not detected until the survey for overall building height was completed; (b) the nonconforming residence is only 33.5% of that building face or dimension; (c) non-conforming portion of the residence is single story in nature and the remainder of the residence will be at two stories; (d) the abutting owners on the side and rear are not affected by the non-conforming portion of the residence; (e) the owner agrees to install additional landscaping to minimize the reduced setback.

Mr. Moore noted there was a surveyor's error and they believe it was an honest error and they have no objection to the application. Mrs. Douthit noted there was a letter from a neighbor asking for extra landscaping to screen this and asked if the applicants were willing to provide that? Attorney Sned stated they have no problem with furnishing the additional landscaping.

Nancy Elliott, a neighbor to the rear, addressed the Council noting the house seems to be very large and she wanted to ask the Klaines to do some things which would allow the neighbors some privacy, such as having a fence installed and the neighbor to the side would like shutters to be put on the windows at the rear of the house. Mrs. Smith asked if they expressed their concern about the house looking excessively large to the Architectural Commission? Mrs. Elliott responded they did not as they were not in Palm Beach at the time it was considered. Mrs. Elliott pointed out on the north side of the roadway there are small houses and she hates to see the Estate Section moving into the north end.

Attorney Sned stated they would agree to share a fence to which Mrs. Elliott stated she was not willing to share the fence and would like the applicant to be fully responsible for the fence installation. Attorney Sned indicated he has letters from seven neighbors who are directly affected by this variance request.

Mr. Weinberg thought the graphics were not very clear and suggested to Mr. Bell that the next time he comes before the Council to have more specificity on the plans presented.

Motion was made by Mrs. Wiener to approve Variance 8-93 with the proviso that whatever landscaping situation which needs to be taken care of with regards to the neighbor to the rear and they will work together and do what needs to be done. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Var. 9-93

2. Variance No. 9-93 - David W. Ralston, 1426 North Ocean Boulevard; to allow construction of a swimming pool providing a rear yard setback of 7' in lieu of 10' required. R-B District. Mr. Ralston addressed the Council noting this is a variance for a triangle which consists of a total land area of about 20 square feet in order to have a pool 15 x 30'. He noted the lot line is of an irregular shape and this is the only place on the property where the pool can be built. Mrs. Douthit asked why they couldn't have a free form pool. Mr. Ralston stated they wish to use the pool for health purposes and with a free form pool, they could not swim back and forth. He reported the house is designed as a Bermuda Style house and there are no curves in the house so a free form pool would not set very well. He felt the variance was diminimus and is caused by the irregular lot line in the rear.

Mr. Moore agreed there is an irregularly shaped rear lot line and the pool is perpendicular and 10' from the other property line. He believed the pool could be redesigned and angled further toward the house and staff has no objection based on the shape of the lot which is irregular.

Mrs. Wiener moved the Variance No. 9-93 be approved as the hardship has been proven as to the land being an irregular lot and it is a minimal variance. Mrs. Douthit noted there was a complaint received from a neighbor. Mrs. Wiener asked Mr. Ralston about it and he stated he just became aware of the objection yesterday. He recalled this neighbor did get a variance for increased lot coverage when they put an addition onto their house. He was annoyed with them since they never contacted him personally. Mrs. Wiener noted they do not state a reason of why they are objecting. Mrs. Douthit seconded the motion. On roll call, the motion carried 3-1 with Mrs. Smith voting against the motion stating her reason is because she didn't think they made enough effort to cut down on the size of the pool which is nonconforming and this may set a precedent and it had nothing to do with the complaint of the neighbor.

