TOWN COUNCIL MEETING MINUTES OF JANUARY 12, 1993

I. CALL TO ORDER AND ROLL CALL - Meeting called to order by President Heeke at 9:30 AM on January 12, 1993 in the Town Hall Council Chambers. On roll call, the following elected officials were found to be in attendance: Mayor Marix, President Heeke, President Pro Tem Weinberg, Councilman Ilyinsky, Councilwomen Douthit and Wiener. Also attending for all or portions of the meeting were Town Manager Doney, Town Attorney Randolph, Town Clerk Peters, Mr. Dusey, Mr. Bowser, Assistant Fire Chief Frazier, Mr. Elwell, Mr. Jakubiak, Mr. Moore, Mr. Frank, and Chief Terlizzese. 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 on the Water Resources Committee requesting that this not be a Committee made up of Town Council members, as this subject is a very important one and they needed to look at this long range. She believed they needed to find other sources of water, and the possibility to find additional water sources is an absolute must, not only for this community but for the surrounding areas. She didn't wish to tie up the Town staff in becoming water experts, or retired elected officials who do not have a background on this matter. She knew there were several people in this Town who are quite knowledgeable on water matters and they could do the leg work and come up with alternatives and they would function as volunteers and wouldn't cost the Town money and could look at the possibilities and report to the Town Council. She felt this would make for a useful Committee to find the long-range solution, as well as new sources, and would not interfere with the fact that the Town must conserve its water supply. Comments of the Mayor

IV. PUBLIC HEARING Public Hearing

A. Landmark Designation for 126 South Ocean Boulevard - Consideration of Resolution No. 1-93 - Mrs. Peters gave the oath to all those who would be giving their comments on this matter. Mr. Frank confirmed the Proof of Publication has been received. Res. 1-93

Mr. Frank commented the Landmarks Preservation Commission finds this property meets the following criteria:

(B) Is identified with historic personages or with important events in national, state or local history.

(C) It embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for a study of a period, style, method of construction or use of indigenous material or craftsmanship.

(D) Is representative of the notable works or one or more master builders, designers or architects whose individual ability has been recognized to have influenced their age.

Mr. Frank stated the architects were Wyeth and King.

Mrs. Day of Research Atlantica addressed the Council, exhibiting slides of the property. She stated the owner of the house is Estee Lauder who has a national and international reputation and she and her husband have built up a large cosmetic firm, which was founded in 1946 and through the products and innovative marketing techniques, the firm is quite successful.

She stated the house is important for its architectural features, and was built in the Neo-classical style, designed in 1938 and the original cost of the home was $115,000, which would translate into 1993 dollars as 1.7 million. She stated one of the main design features is the classical portico in the front of the house which envelopes the front door of the residence. She noted the roof is a hip roof and there are shutters on the property.

Mrs. Douthit believed the house was quite worthy of the landmarking but she didn't think the economies were anyone's business and she would appreciate if they would not do that again in the future. Mr. Heeke asked Mrs. Day to avoid doing that in the future.

Mrs. Volk advised the Mayor and Council that Mrs. Lauder is cooperating with the offering of the house as a landmark.

Mr. Randolph read the Resolution 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.

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

Motion was made by Mr. Weinberg to adopt Resolution No. 1-93 designating 126 South Ocean Boulevard as a landmark in the Town of Palm Beach, as it meets Criterion B, C and D. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

V. APPROVAL OF AGENDA - Mr. Moore advised he has received a request to remove from the Agenda Items XIV.B.1 - Variance 13-92 Joel Martino, 109 Ocean Terrace; XIV.B.5 - Variance No. 3-93, Joel Martino and defer these items to the February Town Council meeting. Approval of Agenda

Defer Var. 13-92 & 3-93

Mr. Heeke asked if there was anyone in the audience to talk on this subject and Dr. Lilja responded he wished to talk about it. Mr. Moore noted the letter requesting deferral was dated January 1, 1993 but not received until January 11, 1993. Mr. Heeke thought it was probably important for this Council to discuss this as they are familiar with it and the Council will be changing in the February meeting.

Mr. Joel Martino addressed the Council stating he has met with a couple of the Council members and they used the word "precedent" as a reason why they might not consider the request and this makes him extremely uncomfortable and he would like to have some time on this and requested this be deferred.

Mr. Heeke believed this Council needed to consider this matter. Mrs. Douthit agreed and moved that this matter be heard. Mr. Randolph explained the motion was only necessary if they wished to defer this. Mr. Ilyinsky moved to defer the Martino variances. There was no second to the motion.

Mr. Doney asked that under Agenda Item 16, he would like to recommend an Item 2 be added which would be consideration of the selection of architectural firms under the Consultants Competitive Negotiation Act.

Motion was made by Mr. Weinberg, seconded by Mrs. Douthit that the Agenda be approved as amended. On roll call, the motion carried unanimously.

Motion was made by Mr. Weinberg to approve the Approved Agenda as printed. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

APPROVED AGENDA (ITEMS VI. THROUGH VIII.)

Approval of Minutes

VI. APPROVAL OF MINUTES OF SEPTEMBER 8 (9:30 A.M.)

Licenses & Permits

VII. LICENSES AND PERMITS

Charitable Solicitations

A. Charitable Solicitations

1. Fraternal Order of Police, Palm Beach Lodge No. 19; No 79-93
2. Yeshiva University Cardozo School of Law; No. 238-93
3. Joseph L. Morse Geriatric Center; No. 248-93
4. The Center for Family Services; No. 252-93
5. Beth Israel Hospital; No. 287-93
6. Historical Society of Palm Beach County; No. 289-93

Beverage License

B. Beverage License

1. Application for a New 2COP Alcoholic Beverage License by Gaetano Claudio Trevison/Claudio's of Palm Beach at 150 Worth Avenue, #213

VIII. NEW BUSINESS

Bid Award

A. Bid Award

1. Sealed Bid No. 93-001R - Diesel Dump Truck

Regular Agenda

REGULAR AGENDA

Licenses & Permits

IX. LICENSES AND PERMITS

Charitable Solication No. 271-93

A. Charitable Solicitation

1. Opera Antica of Palm Beach, Inc.; No. 271-93. Mrs. Peters explained the application was not filed timely and a waiver of the advertising rule is needed. Mr. John Sayers of Opera Antica addressed the Council noting the permit was late as they had a scheduling problem, and it was not decided on the location by the Board until recently. Mr. Ilyinsky moved the Charitable Solicitation Permit be granted to Opera Antica and they be granted a waiver of the advertising rule. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Committee Reports

X. COMMITTEE REPORTS

A. Public Safety Committee Report of December 14, 1992 Meeting -

Report of Public Safety Committee

REPORT OF THE PUBLIC SAFETY COMMITTEE MEETING HELD ON

DECEMBER 14, 1992

I. CALL TO ORDER AND ROLL CALL. Meeting called to order by the Chairman of the Public Safety Committee, Mr. Ilyinsky, at Noon on Dec. 14, 1992 in the Town Hall Council Chambers. On roll call, Paul R. Ilyinsky, Chairman and Bernard A. Heeke, Committee member were found to be in attendance. In attendance were Councilwoman Nancy S. Douthit and Councilman M. William Weinberg. Also attending were Mr. Doney, Mr. Dusey, Mr. Bowser, Mrs. Peters, Chief Elmore, Assistant Chief of Administration Frazier, Mr. Elwell and from the firm of Currie Schneider Associates, Mr. Currie and Mr. Schneider.

Approval of Agenda

II. APPROVAL OF AGENDA. Agenda was approved as printed.

South Fire-Rescue Station

III. CONSIDERATION OF SOUTH FIRE-RESCUE STATION ALTERNATIVE SITE PLANS AND BUILDING FACADE BY CURRIE SCHNEIDER ASSOCIATES, AIA, PA. After reviewing the three alternative site plans which were presented by Currie Schneider Associates and after hearing the comments of the staff, the PUBLIC SAFETY COMMITTEE MAKES THE FOLLOWING RECOMMENDATIONS:

1. That the second alternative site plan be chosen to build a two story South Fire-Rescue Station (see attached). The present Fire-Rescue Station would be demolished and the green

area to the north would be maintained. The parking for this site will be isolated from the public parking lot now existing for parking at Phipps Ocean Park.

2. That Scheme One of the colored renderings presented by Currie Schneider Associates be selected with regards to architectural detail. (These renderings will be available at the January 12, 1993 Town Council Meeting and can presently be seen in the Town Manager's Office).

3. The trailer used at the Town Docks to accommodate the personnel at the Central Fire-Rescue Station during that renovation should be used to house the personnel at the South Fire-Rescue Station. An additional trailer be authorized to be purchased and installed on the site with both of the temporary trailers heavily site screened with landscaping.

4. A prefabricated metal building to be used on a temporary basis should be purchased and installed on the site to house the Fire-Rescue Equipment during the construction. After construction is completed of the South Fire-Rescue Station, this prefabricated metal building is anticipated to be used by the Public Works Department at their West Palm Beach facility.

Mr. Dusey informed the Public Safety Committee that the total cost of the temporary facilities would be approximately $100,000.00. This would include the relocation of the present trailer from the Docks to the South Fire-Rescue Station area, the purchase of another trailer, the extensive landscaping and the prefabricated metal building.

IV. ANY OTHER MATTERS: None.

V. ADJOURNMENT: Meeting adjourned at 12:40 PM. Adjournment

SIGNED: Paul R. Ilyinsky, Chairman and Bernard A. Heeke, Committee member.

Motion was made to accept the Public Safety Committee Report into the record by Mrs. Wiener. Seconded by Mrs.Douthit. On roll call, the motion carried unanimously.

South Fire Station

Mayor Marix asked why they would spend $100,000 for the temporary quarters when there could be a possibility of the Fire Department using the existing quarters until the new building is built. Mr. Heeke noted this was a result of the recommendation of the Fire Chief as to how to proceed with the building and of the architects. He noted the temporary building will be able to be used by the Public Works Department after it has served its purpose here. Mr. Dusey addressed the Council noting the temporary apparatus bay can be relocated to the Public Works facility and used as a storage building. He stated there will be some cost involved in the dismantling of the temporary building and relocation costs.

Mr. Weinberg asked if this temporary bay would be large enough to accommodate all of the equipment now used at the South Fire Station to which Mr. Dusey responded it will be able to accommodate all of the equipment that is presently there and they would have to move the awning for a maintenance bay. Assistant Chief Frazier addressed the Council confirming the building will house the equipment they have at the South Fire Station and the two tents they have used in the past for temporary structures will be used for the maintenance equipment. Mr. Weinberg asked if these would be used for about a year and tear up the beauty of the area while this work is being done? Assistant Chief Frazier responded it is proposed to put it on the parking lot and they would have to provide living facilities for the staff at the South Fire Station. He stated it may be necessary to purchase a second trailer to house the staff and if that is the case, there would have to be second set of utility hook ups. He stated Delray Beach is going through this process right now and he has been in touch with them and they may be able to procure that building as their construction is about finished. Mr. Weinberg believed it would be looking like an Army Camp to which Mr. Heeke agreed. Chief Frazier advised there will be heavy landscaping installed to screen it from view as they did with the trailer located at the Docks. Mrs. Douthit felt that perhaps the job could be completed a little faster. Chief Frazier agreed and felt it was necessary to have a single building for housing the staff, rather than the trailers and with one main building housing the apparatus, so they can have a good response time and not have too much disruption.

Mr. Weinberg felt it may be more efficient if they used the Old Fire Station until the new one is completed. Mr. Doney responded this is a policy matter and they have outlined the alternative costs and the Town Council will ultimately decide.

Mr. Weinberg asked if it was possible to change the locations of the bays so they would face north rather than west, in order that they don't have to look at the open bays with the fire engines sitting in them harming the beauty of this area. He recalled the people in the south end have spent many dollars to beautify the area. Mr. Weinberg didn't believe the people coming off Ibis Island would want to have the view of the fire trucks in the open bays as they come out of that road. Mrs. Douthit believed that was the reason they were relocating the building to offset the view of those bays and also there was something to say about the response time. Mr. Heeke recalled the Committee felt it was a more acceptable design and it was the traditional approach to getting the equipment out and rolling immediately without unnecessary turns in exiting the firehouse, which they felt was important.

Mayor Marix believed this was going to be a very nice building and she wouldn't imagine the doors would be open all day long. Mr. Heeke recalled the Chief did indicate to the Committee that there will be continued supervision to keep the bay doors closed in all of the Fire Stations at all possible reasonable times.

Mrs. Wiener asked what was the reason the determination was made not to use the old building while the new one was being erected? Mr. Ilyinsky responded it was the site matter and it was deemed in the long run that this would be somewhat less expensive. Mr. Heeke recalled the future use of the building was to have adequate parking for the public rooms which would be available and it was one of the many factors the Committee was looking at in recommending the design of the building, as well as having the opportunity to reuse the temporary quarters by the Public works Department, and additionally there will be less green space lost with the particular design that was selected. Mrs. Wiener asked if the possibility did not exist to continue to use the old building? Mr. Heeke stated it did, but it would involve a different design and that was not the design that the Committee and staff wanted to recommend to Council.

Mrs. Douthit noted the recommended design was No. 2 to which Mr. Heeke agreed.

