TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL MEETING HELD ON JANUARY 9, 2007

I. CALL TO ORDER AND ROLL CALL

The Regular Town Council Meeting, was called to order on Tuesday, January 9, 2007, at 9:30 a.m., in the Town Council Chambers. On roll call, the following elected officials were found to be present:

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

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

Town Manager Peter B. Elwell
Deputy Town Manager Thomas G. Bradford
Assistant Town Manager Sarah E. Hannah
Town Attorney John C. Randolph
James Bowser - Town Engineer
Paul Brazil - Public Works Director
Alan Brown - Recreation Assistant Director
Eric Brown - Public Works Director
Paul Castro - Zoning Administrator
Veronica Close - Director Planning, Zoning & Building
Brian Fuller - Fire-Rescue EMS Coordinator
Charles Langley - Public Works Assistant Director
Michael Mason - Law Enforcement Major, Police
Edward J. Moran - Fire-Rescue Chief
Michael Reiter - Police Chief
Gary Sallenbach - Support Services Major, Police

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Jane Struder - Finance Director
Spencer Wilson - I.S. Manager
Susan Eichhorn - Town Clerk

II. INVOCATION AND PLEDGE OF ALLEGIANCE

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

III. PRESENTATIONS

None

IV. COMMENTS OF MAYOR JACK McDONALD

GOOD MORNING AND HAPPY NEW YEAR. THANK YOU FOR COMING TO HEAR MY MAYOR'S COMMENTS. I AM PLEASED TO ANNOUNCE THAT THE MAYOR'S INTERGOVERNMENTAL LIAISONS HAVE BEEN APPOINTED. FIVE VOLUNTEERS: WILLIAM DIAMOND, MICHAEL FACH, GERALD FRANK, JAMES A. KARMAN AND DAN MCDONNELL HAVE ALL BEGUN ATTENDING INTERGOVERNMENTAL MEETINGS. I AM OPTIMISTIC AND POSITIVE THEIR WORK WILL ENHANCE COMMUNICATION TO THE COUNCIL AND PROVIDE BENEFITS TO OUR RESIDENTS.

COUNCILMAN ALLEN WYETT WILL LEAVE THIS COUNCIL NEXT MONTH AFTER SERVING 12 YEARS AND I WANT TO COMMEND HIM FOR HIS CIVIC INVOLVEMENT AND RECOGNIZE HIS VOLUNTEER WORK ON BEHALF OF OUR RESIDENTS . WE ARRIVED ON THIS DIAS AT THE SAME TIME AND IN OUR EARLY YEARS ON CRITICAL ISSUES SUCH AS SHORE PROTECTION AND STRATEGIC PLANNING, HE WAS THE ONLY VOTE OF SUPPORT I RECEIVED. SHORE PROTECTION EVENTUALLY PASSED, STRATEGIC PLANNING NEEDED TO WAIT FOR ANOTHER COUNCIL. I WILL ALWAYS APPRECIATE HIS POSITION ON THESE ISSUES AND THANK HIM FOR THE INTEREST AND CONCERN HE HAS SHOWN OUR TOWN.

AND FINALLY PURSUANT TO RESIDENT REQUESTS THE TOWN'S MONTHLY LITIGATION REPORT AND 5 YEAR STREET PAVING SCHEDULE IS NOW INCLUDED ON THE TOWN'S WEB SITE. IN ADDITION, PZ&B

DEVELOPMENT REVIEW APPLICATIONS ALSO APPEAR WHEN FILED. THIS PROVIDES A MINIMUM OF 30 DAYS PRIOR NOTICE TO NEIGHBORS AND OTHER INTERESTED PARTIES OF NEW APPLICATIONS.

V. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

There were none.

VI. COMMUNICATIONS FROM CITIZENS- 3 MINUTE LIMIT PLEASE

Floyd Wideman, 260 El Dorado Lane, commented regarding regulation of the length of truck trailers.

Henry Wexner, 256 Fairview Road, commented regarding recent flooding problems, and mitigation with FEMA regarding flooding of property. [*Town Manager Elwell noted that the Town would publicize information regarding the National Flood Insurance Program*].

Pat Flynn, 260 Australian Avenue, President of the Palm Beach Theater Guild, commented regarding the submission and review process concerning development applications; review of the Unity of Title Agreement regarding Poinciana Properties; and urged that all agreements, relative to the Poinciana lawsuit, should be made public.

Jere Zenko, 232 Tangier Avenue, commented regarding:

* Website postings of applications and variances (noted that she had provided Town Attorney Randolph with a copy of the Code of Ordinances from another municipality in that regard).

* Citizens United for Sensible Planning (CUSP): its purpose, and its willingness to assist in raising funds to help the Town defray litigation costs.

VII. APPROVAL OF AGENDA

The following modifications to the Agenda were made:

CHANGE Item IX.B.1., from Consideration of Scheduling an Attorney/Client Closed Door Session to a matter regarding a choice of counsel for defense of the Town in that litigation.

DEFERRED Item XI.C.3.a., Site Plan Review #5-2006 with Special Exceptions & Variances - Modified, Application of Adam Schlesinger relative to property known as 2842 South Ocean Boulevard, to February 13, 2007, Town Council Meeting.

Council Member Brooks made a motion to defer, for the final time, Site Plan Review #5-2006 to the February 13, 2007, Town Council Meeting. The motion was seconded by Council Member Markin. On roll call, the motion carried unanimously.