3. Variance No. 10-93 - Wolf Peter Mahler, 155 Peruvian Avenue; to allow construction of an addition to a nonconforming multi-family dwelling, providing a side yard setback of 9.7' in lieu of 20', and increase lot coverage from 32.4% to 35.2%; maximum permitted is 30%. R-C District. - Architect Robert Bell addressed the Council for Mr. Mahler, noting this is a 50 by 90 foot lot and in the front of the lot is a two family residence and over the years, it has evolved from a single family residence with a garage with an apartment and now there is one floor section with two apartments in it and a last addition added another apartment. He advised the applicant wishes to remove a kitchen to make a dining room and relocate the kitchen to another area. He stated they are requesting 130 square feet. He stated there are actually six units on the property although there are only five meters, and the applicant will reduce it from six units to three units with the remodeling. He noted the reduction in density will be achieved and green space will be increased by the elimination of walks and stairways. He advised the new addition will not be visible from the street and the new setback for the addition will line up with the rear portion rather than the front setback of 4.7'. Var. 10-93

Mrs. Smith requested a drawing of the elevations which Mr. Bell exhibited to the Mayor and Council. Mayor Ilyinsky noted it is a reduction in density which the Council always like to see.

Mr. Moore advised staff has reviewed the application and there will be a reduction in density and the yard setback will be in line with the existing, and the lot coverage being requested is in the interior. He noted it is an increase of lot coverage on the property which he thinks is offset by the reduction in density. He asked if the parking would be offstreet to which Mr. Bell responded affirmatively. Mr. Moore advised the staff then finds there is good reason for the Council to approve this variance. Mrs. Smith asked if they explored the possibility of building this addition from east to west so it wouldn't have to go into the setback? Mr. Bell responded the plan they presented would be the best as to build it from east to west would take away the landscaped area already there.

Mrs. Wiener commented that based on the reduction in density and the fact that the increased lot coverage is on the inside, she would move for approval of Variance No. 10-93. Seconded by Mrs. Smith for discussion purposes.

Mrs. Smith asked if there could be a deed restriction that this property will stay at the three units and not be increased after getting the variance. Mr. Moore advised they couldn't increase the density without coming back to the Council. Mr. Bell advised they had no problem with this condition.

Mrs. Wiener accepted the amendment to the motion. On roll call, the motion carried unanimously.

4. Variance No. 11-93 - Bessemer Building Corp., 222-224 Royal Palm Way; to allow placement of a commercial sign on a garden wall in lieu of solely on a building front. C-OPI District. Letter dated February 4, 1993 from Doyle Rogers requesting withdrawal. This variance was withdrawn. Var. 11-93

5. Variance No. 12-93 - Robert G. Bustani & Associates, 219 Chilean Avenue; to allow a parcel separation, retaining lots 23-26 with the multi-family dwelling, thereby creating a nonconformity in required lot size providing 11,625 square feet in lieu of 13,333 required and providing a created side yard setback of 11' in lieu of 12.5' required. R-C District. Attorney Peter Broberg addressed the Council to legitimize a use and utility of a property that has been going on for many years and actually before the Zoning Code was adopted. He stated the property has a parking lot on the east side and is a parcel of land with five contiguous small lots. He advised on three of the lots there is a parking lot and to the east there is a two family lot with two houses on it. He requested the variances which are the RC Zone requires a lot to have 13,333 square feet and this property as it will be divided so that the lot will not be non-conforming. He stated the residential lot is 11,635 feet in lieu of 13,333 feet. He advised the other variance requested is on the east side of the property, which is right next to the house in the rear, the new property line which they are seeking to establish will be 11' from the structure, opposed to 12.5', so they are 1.5' short on the back parcel. He felt by granting the variance the Town would be getting additional green area as he wishes to install a ficus hedge which would divide the property. He estimated they would be removing over 400 square feet of pavement and adding approximately five per cent of green space. Mr. Moore believed it would be 4.7 per cent. Mrs. Douthit noted there will be fewer parking spaces. Mr. Broberg responded the parking lot as presently used has 21 spaces, and four will be moved over to the residential area and 17 will remain, so there really are no displaced spaces. Var. 12-93