South Fire Station

Mr. Weinberg asked about the public rooms asking if the room would be large enough to accommodate the Precinct which now uses Howard Johnson's? Mrs. Peters responded the Plan is to be able to accommodate the two south end precincts in the public rooms of the new Fire Station.

Mrs. Wiener stated she would like to be assured that there will be proper landscaping for the period the building is under construction as they all know how the construction timetables run over. Mr. Dusey responded the landscaping that has been done at the Docks completely screens out the trailer that was used as temporary quarters for the staff normally housed at the Central Fire Station while that was being renovated.

Mrs. Douthit moved that Plan No. 2 of the Public Safety Committee's Report be accepted and the work be pursued. Mrs. Wiener stated she would second that motion with the amendment that the work be pursued with all due haste. On roll call, the motion carried 4-1 with a negative vote cast by Mr. Weinberg.

Mr. Dusey advised the original plan was to use the temporary facility they purchased which is now located at Lakeside as part of this operation, but since that time the Fire Department has located a rental, which is larger, and he is requesting permission to sell the temporary facility at Lakeside, as it now has been determined that the one they have would not be large enough. Mr. Heeke stated he had no problem as long as the rental unit is locked up before they sell the other temporary facility. Mr. Dusey responded they couldn't do that as they won't lease it until they are ready to go. Assistant Chief Frazier stated they were trying to rent the facility from Delray Beach but they are still using it, however, he has had a contact with someone who stated they could build the Town a temporary facility for housing. Mrs. Wiener reminded all she didn't want to see them go forward and knock everything down and have a big hole in the ground and then they sit and wait for something to happen and she suggested nothing be done until all the details are taken care of and the planting is in. Mr. Dusey stated he could hold on to the old trailer until they are sure they are going to get the new facility. Mr. Heeke asked how much is the leasing going to cost the Town to which Mr. Dusey responded $1000 per month for a two year period.

Mr. Doney noted this will come back to the Council for bidding, after the design is completed and asked what the timetable was for the project? Mr. Dusey responded he was very unsure about whether or not this could be done in the off-season and the construction will probably start at the end of this fiscal year, and since it is a one year project, it would have to occur during the winter season. Mr. Heeke suggested the motion have in it that once the bid is received, the construction would begin as early as practicable.

Mayor Marix asked why they were looking for a two year lease as they are looking to do it within the one year. Mt. Dusey responded a shorter leasing period would be approximately $1800 to $2000 per month, so if they go for a shorter period, it would be a lesser amount. Mr. Dusey stated to the extent they can control construction and that is not always feasible as the contractor plays a major role in that, but he would like to expedite construction. Mr. Heeke knew that Mr. Dusey would be guided by the Council's feelings on this as there is a lot of traffic in this area during the season.

Motion was made by Mr. Ilyinsky to proceed with leasing on a most favorable basis timewise, either a newly constructed facility or the one that Delray Beach is now using, if it becomes available. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

XI. OLD BUSINESS

A. Ordinances - Second Reading

ORD. 14-92

1. Ordinance No. 14-92 - Opting Out of Palm Beach County Physically Disabled Parking Space Ordinance - Mr. Randolph read Ord. No. 14-92 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, PROVIDING THAT THE TOWN OF PALM BEACH SHALL OPT OUT OF THE PALM BEACH COUNTY PHYSICALLY DISABLED PARKING SPACE ORDINANCE: PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING AN EFFECTIVE DATE.

Motion was made by Mrs. Douthit to approve on second reading, Ordinance No. 14-92. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

ORD. 15-92

2. Ordinance No. 15-92 - Amendments to Charitable Solicitation Ordinance - Mr. Randolph read the Ordinance No. 15-92 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 10, ARTICLE V, OF THE TOWN CODE OF ORDINANCES RELATING TO CHARITABLE SOLICITATIONS SO AS TO INCLUDE A REQUIREMENT THEREIN TO PROVIDE AN APPROVED REGISTRATION STATEMENT AS REQUIRED BY THE STATE OF FLORIDA UNLESS EXEMPT UNDER STATE LAW FROM FILING SUCH A REGISTRATION STATEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

On motion of Mrs. Douthit, Ordinance No. 15-92 was approved on second reading. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Mayor Marix inquired if there was any progress made on the request she made about revising the Results Form which all charities are expected to file. Mr. Randolph's response was the concern was that the money raised by the charity went to the charity and the Mayor's suggestion was there should be furnished a copy of the check and a receipt signed by the President and the Secretary of the organization be received by the Town. He believed they wanted to see more than that and he hasn't come up with any further ideas than what was suggested. Mayor Marix explained her concern was there are many charities raising money in this Town and most of them have excellent reputations but as this Town gets more and more on the map, she has had complaints about a couple of the charities and there always is the possibility that a organization may not be exactly sending the money where it should be sent and perhaps when the next year comes along, they have spent the money on their own goodies. She would like to have a valid charity provide a receipt for having received the money raised. She thought it was protection for those who are giving monies to a charity to know that the charity in the location where it does its work, receives it.

B. Other

1. Consideration of PEP Reef Project at Mid-Town Beth Mitchell, Vice-President of American Coastal Engineering addressed the Council providing an update on the PEP Reef since December 8, 1993. She advised several days after that meeting, they received a Partial Notice to Proceed from the DNR and this had a new contingency in it in that they are now required to perform a new pre-installation survey. She has had letters and conversations and conferences between Town Staff, Mr. Heeke, and the DNR, it has finally been worked out that although the survey will be required, it can be done simultaneously with the installation process. She has submitted a four month monitoring report from Mr. Harvey Sasso and that report included the information relayed to the Council in December, with regards to amounts of erosion, accretion and Mr. Sasso's conclusions. PEP Reef Project

Ms. Mitchell advised she submitted her proposed revision to the Test Plan which shows the amount of settlement that would be acceptable and the amount of accretion they are experiencing at the Reef. She advised they have entered into a contract with Sea Systems, a surveyor so that they may move forward with the Pre-installation survey and they have completed approximately 25% of that work at this time. She advised the reinforcement material has been sent by AT&T to Murphy Construction Co. and they are waiting for the weather.

She requested the Council consider approving payment of the $20,000 for the newly required survey for the DNR. Mr. Heeke stated the DNR would not let them proceed without this survey and part of their thinking is that when the Reef is in place, the Test Plan and monitoring and results should be measured from the situation that presently exists for the new modules, so there can be a benchmark to measure the results over the three to five year period. He didn't like the idea of having any further delays, but this item was non-negotiable.

Ms. Mitchell stated the survey cost has been kept down as the DNR has allowed them to measure at 1200' rather than the 3500' originally required.

Mrs. Douthit stated she has heard Mr. Green state that where the units are aligned, there is something going on out there and it is to our benefit and this is an unforeseen expense by DNR and not in the contract, however she thought it was worth spending the $20,000 for this survey in conjunction with the aligning of the modules in the water and she therefore moved for approval. Seconded by Mr. Ilyinsky.

Mr. Weinberg asked if it was possible that DNR will help pay for some of these expenses? Mr. Heeke stated they did raise the question as they do have a certain amount in their budget, so it could be done, however, it is an extra cost. Mrs. Douthit believed they should take care of it.

On roll call, the motion carried 3-2 with Mr. Weinberg and Mrs. Wiener voting against the motion.

Mr. Doney reported this amount of money was included n the monies appropriated by the Town Council for this project.

XII. NEW BUSINESS

A. Ordinances - First 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 - Mr. Randolph read the Ordinance No. 2-93 by caption: Ord. 2-93

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA AMENDING CHAPTER VI,ARTICLE III, BULKHEADS AND PIERHEADS ON LAKE WORTH OF THE TOWN OF PALM BEACH CODE OF ORDINANCES, SUB-SECTION 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 by Mrs. Wiener to approve Ordinance No. 2-93 n first reading. Seconded by Mr. Ilyinsky. 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 - Mr. Randolph read Ordinance No. 3-92 by title: Ord. 3-93

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER XV OF THE CODE OF ORDINANCES AT SECTION XV - 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 MEMBERSHIP 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 first reading. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Ord. 4-93

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

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, FLORIDA, AMENDING CHAPTER 2 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 2-4 VIOLATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Motion was made by Mr. Ilyinsky, seconded by Mr. Weinberg to approve Ordinance No. 4-93 on first reading. On roll call, the motion carried unanimously.

Ord. 5-93

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

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, 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 INVESTIGATION, 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.

Motion was made by Mrs. Douthit, seconded by Mr. Weinberg to approve Ordinance No. 5-93 on first reading. 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.

Mr. Heeke explained there is a Countywide Ordinance which went into effect in December of 1991 setting forth the limitation hours on watering and a fairly rigorous fining provision. He stated the City of West Palm Beach in our discussions with them felt the County Ordinance was a bit too harsh and did not recognize live and real world situations, and this Ordinance has been prepared by the staff which is similar to the one adopted by the City of West Palm Beach and the fines in this Ordinance would stay in the Town of Palm Beach rather than be remitted to the County.

Mayor Marix indicated she was completely in favor of having this Ordinance, but was concerned that they look at this in the right light as they are trying to help the residents to not waste water, and that is the main objective. She realized it is better to warn somebody that they've got a water problem, but had a great concern about it then being sent directly to the Code Enforcement Board, as she believed that was they were going to do. She thought there could be many reasons for sprinklers to go on in the middle to the night and the owners may not know there is a problem. She was worried about fining somebody at this point as she didn't think that was the way to go about it. Mr. Heeke responded this already is the law in the County and what they are trying to do is control the situation within the Town as they see fit and people will have an opportunity if they are cited to explain to the Code Enforcement people what happened and the Code Enforcement Board has the latitude of how to treat an infraction. He pointed out they are bringing it back to the Town, rather than leave it repose with the County. Mayor Marix agreed but she read from the Ordinance which states the first offense is a written warning and the second offense is $100. She realized they would have to back up the Ordinance and perhaps they would like to have it nicer, but her worry was what will happen at the Code Enforcement Board. Mr. Heeke pointed out Code Enforcement has the latitude and does not have to fine along these lines. Mr. Randolph stated the concern is against wasting water and whether or not a simple fine would address the situation. He pointed out the Town does have the right to use legal or equitable remedies in a court of law to abate a situation and if someone does abuse the situation, the Town can go to a court of law and get injunctive relief.

Mayor Marix felt the education is very important and she was worried as to how this would be enforced. Mr. Heeke responded enforcement is a matter of common sense and judgment and he has prepared one more letter to all of the Town water users identifying this point. He stated the effective date of April 15, 1993 has been put into effect so they can become aware of how they will address their water practices. He felt the staff when they notice there is a violation can give reminders to people so there will be an opportunity to correct the problems.

Mrs. Wiener did not think this was a subject of which people were not aware of, as they are governed by County Ordinances on certain things and this is one of them. She thought if they were serious about this, they had to do it although she knows it is an unpleasant situation. She believed if there were no teeth in it, people will merrily go on with their existing lifestyle.

Mrs. Polly Earl, 209 Seaspray Avenue addressed the Council stating she needs to understand the ordinance and asked if it prohibits hand sprinkling to which Mr. Heeke responded affirmatively. She stated she doesn't have an automatic system nor does she have a gardener. She states when there was a water shortage and she attempted to hand water early in the morning in the dark. Mrs. Wiener noted hand watering is exempt from the time limitations.

Mrs. Earl stated she had another question on the application of fungicides and insecticides, which she believed were only permitted by licensed pest control operators. Mr. Heeke believed that was for the fairly dangerous ones which do require that they be applied by licensed people.

Motion was made by Mrs. Wiener, seconded by Mrs. Douthit to approve Ordinance No. 6-93 on first reading.

Mrs. Douthit commented that for each single gallon of water that is used by South Floridians, the South Florida Water Management District wastes 33 gallons by dumping them from the C-51 Canal into Lake Worth, which upsets the ecological balances and she thought the taxpayers should be made aware of it.

Mrs. Wiener agreed with the comments of Mrs. Douthit. On roll call, the motion carried unanimously.

B. Resolutions

1. Resolution No. 2-93 - Authorization for Town Manager to Execute Florida Inland Navigation District (FIND) Project Agreement for the Marina Dredging Project - Mr. Randolph read the Resolution No. 2-93 by title: Res. 2-93

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA AUTHORIZING THE ACCEPTANCE OF A GRANT FROM THE FLORIDA INLAND NAVIGATION DISTRICT FOR THE PURPOSE OF FUNDING MAINTENANCE DREDGING OF THE TOWN OF PALM BEACH MARINA.

Mr. Ilyinsky referred to a memorandum from Mr. Bowser which states their operating policy currently gives preference to residences in filling slips of the Town Marina, and Section 15 of this agreement requires we change that policy to first come, first serve. Mr. Bowser did not believe at the current time that would present a problem as there are slips currently vacant. Mr. Ilyinsky pointed out if they maintain their present policy, they would have to give up the $200,000 grant, which he certainly doesn't want to do but they all need to know there can be no preferential treatment for Town of Palm Beach residents.

Mr. Heeke pointed out there is a Federal Constitution and there are some mandates which are permitted there and even though they want to give preferential treatment, they need to give some weight and recognition to the Federal Constitution and the laws pertaining thereto.

Mayor Marix thought perhaps they could achieve both objects if they gave preference to those who rented it for a given amount of time, as indirectly it might give it to the residents and it might not be in violation. Mr. Heeke thought that was a good point for consideration by the staff.

Councilman Ilyinsky pointed out there probably wasn't a marina on the Coast which didn't give its residents a crack at their own marina before anyone else. Mr. Heeke thought it could be handled in due course appropriately with input from the Town Attorney's office and through the staff.

Mrs. Douthit asked where the dredged material would be put? Mr. Dusey advised they have negotiated a disposal site off island.

A motion was made by Mr. Weinberg to approve Resolution No. 2-93. Seconded by Mrs. Wiener. On roll call, the motion carried 3-2 with Mr. Ilyinsky and Mrs. Douthit voting against the motion.

2. Resolution No. 3-93 - Requesting Congressional Authorization to Redirect Mid-Town Beach Nourishment Project Federally Appropriated Funds for Use on Mid-Town PEP Reef Project -Mr. Randolph read the Resolution No. 3-93 by title: Res. 3-93

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA REQUESTING THE CONGRESS OF THE UNITED STATES TO AUTHORIZE THE TRANSFER OF 2.5 MILLION DOLLARS FROM THE FEDERAL APPROPRIATION FOR THE PROPOSED MID-TOWN BEACH NOURISHMENT PROJECT FOR USE ON THE MID-TOWN PEP REEF PROJECT.

Mrs. Douthit moved the adoption of Resolution No. 3-93. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

3. Resolution No. 4-93 - Supporting the Florida Department of Natural Resources' Request for Additional Time and Additional Money to Further Study the Proposed Re-Establishment of the Coastal Construction Control Line in Palm Beach County - Mr. Randolph read Resolution No. 4-93 by title: Res. 4-93

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, SUPPORTING THE REQUEST OF THE FLORIDA DEPARTMENT OF NATURAL RESOURCES FOR ADDITIONAL TIME AND MONEY TO FURTHER STUDY THE RE-ESTABLISHMENT OF THE COASTAL CONSTRUCTION CONTROL LINE IN PALM BEACH COUNTY.

Motion was made by Mrs. Douthit to approve Resolution No. 4-93. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

C. Appointment

1. Retirement Board - One Four-Year Term to Expire January 1997 - Mr. Heeke noted this position is currently held by Mr. James Wearn who is willing to serve another term. Motion made by Mrs. Douthit, seconded by Mr. Ilyinsky to reappoint Mr. Wearn to the Retirement Board. On roll call, the motion carried unanimously. Retirement Board Appt.

D. Other

Golf Commission

1. Consideration of Recommendation by the Town of Palm Beach Golf Commission to Increase Membership from Five to Seven Members.

Mr. Heeke noted there was a memo from Mr. Bitzer and he called on him for his comments. Mr. Bitzer addressed the Mayor and Council indicating the Golf Commission has made a recommendation that the Golf Commission be extended from five to seven members as they thought by increasing the Golf Commission to the size of the membership of the Seaview Park Commission would help to provide sufficient representation during the summer months when some of those members are absent. He stated another reason is by increasing the size of the Commission, it could help in expanding geographic Town representation.

Mr. Weinberg asked how many members are absent in the summertime? Mr. Doney responded from three to five members. Mayor Marix believed the Golf Commission was one of the finest as it maintains itself and makes money. She thought if they wanted to add people the Council should authorize it. Mr. Heeke believed as they deal with the problems they have, he too thought the Council should respect their request as they know when they can't get a quorum, there could be a problem.

Mrs. Wiener believed that none of the Commissions were autonomous and she noted this Commission does not have alternates, as some other Commissions do in the Town, and perhaps they should address the problem of members going north by having alternate members. Mr. Heeke thought that was an excellent idea and he thought there should be consistency as in other Ordinances. Mrs. Wiener stated her comments are a motion and she so moved. Seconded by Mr. Weinberg.

Mr. Heeke clarified the motion which was to direct the Town Attorney to prepare an Ordinance amending the Golf Commission Ordinance to increase its membership from five to seven members and have a provision for three alternates and to review the compatibility with other Ordinances for Commissions for consistency and uniformity.

Mayor Marix thought perhaps they should approve the expansion of the Committee and ask the Golf Commission what they felt about having alternates, as it may be they just didn't think of having alternates as this is a superb operation and she thought they should be asked. Mr. Heeke stated they were looking for consistency among their Commissions and he thought perhaps they might want to look with a future Council at a uniform Commission ordinance so there would be the same standards and requirements that apply to all of the Commissions in one document.

On roll call, the motion carried 4-1 with Mrs. Douthit voting against the motion.

Conisderation of Palm Beach Civic Assoc. Proposal of Prof. Management Consultant

2. 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).

The following is a transcript of this item:

TRANSCRIPT

PRESIDENT HEEKE: We have a report from the Town Manager - I'm sure - I see Mr. Pryor here and other members of - at least one other - the Executive Director of the Palm Beach Civic Association - so who would like to begin this. Mr. Pryor? We will adjourn at noon, by the way. So Louis, you can take all of 29 minutes.

LOUIS C. PRYOR: 27 minutes - I need 28. Madam Mayor - Mr. President - members of the Town Council. On this subject, I would like to say the following on behalf of the Civic Association: From attending the December 8th, 1992 meeting and then reading the transcript, we had believed that today you would be discussing the suggested text of the RFP prepared by the Town Administration. However, you may prefer to follow the recommendation of ....

PRESIDENT HEEKE: Excuse me. Mr. Martino, in all probability yours will probably be the first item after our luncheon break at 1:30. Excuse me, Mr. Pryor.

MR. PRYOR: Yes. However, you may prefer to follow the recommendation of the Town Manager in his January 6th memorandum, that we first hold a Special Workshop Town Council meeting. But in our opinion, such a workshop should not be to attain consensus answers to the three questions listed on Page 2 of that memorandum, rather we believe that workshop should serve as a forum in which we could all have, perhaps a clearer understanding on what the new approach to government is all about. Reinventing Government is a title of a book by David Osborne and Ted Gabler that has received nationwide attention. A more descriptive title of that book might be "Results Oriented Government" because the book emphasizes the use of program goal setting in formulating policies - performance based budgeting - and management by measurable objectives. Ted Gabler recently visited Palm Beach at the invitation of the County's Mini-Grace Committee and addressed a large gathering of County elected officials, appointed officials and members of that Committee. Not only in that book, but more importantly 1992 meetings of the Committee on Governmental Affairs of the United States Senate - this "new look" type of government was exemplified best by its successful use for many years by the Town of Sunnyvale in California. It caught the attention of the OMB, the Office of Budget and Management - and received high praise from Senator William Roth, Jr., Republican Senator from Delaware who introduced a Bill, by the way, to try and have the Federal Government begin to follow similar methods of exercising the task of managing government. The Senate Committee Hearing heard testimony from the City Manager of Sunnyvale, Tom Lewcock. Sunnyvale is a city of 120,000 affluent citizens. The new look type of government in Sunnyvale has involved the following:

First- the clear delegation of the elected Council of all operating decisions to appointed professionals so that the Council can devote itself to its principal task of setting policies and establishing directives based on a twenty year budget and planning document. If twenty years sounds along time, this is because such a document is needed, they believe, when you look at the useful life of all of the infrastructure of the Town and the need for having a time table for its replacement.

Second - in addition to a ten year capital reserve fund to fund infrastructure replacement, the establishment of an operating reserve equivalent to one hundred per cent of one

TRANSCRIPT - Proposal for Prof. Management Consultant

year's operating expenses. This compares by the way with a diminishing reserve of some fifteen per cent in our Town's case. Their reserve serves not only as an emergency rainy day fund - real emergency - big emergency - earthquakes, I guess, in their case. In our case, of course, it could be a hurricane, but also as a source of revenue. Not at all a bad idea, particularly in these times of low inflation and high real rates of interest.

Preparation of each year's budget in line with the Council's updated policy directives. It is not, in the case of their budget, it is not the traditional line item approval approach. Rather it is by identifying the cost of every service rendered, including in that cost, allocated administrative cost and capital depreciation of equipment used. By the establishment of frequent - of frequency and measurable standards of excellence and by the extrapolation of these - all of this has to do with the budget - extrapolation of these into departmental budgets.

All of this results in significant delegation of authority - better and more encompassed definition of responsibility and therefore clearer accountability.

That clearer accountability permits more objective and therefore less subjective measurements of performance. Nine per cent of Sunnyvale's employees are senior employees are enrolled in this performance measurement plan. Over performance who outperform costs when achieving that quality of service for which they are responsible are eligible for a bonus of as much as ten per cent of their annual salary. However, repeat underperformance are sanctioned or fined. In practice, only a handful - less than one in thirty of the enrolled employees underproduce. The over performers faced with a challenge receive annual bonuses that average seven per cent. Not surprising but very few consistent underperformance leave. What have been the results obtained after many years by Sunnyvale? The City has obtained a twenty per cent gain in productivity over the past five years. I've since read that it should be from 1985 to 1990 - or an average of four per cent a year.

Services have been improved to the higher quality levels dictated as required by the Council's policy decisions to improve services the way they wished. A further result is that a hundred million dollar bonded debt that they had - one hundred million dollars - bonded debt - has been paid down. That is in addition to building the reserve that I mentioned earlier. And all this was achieved by Sunnyvale within the severe constraints of California's Proposition 13. The key to the implementation of the Plan, according to the City Manager, have been:

(1) A basic attitude change on the part of appointed officials willing to accept the challenge of clearly defined accountability and of meeting or exceeding measurable quality and cost objectives. He then adds that the Plan was resisted by many senior employees at the outset, but is now enthusiastically supported.
(2) The second key to implementation of the Plan is training.

(3) The third is, not surprisingly, is new computer software programs. Not hardware - software.

Our President, Mr. Harold B. Scott was on vacation on the west coast recently and he visited Sunnyvale and talked with the City Manager, Thomas F. Lewcock, whom I have mentioned before. He was much impressed.

If the Town Council decides to have a Workshop, we believe it will be very useful and educational to have Tom Lewcock visit Palm Beach and speak at that Workshop, and the Civic Association will be happy to pick up the cost of that visit.

Beyond and subsequent to that, we believe Sunnyvale will be willing to provide other key people, if so desired by you to help evaluate what part their program might be usefully implemented here. In this case, we believe the Town would have to reimburse only the out-of-pocket costs of such visits.

To conclude, if you wish to follow the Town Manager's recommendation that there be a Special Workshop Meeting, then we suggest that you use that occasion to listen to the outside experts whose practical experience in the types of changes I described earlier, and if you agree, then the Civic Association would invite Tom Lewcock of Sunnyvale to address us at that time.

If you then wish to follow up with the additional visits with certain of its' key staff, before seeking the outside consultants, we should with respect remind ourselves that time is of the essence. Next year's budget preparation work by the Town Manager and his staff begins in April, only three months from now.

MRS. DOUTHIT: Oh, Mr. Heeke?

MR. HEEKE: Mrs. Douthit?

MRS. DOUTHIT: I found your presentation interesting but no place in there have you mentioned the number of user fees - and I'd like to know how many are in that whole Sunnyvale bit, because just thumbing through, I did see user fees quite frequently, which we do not have here.

MR. PRYOR: Unfortunately, Mr. Scott could have answered that question - because he does have a detailed breakdown of both their expenditures and of their income or taxes, and I - he could answer that. Unfortunately, he had a business visitor from Europe yesterday who arrived in the morning and fell dead at 2 PM and Mr. Scott is now in Miami and may have to go to Europe to accompany.....so he apologizes very much - he apologized very much......

MRS. DOUTHIT: I'm not sure I want to see him -

MR. PRYOR: ...for not being present today, as he would have been here - he rang me up this morning to tell me this - to answer such questions as that.

MAYOR MARIX: Mr. Heeke?

MR. HEEKE: Yes, ma'am.

MAYOR MARIX: I agree that the user fees and things like that are important - because for one thing, they are not tax deductible. Also I agree completely with Mrs. Douthit - I also agree with

TRANSCRIPT - Proposal for Prof. Management Consultant

Mr. Pryor to the extent that if we are going to look into any changing in our budgeting matters, it doesn't do any good for us all to talk to ourselves. I do believe everyone involved in our budget, whether it is the Administration or the Elected Officials, do do what they do believe is the best and try the hardest. What we're looking is for some outside thinking, and I think the idea of having someone come from that point of view, before picking out a specialist might be very good. It might well be we want to consider a Mini-Grace type of approach or as many approaches that we should be considering before we go out and advertise for someone, because if you advertise for someone you've got to give them your scope of work and our scope of work we must have thought about pretty hard every year - we wouldn't be sitting here - you know, spending the time on it so obviously the idea is to get new input - whether it's the book, the visitor, whatever, and we cannot just use our own ideas of what how it is we'd like to see this, so I think the Sunnyvale idea would be just super - a workshop - we can't have workshop without having some new ideas - that's the bottom line.

MR. HEEKE: Mr. Pryor, are there any other communities that have embarked on this type of effort that we might get a consensus or input from those?

MR. PRYOR: Yes, there are. They are approached by an average of two hundred municipalities per year - how many of those actually then go out and emulate their ideas, I couldn't tell you, but we are trying to run that down. There is a university professor from the area that has followed this up and we could hopefully provide you with that answer.