Mr. Broberg explained the hardship would be this is an undersized lot. He felt this would be a benefit to the Town in an area that everyone is trying to beautify. Mrs. Douthit asked if the residential portion of this variance could be subdivided for any purpose as it has two dwellings on it at the moment. Mrs. Smith wondered if the two dwellings were demolished, could they put in a cluster of townhouses to which Mr. Broberg responded they could possibly put up three units. Mrs. Douthit asked if they would be willing to have a Unity of Title? Mr. Broberg responded this would present a problem as the mortgage has both the lot and the house on it and he didn't think the Bank would allow this property to be tied to another property and continue with the same mortgage. Mrs. Douthit believed the 17 parking spaces should remain with the office building. Mr. Broberg stated that was true, pointing out they are not however required to be with the office building. He felt there could be a compromise which would accomplish the same purpose in that a new deed would be drawn delineating the new property line. He stated for the parking spaces, the Bustanis would be willing to put in the new deed a deed restriction requiring that that parking lot remain a parking lot in perpetuity, which would accomplish what Mrs. Douthit wanted to achieve. Mr. Randolph pointed out the Unity of Title will tie it to the lot, whereas, this would guarantee that this would remain a parking lot and he believed what Mrs. Douthit was seeking was that the parking would be dedicated to that particular building. Mrs. Douthit felt it was important to tie the parking to the building as this is a busy area and that is why she wants it tied to the office building, so they couldn't expand the office building and have less parking. Mr. Broberg did not think the office building could be expanded, however, he wished to comment on the concerns of Mrs. Douthit as he didn't think it would fair to Mr. Bustani to furnish the Unity of Title as one who buys a commercial piece of property, the purchase price is arrived at by the factor of the income of the building. He stated however the parking spaces are used, they are not generating any income as they may be assigned to someone in the building as part of their lease, so if someone would buy the building based on the income, they are getting the lot for free if it is tied together. Mrs. Douthit stated her point is the building is far more valuable if there is parking provided.

Mrs. Wiener felt the fact of the matter is they now have parking and if someone would come in and buy it, they may not have parking and that is a problem. Mrs. Smith asked if the parking spaces were designated as parking spaces for the building when the building was being renovated? Mr. Moore did not recall any direct linkage to the renovation of the building and this parking area. He believed the original parking was granted by the Town Council and he felt it was always understood that the parking was to be as it is used today in support of the Bustani building. He felt the problem the Building Department would have is if the variance is granted as requested what they will be doing is making a nonconforming situation, which the parking lot is at this time, and lesser conformity in size and width of the lot but increasing the nonconformity of the parking lot itself. He felt this would be intensifying the nonconformity unless the parking was tied to the building. He didn't think they could leave the parking lot separate from the use it has had historically which was for residents on the single family dwellings to the west and for residents above the commercial space and the offices and restaurant. He felt by use it has tied itself to the building and he didn't that could be granted and create a stand alone nonconformity, without tying it to the Unity of Title to the main building.

Mrs. Smith noted they wish to split the lots and that is the reason for the variance and asked Mr. Broberg why did his client wish to do this and what is the hardship? Mr. Broberg response was the hardship was to legitimize the use of the land that has been in this use and which occurred prior to the Zoning Ordinance. He stated they couldn't do what they wanted to do as the Zoning Ordinance is written and he thought the purpose of a variance was to allow one to use their property in a fashion that other people are using their property, and they can't do it based on the present zoning. Mrs. Douthit pointed out the Council hasn't said no and all she wanted was Unity of Title.

Mr. Broberg explained Mr. Bustani wishes to sell the residential property but they don't want to sell the parking lot and the logical buyer for the parking lot if it is sold would obviously be the building, however, right now they can't provide the Unity of Title due to the mortgage on the property. He stated they would be willing to restrict the lot to be a parking lot in perpetuity. Mrs. Douthit didn't believe that was quite strong enough. Mr. Moore noted his concern was that he wanted to ensure the parking lot stays in the use that it currently is and that is to be used with the Bustani building. He wondered if they should create some type of lease document between the current property owner and the owner of the building that they would lease that lot in perpetuity or for 99 years or 49 years, and that way it would be tied for some time to come to where it belongs, which is with that building.