MR. HEEKE: I would also be interested in what they did at the very outset.
and how they got their study and they initiated their study. What source did they look to - not to reinvent the wheel necessarily, but that might also give us some ideas.

MR. PRYOR: Yes, we'll ask that question and get back to you as soon as possible at the same time. Of course, the City Manager of Sunnyvale could answer that question as well himself. I would like to add one thing. In 1990, this - when the costs of running Sunnyvale were compared to those of similar cities, it was found that Sunnyvale - and you've got to be careful with some of these comparisons - but it is a significant figure, therefore, maybe we need to look at it with care - maybe comparing big apples with smaller apples - or whatever - compared to cities in the area - other cities in California of similar size, I am told that Sunnyvale now uses 35 to 40 per cent fewer people to deliver those services than those other cities. That may or may not be the case but more importantly, the employees - Sunnyvale's employees are paid more - but despite that, its' operating budget is still at the low end of comparable cities. Certainly, its' per capita taxes were lower than any comparable cities in the large sample. That's a quote from the New York Times. That's a quote from the New York Times.

MR. HEEKE: The other - yes, ma'am, Mrs. Wiener?

MRS. WIENER: How much of a history do you have of Sunnyvale other than the wonderful improvements that they have made - were they perhaps a City in trouble?

MR. PRYOR: I think they were and they were in more trouble, of course they faced a Proposition 13.

MRS. WIENER: Well, you see, there's a difference here. If you compare people on equal levels - people who are doing well - who are striving well - who have things under control with each other - one of them has really done a tremendous job and is way ahead of the game - if you're comparing us to a city in trouble - a city who may have had financial problems - who have had poor management - and an assortment of things like that and has gotten itself into a state where its doing well and they are approaching where we are - I'm interested in a history of where they came from to get to where they are.

MR. PRYOR: I'm sure we can provide that - but more importantly, Mrs. Wiener, I think they are recognized nationally as a prime example of the benefits of this new approach and they are the first ones to say every city is different. If your city may be - may be - ninety per cent of the way we are - but I think it beholds to say even if we are ninety per cent or eighty five per cent or ninety five per cent - let's try to go that extra five - fifteen - or five per cent.

MRS. WIENER: Oh, that's not the problem - but when you look at figures - there's a reason for those figures and obviously that's why I asked you - was it a City in trouble, because the figures are so unrealistic for a City that is doing the right things and marching in the right direction - I would also say to you - one of the remarks that you made - you know, being recognized all over - I remember when Banks and Savings and Loans were recognized all over as the prime A-1 way of operating - so I think we need to be careful that we don't in looking at all these things find ourselves chasing something that's not there. We've got to be very careful. Sunnyvale is not promoting itself. I'm a very sales resistant person, and managers promoting themselves and who knows what he has in mind? I just want to make sure that the path we follow has really got something to give us and maybe there's somebody else out there who started off well - well and healthy city - good services that is improving and that's the kind of person I'd like to hear from.

MAYOR MARIX: Mr. Heeke. I think, however, we can learn a lot - not necessarily from Sunnyvale but from whomever we learn from - in that we could be approaching not the same kind of obviously quite the same kind of Proposition 13, but the type of tax caps I'm glad to say we are going to come in on soon. All things we could learn a little bit from people who are operating in the State where they have a very serious tax cap - I think that the facts we have not been able to match some of the other cities - you know, how much we've been able to hold our budget. Now it's not bad because we are good a safe city in pretty good shape but I think we do have to look at every direction and if it takes a little time to look at that one - we should find out what's good - what's bad - get the answers. I don't think that we can get any answer by just preaching to ourselves - that's my bottom line - and I think we've got to look at several possibilities like this one. We don't have to buy what they've got to offer. I think there are several possibilities we should be looking at for the future.

MR. PRYOR: I'd like to - if I can answer questions - add some words to the point of what's been said here? I'm sorry I mentioned the figures - the figures are unimportant perhaps because I did not mean to imply similar figures of improvement could necessarily be obtained here. I know full well I would venture to guess that in no way, in no way is the Town of Palm Beach compared to other municipalities with all due respect to their governments in the County. Are we behind anybody else? We may be at the head of the pack. That is thanks to all of you here - so I do not think

TRANSCRIPT - Proposal for Professional Management Consultant

there's any parallel between the fact that they are 35 or 40 per cent more cost effective than other cities in that area and there's no parallel with us here. I suspect we are already somewhat more cost effective than most of the others. But I do still believe - I personally believe - that if we try hard, we can find ways of providing the same excellent services in some cases even perhaps more excellent services - if not for twenty per cent less - certainly for ten or more. I firmly believe this or I wouldn't be suggesting we be taking these steps.

MR. HEEKE: Thank you, Mr. Pryor. I would like to comment on one thing the Mayor said - yes our budget was up compared to other towns - this year, but that hasn't been our history. And you've noted this yourself, Mr Pryor, that we had a reason for our increases this past year and I don't want to go into that - but most of those were things we had no control over. So I am very pleased with the effort that our staff made in trying to hold costs back - I'm not saying that there aren't other approaches that are available and we can always learn from other people. But I'm not willing to say that we haven't done a good job - I think we've done an outstanding job. I'm very pleased with all of our staff and department heads and when we go line item by line item, there is frequently justification and rejustification for things and I don't think anyone walks into those Finance & Taxation Committee meetings ill prepared. I think - I see some smiles on some faces around here from those who walked in one time ill prepared.

MR. PRYOR: At the time that the Committee for Good Government did an in-depth study of different municipalities in the County and other governments, this was in 1990, the Town of Palm Beach came out basically at the head of the pack of those other municipalities. I think we may have slipped a little in the last two or three years with cause or without cause. I think we may have slipped but basically we should look at ourselves and say "forget what other people do - we may be a lot better than most but are we as good as we could be" and when you look back to 1985, and you say that the Town hasn't grown - I know we have some additional work dictated by Tallahassee but is that the root of the explanation that during a seven or eight period - since 1985 - inflation has gone up 37 or 38 per cent and the cost of running this Town in the level of property taxes went up 70%. There's a potential problem - much more important, I think, though is to project the future - as we go into the 90's, are we going to want to spend more money on certain things? I suspect we will. Without being able to have much choice, for instance, in water - maybe in shore protection. Facing those additional costs, should we strive now rather than wait for the ....try now to streamline our organization - if that would pay for all or at least part of some of the probable added costs in the future.

MR. HEEKE: I think we all recognize areas where there is costs and we have been trying to address those and there is no perfect answer. It's an ongoing process that we can't ignore and I don't think there is a person on this Council that's not eager to hear some other ideas and see if there's something that we can implement too.

MAYOR MARIX: I think that's the bottom line. We can listen to ideas. If they don't help us any, we don't have to adopt any of them. If they do help us - good.

MR. PRYOR: Mr. President, even though we didn't expect this recommendation to come from the Town Manager - we support it and if that's your wish and we would ask that you consider the wisdom of possibly asking outsiders to come who have - even though from a much lower base than ourselves - made significant improvements in their method of carrying out government.

MR. HEEKE: Mr. Doney?

MR. DONEY: Mr. Heeke, I have a number of comments and suggestions and also need input from the Mayor and Town Council and I can't do it in three minutes.

MR. HEEKE: Alright. Why don't we break for lunch and come back at 1:30.

(break was taken for lunch).

MR. HEEKE: Town Council meeting will reconvene. We were in the midst of discussing the consideration of the Palm Beach Civic Association's proposal that the Town Council employ professional management consultants to provide a report with specific recommendations. Mr. Doney, you had a lengthy memo to the Council. Would you like to summarize on that a little bit?

MR. DONEY: Yes, Mr. Heeke. I think that it's very important that the Mayor and Council discuss this entire issue. That the Mayor and Town Council along with the staff and I believe strongly that a Workshop/Town Council meeting would be in order to look at the existing Town budget, which is on the program by program basis, and I think that will assist, if it's the Town Council's desire to move forward with a potential selection of a consultant it will help the Town Council with input from the Town staff, to define what the scope of work for this study should be. There is much information I can share with you on this issue - I would like to point out that the Town staff has done some preliminary investigations and I've spoken to the Assistant City Manager and also the Planning Officer and also an officer in the City Clerk's Office in the City of Sunnyvale, California. I have information forthcoming. I have information which Mr. Pryor, through Mary Ratliff has provided to me, and I have reviewed the planning and the management system which the City of Sunnyvale uses. The budget document itself, we have obtained from the City of Sunnyvale is a very extensive document, it gets into cost center analysis and many other detailed breakdown. I think the whole issue of Reinventing Government and I have a copy of the book - I have not read it - I've read just clips from magazines as far as summaries of what is reinventing government and how it should be approached. It needs to center upon the Town Council as the governing body with input from the Town Staff. I believe that the Town staff and the Mayor and Town Council have been responsible and accountable for the budgets that we have in place over the last five years - ten years - or longer and I think there's a very comprehensive and objective process by which the budget is adopted in the Town of Palm Beach through the meetings of the Finance & Taxation Committee that precede the final hearings by the Town Council and the Mayor. I believe that we can dissect the budget into further smaller parts and I'm in the process of doing that with the Department Heads to identify on a more detailed basis what the direct impact is of the funded State mandates - what the non advalorem revenue item potential is as far as increasing non advalorem revenues and also, cost saving ideas and cost saving measures that have been implemented for the last five years. I think that in the picture of looking at just the potential upward trend where we come from a little over 21% to almost 23% of each tax dollar. I think that's a little bit out of context. I think we can help and provide information to the Mayor and Town Council meeting to put that more into focus. You need to look at it over the longer trend back to 1984, when the Town was 35% of the total taxpayer's bill - 35 cents on every dollar. I believe that the Town staff -

TRANSCRIPT - Proposal for Professional Management Consultant

professional staff - the Department Heads and myself and those in my office - Mr. Elwell and Mr. Jakubiak - we and I want to be and will be open-minded to any improvements or innovations that the Town Council believes, after reviewing our recommendations are appropriate for the services to be rendered in the Town of Palm Beach. I believe that we have implemented - we have eliminated personnel over the last five years. We have implemented cost saving purchases - we have implemented cost saving measures and I think we need to document in a comprehensive fashion to refresh everybody's memory. I think that we do need to be very open minded towards the planning and budgeting management system of not only Sunnyvale but there are others out there who have a greater degree of detail in their performance indicators and you actually need to have documented measurements and objective criteria whenever possible - sometimes it's not possible. I think it will be helpful in a Workshop meeting with the Mayor and Town Council if the staff - if they were to review on a program by program basis, where we are and why we are at this dollar level and the number of people and everything else, dissecting that - identifying mandates within each program and then putting this all in perspective. If what I have offered to you in my memorandum is - if the Town Council makes the first decision and that is that a consultant management consultant should be brought in to take a look from the outside and suggest improvements to reduce the overall costs of the Town's budget and services that the Town provides - I think that the Workshop Council Meeting is a must in my opinion as far as identifying the scope of work. I know that there are techniques and there are organizational analysis and streamlining that potentially could take place, but I think we need to and I'd respectfully request that I and also each Department Head have the opportunity to identify if there are to be restructuring organizationally, flattening out of the organization what we believe and identify for the Town Council and the Mayor what those impacts will be upon day to day delivery of services. I do feel that we need to - with the Palm Beach Civic Association and the Palm Beach Civic Association I know, through Mr. Pryor and other officers have come to the Finance & Taxation Committee meetings, the Budget meetings, and I think we need to really focus on specifics. I think we really need to identify exactly what is in the Town's budget and is it justified and what is our millage rate compared to the other jurisdictions that have tax hiking authority within the Town of Palm Beach. I do believe we need to - if we're going to look to Sunnyvale, California and from I've learned very preliminarily of Sunnyvale , California, the Planning and Management System that they have and the documents that we have from Sunnyvale I think that the Mayor and Town Council and the staff need to familiarize ourselves with those documents so we know the full extent of what we are getting into, because it is very, very involved. It's a lot of - as Mr. Pryor has indicated - it would require software. I fully believe that. To have cost center analysis and unit cost analysis and other things and if that will achieve the Town Council's expectations and goals. And focus this and give it a lot of perspective. I hope that from the other information in Reinventing Government and maybe the Mayor and Council members have had an opportunity to read it. I have not and I have a copy and I know you're very busy too and I know that that's a very popular word in today's days and no-one can argue with wanting to improve and we're committed, staffwise, and I as Town Manager with the Department Heads to implementing any improvements we can and we're open-minded to any of them. If the Town Council thinks it is appropriate, deems it appropriate to have Mr. Lewcock who is the City Manager of Sunnyvale come to a Workshop Town Council meeting, Town staff will fully cooperate and look for any opportunities to improve our budgeting system - reduce the cost of the budget - the actual budget dollars that we have and other improvements through our pay-for-performance system and other services that are delivered by the Town.

MAYOR MARIX: Mr. Heeke?

MR. DONEY: May I finish?

MAYOR MARIX: I thought he stopped.

MR. HEEKE: I want to make a comment when he finishes.

MAYOR MARIX: Then I want to after that.

MR. DONEY: I do want to - if - I have some other things to relate to you as far as this overall issue - would ask please that if the Mayor and Town Council is inclined to want to go out and advertise for consultants at this time that the next order of business be a Workshop Town Council meeting and if there are any questions, I am prepared to answer them.