Attorney Randolph stated he would be surprised if the Bank would treat a 99 year lease any differently that an Unity of Title. Mr. Broberg reported the immediate neighbor to the west has no problem with the variance as he has talked to her son, who is an architect in California. Mrs. Smith asked if they would like to defer this to next month to which Mr. Broberg agreed.

Mrs. Wiener moved that the Council defer Variance No. 12-93 to the March 9th Town Council Meeting. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

C. Other

Approve Zoning Calendar

1. Consideration of Approval of Zoning Calendar for Second Zoning Season - Motion was made to approve the Zoning Calendar for the second zoning season by Mrs. Wiener, seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Char. Sol. 272-93

2. Charitable Solicitation No. 272-93 - Food Relief International. Anita Manuel addressed the Council indicating an application has been submitted to have an event at the Ocean Grand on February 21, 1993. Mrs. Peters advised there will be a waiver needed for the advertising rule since the application was just received. Mrs. Smith asked why they didn't file their application sooner to which Mrs. Manuel responded they are all volunteers and there was some confusion in the organization as they have no paid staff. Mrs. Douthit commented with the firm promise that they will file their application and other papers timely, she would move to approve the issuance of the Permit with the waiving of the advertising rule. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Winterfield

D. COMMUNICATION FROM CITIZENS: Adrian Winterfield addressed the Council, indicating he tried to bring this matter up with the old Council but was told that it was not appropriate. He has furnished the Town Attorney a document entitled "Errors in Awarding Reimbursement" with regards to the Building Official and although it is not specified on that sheet, he would like Council to reconsider this matter decided yesterday on the basis that the Council did fail to consider two matters:

1. The memorandum from the petitioner to the Town Manager dated 4-30-91 regarding the use of a Town automobile.
2. The response of the petitioner's attorney.

Mrs. Douthit noted the attorney is not here and since nobody knew this was going to be considered, she thought they should move on. Mr. Randolph responded if they were going to give consideration to this, Mr. Wearn should be in attendance and the question is if they wished to pursue this further and if they did, they should do it at a time when Mr. Wearn is present.

XXVI. ANY OTHER MATTERS — Any Other Matters

A. LETTER DATED 2-3-93 TO THE TREASURE COAST REGIONAL PLANNING COUNCIL. Mr. Doney advised this letter identifies the staff comments based upon past maintenance dredging of the Corps. of Engineers at the Lake Worth Inlet. He reported if the Council wishes to provide additional comments, he needs to know and if not, he will file the comments with the Treasure Coast Council. He noted his comments are that the Town does continue to support the placement of beach quality sand from maintenance dredging on the south side of the Lake Worth Inlet, which is consistent with previous Town Council policy actions. Mr. Weinberg, Mayor Ilyinsky and the other Council members all agreed this should be a continuing policy. — Letter to the Treasure Coast Reg. Planning Council

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B. NATIONAL LEAGUE OF CITIES LETTER DATED 1-27-93. Mr. Doney noted there is a letter from the National League of Cities with regards to a Leadership Training Institute and he brings this before the Council not only for this Institute but for future matters in the event the Mayor and any member of the Council wishes to attend. There was no action taken. — Nat'l League of Cities - Leadership Training Institute

C. HEALTH CARE DISTRICT. Mr. Doney noted a memorandum was sent to the Mayor and Council dated 1-25-93 from the Palm Beach County Health Care District inviting comments and if they wished to direct and forward any comments or suggestions, they should do so. Mrs. Wiener recalled there were comments on this when this was first formulated and they didn't listen then, so why would they listen now and she views this as now that they are in trouble, they want input.