MR. HEEKE: I'm going to exercise the prerogative of the Chair. We can be here all afternoon discussing this matter and get nowhere. Simply because there's so many facets to this. Moreover, we will have a new Town Council seated here a month from today and they in turn should fix their own schedules. I am in favor of a Workshop personally. I don't mind asking for a motion that we hold such a Workshop, but, the schedules of the individuals and when they may attend are going to be governed by those sitting on Town Council and we cannot make that decision today.

MAYOR MARIX: Mr. Heeke, I still want to before we close this - I do want to make a couple of comments, if you don't mind.

MR. HEEKE: If they're brief, Madam Mayor, as I really want to get on with the rest of the agenda here. We've got people waiting.

MAYOR MARIX: They certainly will be brief. I want to point out from Mr. Doney's remark, it looks like he's under the fence - which is ridiculous. He doesn't have to be. This Town has done a perfectly good job in many, many ways on its budgeting. What actually we should be looking at is an approach that we don't know about. Because we don't have it. Because we have not been trained in it. I do not believe we can sit down - I don't care who the new Council is - and just as I say - introvert into ourselves. I think the decision to get new ideas is the important one to be made - if you had them already or if I had them already, we would have had them on the table already and I frankly - a Mini-Grace Committee makes more sense than advertising for someone and see who shows up, but I believe these things have come before advertising for someone who shows up and then we tell him what we want. In other words, I think the decision - are we looking for new ideas - and if so - how best can be use them - it's a basic decision to be made - it's not whether you've got to go through figures justifying what you did - or the Department Heads go back to the figures trying to see what they did wrong and who gives an extra three per cent or whatever - I believe that the decision is "Are we looking for fresh ideas" and if so "How do we get them" is a cornerstone.

MR. HEEKE: Well I think that could be the focus of the Workshop.

MR. DONEY: Just in one brief remark - I hope that my comments weren't defensive. I hope they were..... TRANSCRIPT - Proposal for Professional Management Consultant

MR. HEEKE: I don't think so, Bob.

MR. DONEY: I hoped they were intended to be constructive and open-minded.

MR. HEEKE: If so, you are also defending us. Okay -with that in mind I really think a Workshop is in order. I would recommend it to the next Town Council. I'm not sure I feel comfortable making it an edict to them to hold it. I listen to the consensus of Council.

MRS. WIENER: Well it isn't as if the next Council is six months away and it could be that the majority of the new Council will be new members. I tend to agree with you, Mr. President.

MR. HEEKE: Okay. Why don't we then ah - let's do this - let's put this on the next agenda.

MR. WEINBERG: Yes. The next agenda.

MR. HEEKE: For an item of discussion and consideration and the possibility of scheduling a Workshop.

MR. WEINBERG: We don't have to move on that, do we?

MR. HEEKE: No, I don't think so.

MR. WEINBERG: Alright. Then let's go on.

(end of transcript). END OF TRANSCRIPT

3. Consideration of Self-Evaluation Report to Comply with the Americans with Disabilities Act (ADA) - Mr. Doney explained through the efforts of Mr. Jakubiak and Mr. Crouse, this document identifies the Town's plan of action to comply with the unfunded mandate of the Federal government on the requirements under the Americans with Disabilities Act. He recalled the Town is required by 1-26-93 to identify a transition plan, which is always subject to amendment, and it outlines the framework under which the Town will comply with this Act. He asked for a motion to approve the Self-Evaluation Report if that is the Town Council's desire. Self-Evaluation Report - Americans With Disabilities Act.

Mr. Ilyinsky moved the Self-Evaluation Report to comply with the mandates of the Americans with Disabilities Act be approved. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Mrs. Douthit commented this is the sort of thing that increases our budget as this has taken a lot of staff time to prepare this report and over which the Town Council has no control.

XIII. APPROVAL OF WARRANT LIST AND FUND EXPENDITURES FOR DECEMBER 1992 - Motion was made to approve the Warrant List by Mr. Ilyinsky, seconded by Mr. Weinberg. On roll call, the motion carried unanimously. Approval of Warrant List & Fund Expenditures

XIV. DEVELOPMENT REVIEWS Development Reviews

A. Major Matters Previously Considered by the Architectural Commission at Their Meeting of December 16, 1992 - Motion was made by Mrs. Wiener, seconded by Mr. Weinberg to approve the Major Matters considered by the Architectural Commission at their meeting of December 16, 1992.

The major matters were:

B51-92 - Demolition and new residence for J. Sirigotis, 256 Miraflores Dr., removed from the agenda.
B73-92 - New residence for Sidney Kimmel, 1020 N. Lake Way - deferred to January meeting.
B84-92 - New residence for Mr. & Mrs. James Zisson, 1679 N. Ocean Blvd., - deferred to January meeting.
B87-92 - New two family residence for Brazilian Development Co., 240 Australian Ave. - Deferred to the January meeting.
B58-92 - Landscape Plan for Dr. & Mrs. Marvin Rosenberg, 2 La Costa Way. Approved conditionally.
B98-92 - Addition and remodeling at 970 N. Lake Way (Augustine Falcione). Approved conditionally.
B99-92 - Demolition and new residence for Mr. & Mrs. Robert Meister, 1375 S. Ocean Blvd. - Deferred until January.
B1---92 - Addition to residence of Catherine M. Tankoos, 608 Island Dr. - Removed from agenda.
B101-92 - New Residence for Martin Mochorowski, 260 El Bravo Way - Deferred.
Motion carried unanimously on roll call.

B. Variances, Special Exceptions and Site Plan Reviews

<u>Old Business</u>

1. Amended Variance No. 13-92 - Joel Martino, 109 Ocean Terrace; to allow an increase in overall building height from 27.69' as previously approved to 28.85'. R-B District. (See Item XIV. B.5.) - Robert Bell, Architect addressed the Council for Mr. Martino noting there is a three story existing portion of the house which will remain and they have received permission to demolish the two story portion of the house and they are preparing working drawings for the addition. He had shown on his drawings an existing porch which was going to be enclosed and the roof was extended to cover that portion of the house, which was approved by Town Council and the Architectural Commission, however when working up the drawings, they thought perhaps they could leave the original configuration of the roof and took it back to Mr. Frank who suggested they go back to the Architectural Commission for approval of the Var. 13-92

change of the roof line and window locations, who subsequently approved it. He exhibited a Plan and pointed out where this change would be and indicated that the Building Department thought it was best for them to come back to the Town Council with the suggested change. He has tried to reduce the mass of the front elevation and has taken the closed in porch and made it an open balcony and have pushed it back approximately ten feet. He asked for the changes to be approved as:

(a) a continuous roof slope allows use of a single roofing material.

(b) maintaining existing roof slope would allow the use of the same roofing material.

(c) the peak of the roof cannot be seen from the centerline of the street or the property line.

(d) the height requested is approximately 1'2" below the allowable thirty feet.

(e) additional mass and floor area has been reduced from the south elevation, reducing the overall square footage, lot coverage and floor area ratio. Square footage approved previously was 4682 and now proposed 4622; lot coverage approved previously was 24.02 and is now proposed at 23.80; floor area ratio approved previously was 44.78 and proposed is 44.21.

Mr. Moore reported there was a question on the new roof by staff and he didn't believe that was the subject the Architectural Commission considered and believed it was the other roof modified which necessitated this roof to come back to the Council, and in actuality ARCOM was not aware of the change in the roof. Mr. Bell responded in any event that was when the decision was made to return this matter to the Town Council. Mr. Heeke commented that when there are deviations or changes, the same drawings should be submitted to the Architectural Commission as are submitted to the Town Council.

Dr. Sten Lilja addressed the Council indicating he did not oppose this application when it was before the Council previously. He stated he has a concern of what is happening to the Town as many of the homes along North Ocean Boulevard have come about through methods of misinformation, which threatens our Zoning Ordinances and its' objectives. He pointed out this project is before the Council because the drawings are now different from what was approved in May and it is before them because important changes passed by staff and ARCOM. He stated there were two changes in height which pertained to dimensions which were a condition of the initial variance. He recalled this Council did approve the revised plans for this project, subject to conditions, which were

(1) the roof height would be the same as or no higher than the roof on the remaining existing building.

(2) the dining room floor elevation would be no higher than 13.8'.

(3) the dining parapet elevation would be no higher than 25.83'.

(4) although the plans called for a roof on top of the dining room, a terrace would be allowed as long as the parapet remained at 25.83'.

(5) the existing and proposed new addition would remain split level, as before, as that feature would discourage unauthorized elevations as had been displayed at the previous meeting.

He pointed out the mandatory height limitations had been violated as well as the split level feature. He advised the parapet on top of the dining addition has been raised approximately two feet, which will increase the height of the building which faces the street. He added this has been increased by approximately fifteen per cent. He advised on top of the addition and behind the parapet, a terrace has been added which increases the area of the red roof tile on the parapet, and further adds bulk to this nonconforming three story residence. He advised the mandatory split level feature has been violated and this was not detected by the Architectural Commission or by the staff. He believed the application to ARCOM only mentioned changes to doors and windows but the drawings did include a new roof line and a higher parapet line, but there were no height dimensions which would indicate there were going to be changes to the height. He felt it was clear from the ARCOM minutes that those mandatory conditions were not mentioned during the ARCOM meetings. He thought the reasons given to support the application were irrelevant, misleading and incorrect. He requested the Town Council to deny the request and he thought the roof deck should be eliminated by leaving the balcony which will solve the parapet height problem and he believed the applicant could still achieve the ceiling height of nine feet.

Mr. Bell responded he did discuss the changes on the windows and the roof with Dr. Lilja before the Architectural meeting and it was something that was not "discovered" by the Town and he wanted that to be made clear. Mr. Heeke asked if this was clear to the Architectural Commission to which Mr. Bell responded he tried to tell them at the meeting, as that was his intention. He referred to the parapet height which was discussed by Dr. Lilja and he wished them to know that was not an issue and need not be discussed as part of this variance. He didn't believe there were specific limitations set on the parapet height.

Dr. Lilja did not agree with Mr. Bell, noting he did see the drawing immediately before the ARCOM meeting, when he was leaving and he was not in attendance at that meeting as he did not stay and no idea what was going to happen. He stated when one looks at the drawings, it doesn't catch you immediately that there is something wrong, but it did catch him afterwards and he then conveyed to Mr. Bell his opposition and since that time he has spent quite some time to find out the procedure which has led to the situation of where we stand today. He responded to Mr. Bell's statement that they couldn't see that the height of the parapet had anything to do with the present variance, that is correct, however, Dr. Lilja wanted to point out what they are proposing is that there have been substantial changes form the drawing upon which the Council approved the variance in May, so there is a conflict. He did not believe the drawing which they have exhibited today was the drawing that was in front of the Architectural Commission.

Mr. Bell advised the cross hatching was added for the Council's benefit and as a submittal to the Town Council and although it was not on the drawing before ARCOM, it was the same drawing. Mr. Moore advised he has had discussions on this with Mr. Bell, Dr. Lilja and with the applicant and to the best of their knowledge, they do believe that what Mr. Bell has presented to the Town Council and has been identified as a reduction from what was presented last May, and other than the claim that the roof would be no higher than the existing roof line, and that cut-out which was presented today does represent the difference between the style of the roof meeting the addition which had to be modification from an engineering standpoint as far as the design of trusses were concerned, and it did in fact raise the structure higher by 1.4' than what was viewed by this Council last May, and that is why he is here. Mr. Moore pointed out the overall height is not being violated here as it is below the overall height and out of an abundance of caution, they asked for this to come back to the Council as there has been this experience with other architects on other projects in the past and once it has been identified, that change did need Council review as it was not as presented last May to the Council. He stated there has been another redesign of the house since the Architectural Commission has met on it and it will have to go back to ARCOM because more bulk has been taken out of the house. He stated it is less than what they saw last May, size wise, bulk wise except for the 1.2' roof height. He felt a deal was a deal and they have suffered through some problems associated with professionals taking liberty with the Building Department in the past and they felt that since this was identified, that issue should come back. He added he has had extensive conversations with Dr. Lilja about the parapet and that may have been something that was agreed to with the applicant and Dr. Lilja in discussions, but there is no zoning violation in the size of that parapet, only in the style and design, which is the Architectural Commission's concern. He advised that in his opinion this is less of a house other than the peak and that peak can be designed with a flat roof.

Mrs. Douthit felt there were discrepancies here and she had difficulties with it as she felt it would be precedent setting to allow it, as the FAR is three tenths of one per cent under the 4.5 number and she didn't see a hardship which they need to have in order to be granted a variance. Mrs. Douthit moved the application be denied. There was no second to the motion.

Mr. Heeke asked what was the original variance to which Mr. Moore responded it was to expand and rebuild the nonconforming structure which was in effect, a three story structure. They wished to remove a portion of the residence, 27% in volume, due to structural considerations and then reconstruct the two story addition in the same location, which would constitute a second and third floor with the third floor addition not allowed by Section 4.20. Mr. Bell addressed the Council stressing they did get a variance before and they were approved for certain square footages in certain floor areas and certain lot coverages and he realized they are back for a variance, but they are reducing the mass, the floor area and the square footage of the lot coverage. He stated this is a less of a house than it was before.

Mrs. Wiener moved that based on the fact that there has been a reduction, she moved that the amended variance be granted. Seconded by Mr. Weinberg on the basis of Mr. Moore's statement that there is no zoning violation involved. Mr. Moore pointed out that is why they are here as there is a zoning variance needed, but there is none beyond what has been originally requested. Mr. Randolph advised this is still within the required height and the only reason it is here is because Council did give them the opportunity to build onto a nonconformity.

Dr. Lilja addressed the Council emphasizing he is not talking about the maximum of height on which they have had discussions, but his concern was the fact that the variance for the overall project, which is a nonconforming three story building, and it proved after several discussions by this Council of other features, in particular the Floor Area Ratio, and another thing that was talked about was the height of parapet which he is very concerned about as it will result in bulk. He couldn't understand why the architect should be allowed to change the parapet height and considerably increase the bulk. Mr. Heeke understood the objection is not so much as what is being presented today as to the compromise to reduce the appearance of bulk, but Dr. Lilja's problem is that once the Council has spoken, plans seemingly different from that were presented. Dr. Lilja thought the problem could be solved as far as the parapet is concerned, as long as the applicant doesn't insist on having this large terrace on top and if that terrace is removed, there would be no problem to adjust the building to a height which would not seem to have the bulk.

Mr. Moore reminded all that there is no zoning violations with regards to the parapet, and in fact, it is an aesthetic problem which should be handled by the Architectural Commission. Dr. Lilja asked if he could submit the proof he had about the plan as he viewed this as his word being questioned to which Mr. Heeke agreed. Dr. Lilja read from a letter he received from Mr. Martino: "I was not aware that the parapet height was raised although I definitely should have realized that. Please accept my apology for this because I had intended to keep the agreed height, but somehow the drawings I got and showed to you, did not correspond with my understanding of the architect's plans." Mr. Moore advised this is a letter to Dr. Lilja from Mr. Martino and was not a part of any discussion on the variance, and is a private communication between the two of them.

Mr. Heeke stated the letter has been heard and it is understood that any time a variance is granted, there should be no deviation from the granting without first coming to Council and should not have gone to ARCOM or tied up other staff work without it coming back to the Council.

On roll call, the motion failed to carry (3-2-) with negative votes cast by Mrs. Douthit, Mr. Ilyinsky and Mr. Heeke.

2. Amended Variance No. 70-92 - Ocean Bay, Inc., 910 South Ocean Boulevard and 151 and 171 Via Bellaria; to allow construction of a second floor addition to a two-story residence built at a ceiling height of 40.03' and requesting addition height at 44.03'; and providing a 30.8' side yard setback in lieu of 35' required. R-A District. Deferred from December meeting. (See Item XIV.B.9.) Attorney Robert Deziel addressed the Council on behalf of the applicant. He indicated the attorney for the neighbors, Mr. Brindell, is trying to reach one of his clients who is out of the country and asked if this matter could be deferred until later in the agenda to which Mr. Heeke agreed. Amended Var. 70-92

New Business

3. Variance No. 1-93 - Mr. & Mrs. Parker Bryant, 159 Australian Avenue; to allow construction of a Porte Cochere providing an 8.79' west side yard setback in lieu of 15' required, and allow a lot coverage of 26.9% in lieu of 25% maximum allowed. R-B District. - Mr. Lindley Hoffman, Architect, representing the applicants addressed the Council indicating the wish to have a Porte Cochere to be built on the west side of their house between their house and the parking lot for the police station. He Var. 1-93

stated this is the minimum structure and it looks something like a trellis. He felt that since it is next to the Police Station, it would not impinge on any of the neighbors. Mr. Moore reported the property is a small lot and the neighbor to the west is the Police Station and to the south, it is the Beaumont Parking Lot and his office has no objection. After further discussion, a motion was made by Mrs. Wiener to approve Variance No. 1-93. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Var. 2-93

4. Variance No. 2-93 - Cindy Lookabaugh, M.D., 350 South County Road; to allow a medical office to occupy 400 square feet in lieu of the 1,250 square feet minimum; said minimum would require 5 parking spaces; applicant proposes two parking spaces as adequate for her occupancy. C-TS District. - Dr. Lookabaugh addressed the Council requested the variance pointing out her practice as a psychiatrist is quite different from a family practice or that of an intern or surgeon as she does not see the volume of patients these other doctors would see and she only sees one person at a time for an hour or less, and would not require five parking spaces as the Code calls for. She commented it would be a hardship for her to rent these spaces as she has no need for them. Mr. Moore reported he has no objection and he didn't think the Ordinance contemplated psychiatry with the requirement for five parking spaces. He recommended that this be limited to this user and any subsequent users would have to return to Council. Motion was made by Mrs. Wiener that the Variance No. 2-93 be granted with the condition that this variance was for this occupancy only. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Var. 3-93

5. Variance No. 3-93 - Joel Martino, 109 Ocean Terrace; to allow a cathedral ceiling in the master bedroom resulting in a building height of 28.61' in lieu of 25' maximum allowed. R-B District. (See Item XIV.B.1.) - Mr. Robert Bell, Architect, addressed the Council advising the modification to this variance would be the building height would be reduced to 27.45 as the whole ceiling would be reduced by the amount of the other variance, which was denied. He felt the variance should be requested as the ceiling height does not affect the exterior appearance of the residence; the ceiling height requested and the roof structure above is approximately 2.4' below the allowable overall building height of 30'. He felt the existing topography does cause the hardship as the center line of the road is approximately 3.78' below the floor slab. He stated the existing floor elevations and heights which must be met affect the requested ceiling elevations.

Mrs. Douthit asked what was the hardship? Mr. Moore responded that the requirement is built into the Code for the overall height to be measured at the bottom of the ceiling or the tie beam or the top plate in frame construction and in this request, the pitched roof will be there but they want to use the inside of the pitched roof for the cathedral ceiling. He stated this will not raise the exterior of the house higher than what has been approved.

Mrs. Wiener moved that the Council grant Variance No. 3-93 as modified. Seconded by Mr. Weinberg. On roll call, the motion carried 4-1 with Mrs. Douthit voting against the motion, due to no hardship being shown.

Var. 4-93

6. Variance No. 4-93 - Richard Danton, 342 Cocoanut Row; to allow modification to a nonconforming multi-family building by installing a wood sundeck over the one-story area with an awning providing a side yard setback of 6.8' in lieu of 20' required, and a rear yard setback of 12' in lieu of 30' required. R-C District. - Mr. Richard Danton addressed the Council noting he has restored this building and wished to put a roof deck over the cottage in the rear of the property and requested authorization to do so. Mr. Moore advised this property is nonconforming and is way over the density that is allowed and he considers this an expansion of a nonconformity and there is no hardship been demonstrated and he would have to recommend against this variance request. Mr. Danton stated he is looking for outside space on a two bedroom apartment and he doesn't know if that would be considered as a hardship. Mr. Heeke responded it would not be, although he wanted to state the appreciation of the Town in downsizing the density, however, this could not be construed as a hardship. Motion was made by Mr. Weinberg to deny Variance No. 4-93. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously to deny.

Var. 5-93

7. Variance No. 5-93 - Jane Cummings, 583 E. Woods Road; to allow construction of a one-story garage addition providing a 5.75' side yard setback in lieu of 15' required. R-B District. Attorney Robert Deziel addressed the Council on behalf of Mrs. Cummings. He advised the Mayor and Town Council this variance involves the addition of a one story garage. He stated the hardship is this property on Woods Road abuts the back yard of a property at 222 Plantation, so there is a side yard abutting a rear yard and if this was his client's rear yard, they would be held to a ten foot yard setback in lieu of the 15' sideyard setback. He stated the other hardship is they have only 78' of frontage so it is an irregular lot. He felt this would be an excellent contribution to the neighborhood and is as he views it, an intelligent variance. He did go to the residence at 222 Plantation who told him he was the owner of the property, and he had no objection to this variance and he would be the property owner most affected by this variance.

Mr. Moore explained the unusual configuration is because this is an interior lot, and Mr. Deziel has pointed out this is an irregularly shaped lot. He felt the setback requirement which was being asked to be waived was excessive due to the narrowness of the lot. He thought the percentage was excessive, if it were looked at on a proportional basis. He stated this is the first time he heard the fact that since it is adjacent to a rear yard, there is a hardship, but he thought it might be worthy of consideration.

Mr. Heeke asked what the dimensions of the proposed garage? Mr. Moore responded 9.6' in width and 22' in length. Mr. Heeke asked if they could get what they want with a cantilevered awning? Mr. Moore stated they could get another 2' in that way.

Mayor Marix thought it was a hardship for the Town to have a house like this in it, let alone the owner. She stated according to the picture, the two story garage has not been built and wondered if there was any way of reducing that so that the request can be less? Mr. Deziel pointed out the owner does wish to have two garage doors as they thought that would be more attractive than just having a single door, so he didn't think that they could reduce the amount of space requested.

Mr. Jeff Smith, Architect, addressed the Council after looking at the plan noting that if it was going to be reduced, there wouldn't be enough room for the two doors. Mr. Deziel explained the architect who he is working with on this project indicated to him that this is what the owner wanted. He thought that in considering the hardship - the side yard to rear yard - the lot in this zoning district is 22' less than what the ordinary lot is in that zoning district, and there is extensive landscaping and they are trying to take this house which is extremely unattractive and make it a home which will fit into the neighborhood.

Mr. Ilyinsky moved that Variance 5-93 be granted, based on the simple fact that there is an unusual situation here in terms of the side yard to rear yard of the neighbor, and we would be penalizing them if they weren't allowed to do this and it would make the house more attractive. Seconded by Mrs. Douthit.

Mayor Marix thought if someone wanted to buy this house and tear it down and make a box type house, it might be more legal on the lot, but the Town would be worse off.

Motion failed to carry (3-2) with negative votes cast by Mrs. Wiener, Mr. Weinberg and Mr. Heeke, who stated he could find no hardship. Mr. Deziel felt the hardship was that the lot was 22' short on the frontage of the lot.

Mr. Randolph advised the Council they now needed a motion to deny. Motion was made to deny the application by Mrs. Wiener with Mr. Weinberg seconding the motion. Mr. Deziel asked before the motion is acted on, could he make a request to defer this application to study the hardship further and talk to the Building Department about it.

Mrs. Wiener recalled another applicant came before them looking for a deferment earlier and it was not granted. Mr. Deziel responded he felt he was in a situation where he thought he had two hardships which existed and maybe the problem is that he hasn't discussed it thoroughly with the Building Department and he has more work to on it and he would like the opportunity to defer.

Mr. Ilyinsky did not think they were doing the Town any favors on this as anything that could be done for this house would be better than what it looks like now.

Mr. Heeke asked if there was a motion to defer, would it supersede the present motion to deny? Mrs. Wiener announced she will withdraw her motion. Mr. Ilyinsky moved the Variance No. 5-93 be deferred. Seconded by Mrs. Douthit. On roll call, the motion carried 3-2 with Mrs. Wiener and Mr. Weinberg voting against the motion. Mrs. Wiener stated her negative vote was on the basis of equal treatment and fairness to everybody.

A short break was taken.

Meeting reconvened by President Heeke who passed the gavel to President Pro Tem Weinberg to chair the meeting. Mr. Heeke moved that the previous motion be reconsidered on Item 7 - Variance No. 5-93. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Mr. Heeke explained there was a motion to approve this variance which failed and was tantamount to a rejection. He recalled there was another motion made to deny, which they have historically treated as a procedural step and during the discussion, a request was made for deferral and the motion to deny was withdrawn. He stated the motion for deferral did carry but on reflection and discussing this with the Town Attorney, he believes this was not in order and he asked for further discussion or another motion. Mrs. Wiener stated she would remake her motion to deny. Seconded by Mr. Weinberg.

Attorney Deziel again asked the application be deferred until next month. Mr. Heeke stated he was not inclined to vote in that direction for the reasons he stated. Mr. Deziel asked if the motion to reconsider would negate everything they did on this application and to start over and if that was the case, this is a clean slate and they would be reconsidering the application. Mr. Randolph did not agree, stating the motion to reconsider was related strictly to the motion for deferral. Mr. Heeke agreed and asked the Council if anyone thought any differently to which there was no response. Mr. Deziel commented that was his misunderstanding. Mr. Heeke stated they are back to the motion to deny and asked for further discussion and there was no response.

On roll call, the motion to deny carried 3-2 with negative votes cast by Mr. Ilyinsky and Mrs. Douthit.

Mr. Moore clarified that Mr. Deziel could bring back a new variance request which was substantially different from the first variance request within the six month period, to which the Council agreed.

8. 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. Mr. Bill Wescott addressed the Council on behalf of the Finfrocks, stated he was retained to do a historic research on this project and found out there was a very small house there before the turn of the century and after the First World War, it was occupied by the Shriner's Club and subsequently, Mr. John Volk did a dormitory there for the Whitehall Hotel. He commented in the process his commission was to stabilize the three sets of foundations into one and along with that, there were serious health problems by Mrs. Finfrock due to the antiquated ducts for the air conditioning, so their design has addressed that. Var. 6-93

He stated the kitchen is a tiny closet and the applicants wish to have a decent kitchen. He stated they wish to stabilize the foundation and the upper addition is to house the air conditioning and there is a kitchen shown on the first level and a master suite immediately above the kitchen. He stated there will be nothing changed about the existing footprint except a little piece to allow for the kitchen and the second story addition cannot be seen from the street.