D. WEST PALM BACH CITY COMMISSION MEETING ON FEBRUARY 16, 1993 6 PM. Mr. Doney advised the Workshop by the City of West Palm Beach will be a single item on the water issue. — Workshop - City of WPB

E. SAND TRANSFER PLANT. Mrs. Wiener felt they should start working on the repair and get this plant operating. Mayor Ilyinsky believed it would have to be rebuilt. Mrs. Douthit suggested they talk to Representative Clay Shaw about this when he has his meeting in the Town Hall and hopefully there could be some Federal monies available. Mrs. Wiener agreed. Mrs. Smith suggested it be put in writing. Mrs. Wiener requested this matter be scheduled on the March Agenda as it is quite important. — Sand Transfer Plant

F. WORKSHOP WITH DEPARTMENT HEADS AND TOWN ATTORNEY.Mr. Doney asked if the Council would be interested in having a workshop on general Town matters, such as communication and Mr. Randolph had some issues. Mrs. Wiener recalled because of the Sunshine Law, there are many things that don't get discussed, and she would hope at a more quiet time in May or June, there be a workshop with no set agenda. Mrs. Douthit thought it should be done on a quarterly basis. Mr. Randolph explained he viewed this as an orientation type of meeting talking about Conflict of Interests and the Sunshine Laws and the responsibility of the various departments. — Workshop with Dept Heads & Town Atty.

G. SWEARING IN OF NEW COUNCIL MEMBER AFTER RUN-OFF ELECTION. Mr. Doney reported he has Judge Letts scheduled to swear in the new Council member at the next Town Council Meeting on March 9, 1993. — Swearing In of New Council Member

H. SCHEDULE OF MEETINGS. Mr. Doney called the attention of the Mayor and Town Council to the upcoming meetings and suggested they bring their personal calendars to the Council meetings as many meetings are scheduled at that time.

XXVII. ADJOURNMENT - There being no further business, the meeting was adjourned at 5:20 PM. — Adjournment

Grace T. Peters
Town Clerk

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

LAST NAME—FIRST NAME—MIDDLE NAME HEEKE BERNARD A	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE TOWN COUNCIL - PALM BEAC
MAILING ADDRESS 124 Seabreeze Ave	THE BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: CITY COUNTY OTHER LOCAL AGENCY
CITY COUNTY Palm Beach Fl. PB	NAME OF POLITICAL SUBDIVISION: PALM BEACH TOWN COUNC
DATE ON WHICH VOTE OCCURRED 2-9-93	MY POSITION IS: ELECTIVE APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes. The requirements of this law are mandatory; although the use of this particular form is not required by law, you are encouraged to use it in making the disclosure required by law.

Your responsibilities under the law when faced with a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

ELECTED OFFICERS:

A person holding elective county, municipal, or other local public office MUST ABSTAIN from voting on a measure which inures to his special private gain. Each local officer also is prohibited from knowingly voting on a measure which inures to the special gain of a principal (other than a government agency) by whom he is retained.

In either case, you should disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

A person holding appointive county, municipal, or other local public office MUST ABSTAIN from voting on a measure which inures to his special private gain. Each local officer also is prohibited from knowingly voting on a measure which inures to the special gain of a principal (other than a government agency) by whom he is retained.

A person holding an appointive local office otherwise may participate in a matter in which he has a conflict of interest, but must disclose the nature of the conflict before making any attempt to influence the decision by oral or written communication, whether made by the officer or at his direction.

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

- You should complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes.
- A copy of the form should be provided immediately to the other members of the agency.
- The form should be read publicly at the meeting prior to consideration of the matter in which you have a conflict of interest.

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

- You should disclose orally the nature of your conflict in the measure before participating.
- You should complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Bernard A. Steele, hereby disclose that on Feb 9, 1993:

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

___ inured to my special private gain; or

X inured to the special gain of Southeast Bank, by whom I am retained.

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

Southeast Bank has been represented by ~~my law~~ a member of my law firm, ~~and at this time~~

Feb 9, 1993

Date Filed

Bernard A. Steele

Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317 (1985), A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED $5,000.