Mr. Moore agreed the additions were small but the lot is already overbuilt. He knows there is an attempt to clean up this neighborhood and make improvements but the lot coverage is already excessive and he sees no hardship.

Mrs. Wiener asked if there was any way there could be a reduction in what has been requested? Mr. Westcott responded they have been working out of a closet for a kitchen and he considered that a hardship. Mrs. Wiener stated it has to run with the land. Mayor Marix asked how large was the kitchen? Mr. Wescott stated it is approximately 12 x 18. Mayor Marix asked if this could be made smaller? Mr. Wescott stated on the 18' dimension, they could make it smaller, so instead of 97' square feet additional, they could reduce it to approximately ten square feet. Mrs. Wiener asked if he could rework it?

Mrs. Douthit asked if in this limited area, what was the Fire Department's comments? Mr. Moore responded their comments were that it should conform to Code, however, it cannot as it is overbuilt. Mayor Marix asked if the present kitchen would be considered a fire hazard compared to a nice modern kitchen? Mr. Moore stated he has no response. Mr. Weinberg asked Mr. Wescott if he would like to rework the plans? Mr. Wescott stated he thought he could reduce it and requested this matter be deferred until next month?

Mr. Heeke asked if there was any possibility that the request could be reduced to which Mr. Wescott responded he thought there was and he will revise the plans and come back next month. Mr. Ilyinsky moved the Variance No. 6-93 be deferred until next month. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Var. 7-93

9. Variance No. 7-93 - Ocean Bay, Inc., 910 South Ocean Boulevard and 151 Via Bellaria; to allow a kitchen at 151 Via Bellaria to remain in an accessory structure that is guest house to 910 South Ocean Boulevard; and allow a kitchen to remain in an accessory structure (formerly known as 168 Clarendon) that is staff quarters to 910 South Ocean Boulevard. R-A District. (See Item XIV.B.2.). Mr. Heeke asked if this needed to be reviewed simultaneously with XIV.B.2 to which Mr. Moore responded he did not believe so. Mr. Moore explained this variance request is for extra kitchens on the property which would be handled with the standard Kitchen Removal Agreement, which means there would be no rental and would be subject to that particular owner and any subsequent owner would have to come back to the Council for approval. Mr. Moore gave the staff comments noting there are no comments from the Police and Fire Departments. He advised the Building Department has no objection providing the standard Kitchen Removal Agreement is executed and Mr. Frank comments on the Unity of Title issue, which Mr. Randolph will address.

Mr. Ilyinsky asked Attorney Deziel if he was willing to agree to those terms to which Mr. Deziel responded affirmatively. Mr. Ilyinsky moved that Variance No. 7-93 be granted with the conditions. Mrs. Wiener asked if they could have Mr. Randolph's comments. Mr. Randolph reported he has met with Mr. Deziel who drafted a Unity of title Agreement for discussion purposes and the Agreement itself has not been completed, but he has been assured that it will be forthcoming. He stated the terms are similar to other Unity of Title Agreements wherein in the event that a structure or improvements are made upon the property which initially required the Unity of Title are removed, then the Unity of Title could be amended by selling off that portion of land. He gave as an example if there were several structures put on the property and the reason for the Unity of Title is because those structures are being used in an accessory fashion with the main structure. He stated if in the future those structures were to be removed, then that particular property would revert to lots and could be sold off as lots, which would not necessitate coming back to the Council. He explained that ultimately the final approval will be subject to the receipt of the Unity of Title which is acceptable to the Town, and then it would be recorded upon the final approval.

Mrs. Wiener seconded the motion. On roll call, the motion carried unanimously.

Spc. Excep. 1-93 with Variance

10. Special Exception No. 1-93 With Variance - June Barrymore, 260 South Ocean Boulevard; to allow construction of a beach house on a lot 70' wide in lieu of 100' required, and a north side yard setback of 7.5' in lieu of 10' required. Beach Area District. - June Barrymore addressed the Council requesting authorization to reconstruct the beach house which was lost on October 31, 1991. Mr. Moore gave the staff comments, the Architectural Commission believes it should conform with the setbacks. He advised the Town Engineer states the utilities need to be bored under the roadway and the sewer to be tied into the main house service, if required to be installed. Ms. Barrymore stated she is contemplating putting one in and she didn't believe there was any in the old beach house. Mr. Moore continued with the staff comments of his department, noting that if they approve the reconstruction on the north setback, he asked Council to require that the rest of the property matched the terms of the new Ordinance which will be before them to provide for a 50% open vista. He asked that the State approvals would be secured prior to the permits being issued. Mr. Heeke asked Mrs. Barrymore if she had any problems with those conditions to which she responded she did not. Mr. Moore advised another condition would be that a Unity of Title be furnished. Mrs. Barrymore stated she would furnish that. Motion was made by Mrs. Wiener to approve the Special Exception 1-93 with Variance with the conditions:

(a) with the new construction being limited to the restrictions of the proposed Zoning Ordinance, but on the existing foundation;
(b) the sewer lines be connected into the main house sewer line under the roadway;
(c) all State requirements and permitting would be met;
(d) there be a Unity of Title furnished.

Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Spc. Excep. 2-93 with Variance

11. Special Exception No. 2-93 With Variance - First National in Palm Beach, 255 South County Road; to allow bank and financial institution to continue under new ownership and new name (First Union National Bank of Florida), and continue providing the same parking, a variance of 11 parking spaces. C-TS District. Mr. Heeke handed the gavel to Mr. Weinberg to chair the next several items on which he had a conflict of

interest. President Pro Tem Weinberg called for Mr. Moore's comments. Mr. Moore explained the reason this is before the Council is that there has been a change of ownership and the Ordinance requires when a new Occupational License is issued involving a change in ownership that the applicant must return to the Council for review of the Agreements previously granted the previous owner. Mr. Moore stated it is the staff recommendation that they address the Town-serving nature of their business and continue with the annual statement that they are Town-serving.

Mr. J. P. Morgan of First Union National Bank addressed the Council. Mrs. Douthit asked why there was a shortage of eleven parking spaces as they have almost six acres of parking. Mr. Moore responded they are in two different zoning districts and the problem is that where the parking is located is outside of the C-TS District, so it is a technical variance more than anything else.

Mr. Randolph asked if they could hear for the record from Mr. Morgan. Mr. Moore responded they have been submitting their Town serving documentation on an annual basis. Mr. Morgan advised that they will continue to submit the documentation that they are Town-serving. Mr. Ilyinsky moved that with that understanding the documentation will be submitted, the Special Exception No. 2-93 be approved. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously. (Mr. Heeke was out of the room).

12. Special Exception No. 3-93 - The application of First National in Palm Beach; same as above, but at 254 Sunrise Avenue. No parking variance is required. C-TS District. - Mr. Morgan advised the Town Council he wishes to make the statement for their branch at 254 Sunrise Avenue that he will furnish the documentation on an annual basis that they are Town-serving. Mr. Ilyinsky moved Special Exception No. 3-93 be approved with the condition that they will continue to submit their Town-serving documentation. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously. (Mr. Heeke was out of the room). Spc. Excep. 3-93

13. Special Exception No. 4-93 - The application of First National in Palm Beach; same as above, but at 2875 South Ocean Boulevard. No parking variance is required. C-TS District. Mr. Morgan addressed the Council indicating this particular application is for their branch at 2875 South Ocean Blvd., and he will affirm that the documentation also on this Branch will continue to be submitted on an annual basis that it is Town-serving. Motion was made by Mrs. Wiener that Special Exception No. 4-93 be approved. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously. (Mr. Heeke was out of the room). Spc. Excep. 4-93

14. Special Exception No. 5-93 With Variance - Bank of Boston, Florida N.A., 450 Royal Palm Way; to allow Bank to expand occupancy from approximately 6,000 square feet to approximately 9,000 square feet. A variance is requested waiving the requirement for an additional three parking spaces. C-OPI District. Mr. Kent Anderson, Vice-President addressed the Council requesting authorization to take over additional space in the building where they are currently located. He stated their need is because of the somewhat awkward shape of the building, it is difficult to use the area efficiently and allowing the staff the workspace necessary for them in dealing with their clients. He anticipated there will be some staff additions to help them serve their clients more effectively. Spc. Excep. 5-93

He advised the majority of their clients are from the Town of Palm Beach and their primary marketing efforts will continue to be to the residents.

Mr. Moore advised this is the second expansion for this applicant. He advised there is no space limitation within the zoning district, but financial institutions are a Special Exception Use. He stated the basic issue will be the Town-serving nature as they already are Town-serving and he assumes that they would continue to be, and will agree to furnish the documentation. He reported a variance is needed for three parking spaces.

Mr. Anderson asked that that question be discussed by the attorney for the landlord. Mrs. Wiener asked how many additional employees would they be adding? Mr. Anderson responded it would be no more than five or six. Attorney David Shaw addressed the Council indicating he was representing the landlord of these premises. He stated the request is for additional space of approximately three thousand square feet to be used for administrative general office type space. He did not anticipate the particular use would result in any increased traffic at the building as the customer base is not the type that promotes walk-in traffic. He advised there is ample parking available on site as the building was designed to meet the parking code.

Mayor Marix wondered if there was adequate parking there and there is plenty of space, why are they technically short three spaces? Mr. Moore responded the most severe parking requirement are needed by retail businesses and financial institutions. Mayor Marix asked who was occupying this space prior to the Bank? Mr. Shaw responded it was occupied by a law firm but has been vacant since they vacated the premises. Mayor Marix asked if they had a parking problem? Mr. Moore responded this property has been subsequently joined with 440 Royal Palm Way. Mrs. Wiener moved for approval of Special Exception 5-93 with Variance. Mr. Heeke returned to the room. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

2. Amended Variance No. 70-92 - Ocean Bay, Inc., 910 South Ocean Blvd. and 151 and 171 Via Bellaria; to allow construction of a second floor addition to a two story residence built at a ceiling height of 40.03' and requesting additional height of 44.03'; and providing a 30.8' side yard setback in lieu of 35' required. R-A District. Mr. Heeke assumed the chairing of the meeting. Attorney Deziel addressed the Council recalling this same application in an unamended form was before the Council last month and it was deferred since there were some issues which needed to worked out with the neighbors; and secondly, they verbally amended the application and now have brought it back in written form and eliminated the Building Height Plane Variance which is no longer needed with the Unity of Title Agreement. Amended Var. 70-92

Mr. Deziel explained the first variance is a setback variance and is the difference between 35' and 30.8'. He explained the second variance is they have designed the additions to comply with the overall height required by the Town for the roof tiles and the additional requirement for the height of the ceiling inside the residence, and to allow a little bit more ceiling room, he is asking the rafters be allowed to go up a little bit higher and still maintain the tiles at the height at which they are required to be by the Code. He reported the hardship is the fact they have a grade elevation difference between zero datum and the elevation of the floor pad for the home.

Attorney Brindell addressed the Council representing George Mann, Ned Cook and Michael Kent, the neighbors, recalling at the last meeting he explained his clients' concern about the vehicular access for the project onto Via Bellaria. He and the Ocean Bay people and his clients have worked to resolve this matter and have reached an agreement and he submitted a letter with written comments as they have just agreed to this several minutes ago. He indicated they have agreed that there will be no vehicular access between the Clarendon parcels and the Via Bellaria parcels by Via Bellaria. He has agreed to some exceptions to that for pedestrian access, and that may be a golf cart access. He also wished to recognize that there may be a need for changes to the Site Plan in the future and he would like them to reiterate that they don't anticipate that at this point, that is the commitment they have made about creating a physical barrier between Via Bellaria and the Clarendon parcels and that is their intention and this will be reflected on the Site Plan that comes forth. He stated that in the event down the road there should be some legitimate need to come back and ask for some relief, his clients have acknowledged that in this Agreement. He commented they have also recognized there may be a situation where some government agency, including the Town of Palm Beach, might impose some requirements which would make it difficult for them to comply with the Agreement they have with his clients and meet those government requirements and that has been addressed also. He stated he has agreed that these understandings should be made as an exhibit and as part of the development agreement that the Town will have with Ocean Bay, so there is some viability to it, and he asked that the letter be placed in the record and be made a part of the development agreement and he will furnish a clean copy for that Agreement as an Exhibit. He believed that would resolve his client's concerns with this project.

Mr. Deziel confirmed on behalf of his clients the comments made by Mr. Brindell. Mrs. Wiener asked if there was anything that was worked out between the two attorneys for Ocean Bay and the Via Bellaria neighbors that would cause any problems with the people on Clarendon Avenue. Mr. Brindell did not believe so as the Clarendon property was always subject to being developed and it was his understanding that the applications are consistent with the Town's requirements.

Mr. Moore advised the original application for development of the property did contemplate the guest house and the employees' quarters be serviced from Clarendon Avenue.

Mr. Randolph commented he wished all the parties concerned to understand what has been discussed in regard to the previous variance had been requested because of the Height Plane Variance that was needed. He recalled that if this property was going to be treated individually that a Height Plane Variance would have been needed, however, since it will be part of a unified title, a determination was made that a variance was not going to be needed. He noted in their discussions relating to the Unity of Title, there was some concern by the applicant that in the future they be allowed to sell that property as a single family property. He thought if that were to take place, he advised the applicant that at that point whatever encroachments there were with regards to height went up as a result of unifying the title, would have to be removed, unless there was permission from the Council to get a variance.

Mr. Deziel responded on behalf of the applicant, what Mr. Randolph has outlined is understood and the only issue was whether or not this particular Council wanted to make that decision now or whether that should be made later down the road. Mr. Heeke stated he had no problem with this Council making that decision as they have come this far on this particular matter. Mrs. Wiener asked if assuming that some period of time down the road these properties were divided again to the configuration they are currently, from a practical point of view, how would the top of the building be chopped off. She felt they were really granting a defacto variance.

Mr. Randolph explained the Development Agreement will be recorded so in the event there was an encroachment at a later time, that resulted in selling the Via Bellaria property, they would be compelled by this recorded agreement to do that, but they could back to the Town Council and ask for the variance. He didn't believe it was a defacto variance because they would be compelled by law to do it, however, it would be up to the Council at that time to make a determination as to whether they wanted to grant the variance at that time.

Mr. Moore pointed out the problem is that that particular item is no longer before the Council as it was not advertised because of the Unity of Title aspect, so the applicant would have to refile for the Height Plane Variance. Mr. Randolph advised the best way to handle this would be to go as they are going now, and allow the Unity of Title to be prepared and if in the event a future property owner wishes to modify this, they would come before the Council at that time. Mr. Heeke agreed.

Mr. Weinberg congratulated the attorneys on reaching this solution. Mrs. Wiener asked what would the actual height be of the roof. Mr. Deziel responded the height would be to go to the maximum currently allowed but would be about five to seven feet lower than the existing.

Mr. Moore advised it is a maximum addition but it is lower than what exists. Mr. Deziel stated they are going up to 50.5' and the existing is 56.5'.

Motion was made by Mrs. Douthit to approve the amended Variance No. 70-92, Ocean Bay, Inc., subject to the Unity of Title agreement being furnished; a Development Agreement which would include the Unity of Title provisions which will be attached as an exhibit; and the January 12, 1993 letter as modified by Attorney Brindell for his clients on Via Bellaria Road will be an exhibit to the Development Agreement also. Mr. Heeke pointed out Attorney Brindell has indicated they will give us a clean copy of this letter. Mrs. Wiener asked when the Unity of Title would be ready? Mr. Deziel believed it would be resolved within ten to fourteen days. Mr. Heeke noted this would not have to come back to the Council. Mrs. Wiener advised everything they are doing here is based on the Unity of Title being furnished to which Mr. Moore and Mr. Deziel agreed. Mr. Moore made the statement that no building permits would be issued until the Unity of Title is on hand.

Motion was seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Mr. Laird Pitts of Ocean Bay addressed the Council noting this project has been an ongoing effort and many issues have been resolved with regards to the concerns of the neighbors, and this proves that issues can be resolved by working them out together and he appreciates the Council's consideration of this matter.

XV. COMMUNICATIONS FROM CITIZENS - None.

XVI. ANY OTHER MATTERS

Any Other Matters

1. Consideration of Letter Dated December 21, 1992 from Mayor Nancy M. Graham, City of West Palm Beach, Regarding Town-Owned Building at Northwest Corner of Intersection at North Olive Avenue and El Campeon Boulevard.

Mayor Graham letter re: building at NW Corner - N. Olive & El Campeon Blvd.

The following is a verbatim transcript:

VERBATIM TRANSCRIPT

MR. HEEKE: The first item under Any Other Matters is the letter from Mayor Graham of the City of West Palm Beach, which I think is self-explanatory. You also have before you my memorandum to the Mayor and Town Council and the Town Manager outlining a few of the matters which I consider - should be reviewed as well as I am sure there will other matters brought up in this effort. I believe though - incidentally Mayor Graham has a copy of my memorandum - she was furnished that.

MAYOR MARIX: Mr. Heeke?

PRESIDENT HEEKE: Yes, ma'am.

MAYOR MARIX: I wanted to say a couple of things about this since Mayor Graham wrote me as the Mayor of Palm Beach asking for this information, and while I was still the Mayor, I thought it was exceedingly important - she asked us to bring this up at this meeting and we are bringing it up. I think it is very important that we do give very serious thought to this large amount - this property - it is a very big asset to this Town financially or as a piece of real estate - or as you say, a trading matter. I think it's very important that we work with her as soon as possible and give her an idea of what kind of - why we want to keep it - and I can think of several reasons we might want to keep it. Excuse me, Mr. Weinberg. I can think of many reasons why we might want to keep it or why we might want to swap it or why we might want to sell it - all ones have many reasons and I think that we want to work with her so that she realizes we are not having it there to be unattractive. It was, as she points out in hers, she understood that it remains unusable and I will say it was considered unusable when we spent whatever it was - the three million on our Public Works building - so I think we must try and indicate to her what we want it for and try to satisfy her problem on this matter, as well as our own future and that is why I asked for it to be brought up.

PRESIDENT HEEKE: Thank you. Madam Mayor,I wanted - part of the -my concern about an out and out sale or letting it be developed is the potential for a traffic problem right there at the north bridge that would adversely effect our Town.

MAYOR MARIX: There's many reasons...

PRESIDENT HEEKE: There are many reasons but this is an extremely valuable piece of property and I think it has a lot of opportunities for a joint effort between us and the City.

MAYOR MARIX: Well, bearing in mind, that it's a very big financial asset to this Town - so it's a beauty asset - it's a financial asset. When you think it's probably worth as much as our Reef, so I - probably more - but what I'm saying is that I think we should have the points in your memo - the absolute need for present value appraisal and a little bit of future - is that area going up or down etc., - the zoning - what the use could be - if they would like it for a park - maybe what we could exchange - I can think of many reasons we might indeed want a piece of property - that one or otherwise in West Palm Beach, so we can be talking about a swap or whatever. I think we've just got to address this - it's a little bit like - if you had some stocks in the bank and you don't - you're not sure of which ones you've even got - I just believe it's very important that we have a very serious look into this and have a handle on what we are trying to do.

PRESIDENT HEEKE: May I suggest that the staff look at this to some of the questions obviously, the zoning in the City of West Palm Beach - get a handle on what may be the present value - so we know what we are talking about, and then the Town Council can probably decide to direct the Town Manager or members of Council - or a member of Council I should say to work with a Task Force, with a similar Task Force with the City - to begin discussing first in general terms, and then more specifically how both communities can benefit from this piece of property.

MAYOR MARIX: I would like also since she wrote to me - that we draft a letter to Mayor Graham thanking her for her concerns about our entrance as well as hers - assuring her in every way that it's a very important financial matter to us - the future of the piece of property is equally important - and we are going to - you might say get on to the issue as soon as possible. Mr. Randolph, do you think that would be okay?

ATTORNEY JOHN C. RANDOLPH: Yes.

MAYOR MARIX: You weren't saying it wasn't - alright? So, but I think it is extremely important she realizes - I've been you might say with that piece of property since 1945 - when we used to park trucks along there. And I think it's very very important that she knows we're working with her and that our residents know that we are getting a handle on it - one of the big assets.

PRESIDENT HEEKE: Okay. Well, with that I think it would - may I say it is the consensus of the Council that the staff undertake obtaining more information to report back to the Council so that this...

ROBERT J. DONEY, TOWN MANAGER: Just one question of clarification. Excuse me for being late. I was on the phone.

MAYOR MARIX: And that the letter be written to her.

MR. DONEY: As far as an updated value - do you want an MAI appraisal at this time?

Verbatim Transcript

MAYOR MARIX: Well, I think we can get. We know what it was worth five or six years ago on our record somewhere. I think without spending a lot of money for formal appraisals we could get a very good idea as to properties in that area - if they are going up a lot - or down a lot - or remain somewhat steady. I don't see spending a lot of Town money to get a general idea. Like I know those doctors trying to buy it a few years ago.

PRESIDENT HEEKE: Well, I wouldn't think an MAI appraisal is going to be that expensive. I would say - $1500 - $2000 at the most for that particular property because the present zoning would be a key factor.

MAYOR MARIX: Do we have a .....

MR DONEY: Yes. There were two in 1987 - we could perhaps contact the one appraiser and get an update.

MAYOR MARIX: Yeah. Maybe we have someone in our Town real estate end - appraisers like to do that as a service to the Town? Like sometimes architects do things. We might have an appraiser who might like to give it a stab.

MR. DONEY: I can check. I don't know. Do you know any?

MAYOR MARIX: We don't have any appraisers in Town?

PRESIDENT HEEKE: I don't think we have local MAI appraisers on the Island.

COUNCILWOMAN WIENER: It's got to be certified.

MAYOR MARIX: Well, if we get to that, yes, but I'm looking to get a handle on the situation - not to settle it now - but I would think that...

PRESIDENT HEEKE: I think this is quite a unique piece of land, Madam Mayor, because of its potential and its location which probably really - the evaluation should be sophisticated - that's what I'm saying.

COUNCILWOMAN DOUTHIT: Well, I understand the doctors have moved out. I'm not sure, but I....

PRESIDENT HEEKE: Well, I think this is also a factor that would affect the value of the property - clearly.

COUNCILWOMAN DOUTHIT: My point is that this puts together a very sizeable piece of property and I would anticipate the value to have gone up.

PRESIDENT HEEKE: Well, let's - I wouldn't want to guess but I certainly hope so.

MR. DONEY: Callaway and Price did the appraisal in 1987 - we can get them updated.

COUNCILWOMAN DOUTHIT: Well, we can get some general information and we can let her know that we are looking.

COUNCILWOMAN DOUTHIT: Yes. I don't see why that wouldn't be fine -they did it then and they know exactly what's there - they don't have to count each concrete block or any inch of the magnificent cypress.

MAYOR MARIX: That's why I wanted a general appraisal - so they wouldn't tell us they had to.

COUNCILWOMAN DOUTHIT: I don't see why a brush up wouldn't be excellent sufficiency - but very worthwhile and God knows, we need to know.

PRESIDENT HEEKE: Alright.

COUNCILMAN WEINBERG: Can we go on?

PRESIDENT HEEKE: Okay - the next item - I've got one other matter, please, and Bob is anxious too.

End of Transcript

(end of transcript)

Selection of Architectural Firt

2. Consultants' Competitive Negotiation Act - Selection of Architectural Firm (s) in Accordance with Town Procedure No. 2-89-2.

Mr. Doney noted a memorandum was sent on January 6, 1993 with regards to the fact that the Town is in need of several different types of architectural services and under the Town's procedure, the Town Council may act as the Selection Team or he, as Town Manager will appoint a Selection Team which will consist of the Chairman of the Public Works Committee, the Town Manager or his designee and the Director of Public Works or his designee and a member of the Planning, Zoning and Building Department.

Mayor Marix wondered if some of the local architects in the Town might like to donate their services. Mr. Doney responded the proposed projects are the proposed expansion of the Records and Communication departments in the Police Department and the Par 3 Golf Course Clubhouse, etc. Mayor Marix believed the Seaview Park Maintenance Building is another and she thought they could get some donated services from local architects on that project.

Mrs. Wiener recommended the Town Manager proceed with the appointment of the Selection Team. Mr. Heeke advised if there is no objection from the remainder of the Council, that will be the consensus.

Town Meeting of Congressman Clay Shaw

3. TOWN MEETING OF CONGRESSMAN CLAY SHAW. Mr. Heeke noted Congressman Shaw has requested the use of the Town Council Chambers for a Town Meeting on Saturday, February 13, 1993 at 10 AM with the public invited to attend and participate, to which the Council agreed.

XVII. ADJOURNMENT - There being no further business, the meeting was adjourned at 4:30 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 ALLEN	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE TOWN COUNCIL
MAILING ADDRESS 124 Seabreeze Avenue	THE BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: CITY COUNTY OTHER LOCAL AGENCY
CITY COUNTY Palm BEACH Palm BEACH	NAME OF POLITICAL SUBDIVISION: PALM BEACH
DATE ON WHICH VOTE OCCURRED JANUARY 12, 1993	MY POSITION IS: X 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. HEEKE, hereby disclose that on JANUARY 11, 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 FIRST UNION NATIONAL BANK, by whom I am retained.

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

My law firm is presently representing First Union National Bank on one or more matters. First Union National Bank has applied to the Palm Beach Town Council for three Special Exceptions, i.e, numbers 2-93; 3-93 and 4-93 on behalf of itself and its division First National in Palm Beach.

1-15-93
Date Filed

Bernard A. Heeke
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.

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

LAST NAME—FIRST NAME—MIDDLE NAME HEEKE, BERNARD ALLEN	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE TOWN COUNCIL
MAILING ADDRESS 124 SEABREEZE AVENUE	THE BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: CITY COUNTY OTHER LOCAL AGENCY
CITY: PALM BEACH COUNTY: PALM BEACH	NAME OF POLITICAL SUBDIVISION: PALM BEACH
DATE ON WHICH VOTE OCCURRED JANUARY 12, 1993	MY POSITION IS: X 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.

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INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

ELECTED OFFICERS:

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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. HEEKE, hereby disclose that on January 11, 19 93:

(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 BANK OF BOSTON, FLORIDA, N.A., by whom I am retained.

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

My law firm presently represents Bank of Boston, Florida, N.A. which has applied for special Exception no-5-93 on behalf of itself.

1-11-93
Date Filed

Bernard A. Heeke
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.