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

VIII. CONSENT AGENDA

A. MINUTES: DECEMBER 11, 2006
APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING

B. MINUTES: DECEMBER 12, 2006
APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

C. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL COMMISSION AT ITS MEETING ON DECEMBER 15, 2006

D. RESOLUTIONS

1. RESOLUTION NO. 5-07 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving FDEP Contract No. 06PB4 Between the State of Florida Department of Environmental Protection and the Town of Palm Beach for the Mid-Town Beach Nourishment Project, and Authorizing the Town Council President to Execute Same on Behalf of the Town. [H. Paul Brazil, Director of Public Works]

E. OTHER

1. Authorization for Purchase of Thermal Imaging Cameras.
[Edward J. Moran, Chief of Fire-Rescue]

2. Authorization for Purchase of Replacement Pierce Fire Engine.
[Edward J. Moran, Chief of Fire-Rescue]

3. Rejection of All Bids for Janitorial Service Contract.
[H. Paul Brazil, Director of Public Works]

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

IX. REGULAR AGENDA

A. Old Business

1. Status Report Regarding Project to Relocate Overhead Utility Lines Underground.
[Thomas G. Bradford, Deputy Town Manager]

Deputy Town Manager Bradford addressed the Town Council requesting that they consider the following staff recommendations:

1. Adopt Resolution No. 1-07 supporting the conversion of overhead electric distribution facilities to underground facilities, as requested by the Municipal Underground Utilities Consortium, to be considered by the Public Service Commission (PSC) at their hearing on February 13, 2007.

2. For staff planning purposes, establish a target date for the postponed referendum. The recommended date would be on the day the Town of Palm Beach holds its municipal election, February 5, 2008.

Mr. Bradford referred to his memorandum to the Mayor and Town Council, dated January 4, 2007, and included in the backup material, to provide a status report regarding the project to relocate overhead utility lines underground.

Town Manager Elwell read Resolution No. 1-07, by title.

> RESOLUTION NO. 1-07 A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, SUPPORTING THE CONVERSION OF OVERHEAD ELECTRIC DISTRIBUTION FACILITIES TO UNDERGROUND FACILITIES AND ENCOURAGING THE FLORIDA PUBLIC SERVICE COMMISSION TO IMPLEMENT ALL REASONABLE MEASURES TO ENCOURAGE THE CONVERSION OF ELECTRIC DISTRIBUTION FACILITIES TO UNDERGROUND FACILITIES.
> [Thomas G. Bradford, Deputy Town Manager]

Motion made by Council Member Brooks, seconded by President Pro Tem Kleid, to adopt Resolution No. 1-07. On roll call, the motion carried unanimously.

Discussion ensued regarding the setting of a tentative referendum date. The consensus of the Town Council was to set the referendum date as February 5, 2008, at the time of the Town's municipal election.

Motion made by Council Member Brooks, seconded by Council Member Markin, to set Tuesday, February 5, 2008, as the date of the referendum. On roll call, the motion carried unanimously.

Mr. Bradford addressed the short term and long term strategies of the Town's public information effort.

Council Member Markin addressed the costs related to the Town's public information effort, and asked if any research had been conducted as to how the project, with its debt, would affect the Town's bond ratings. She read from a Standard and Poor's Report, which discussed the Town of Palm Beach's referendum and its placement on the February 2007 ballot.

Finance Director Struder responded that the interview for that Standard and Poor's Report was prior to the Town Council's decision not to place the referendum on the February 2007 ballot.

In response to President Coleman, Ms. Struder stated that she did not believe it would affect the Town's ratings. She advised that the Town presently had zero general obligation (GO) debt and very little revenue bond debt.

Council Member Markin requested that Ms. Struder contact Standard and Poor's to obtain input prior to the 2008 referendum in order to provide information to the residents as part of the educational process.

After further discussion, it was the consensus of the Town Council to remove the requirement for monthly updates on the undergrounding project. Staff would determine the relevancy of information, and what should be placed on the agenda, if anything.

2. Town Hall Renovation and Related Town Facility Issues.
[Peter B. Elwell, Town Manager]

Town Manager Elwell advised that, at the direction of the Town Council at the December 12, 2006, Town Council Meeting, staff was requested to obtain Landmarks Preservation Commission (LPC) input on the possible expansion of Town Hall. He noted that he, along with Public Works Director Paul Brazil, attended the Landmarks Preservation Commission meeting last month and provided a status report to them. He stated that the Landmarks Preservation Commission unanimously recommended against any addition to Town Hall. He noted that staff was requesting that the Town Council provide direction regarding the potential expansion of Town Hall.

Mr. Elwell advised that the Town Council also directed staff to consider options that would keep the Planning, Zoning and Building Department (PZ&B) in Town Hall, but might involve the relocation of smaller departments. He stated that staff strongly believed that the Human Resources (HR) Department and the Office of Information Systems (IS) could be relocated from Town Hall to a remote location, with less of an impact than the move of other departments. He explained that it did not mean there would be no impact or some additional coordination required, but from the point of view of service to the public, those two departments could, quite seamlessly, be moved out of Town Hall.

Mr. Elwell referred to his memorandum to the Mayor and Town Council, dated January 4, 2007, and included in the backup material, to discuss two alternatives that staff was exploring relative to relocating HR and IS. He explained that staff was requesting an additional month to refine the following two concepts, both of which related to relocating HR and IS to the immediate surroundings of the Public Works facility on Town-owned property in West Palm Beach.

1. Building on Town-owned property; or
2. Purchasing property in the immediate surrounding area of the Public Works facility.

Council Member Wyett made a motion to reverse the Town Council's decision last month to bump out Town Hall.

Council Member Markin commented on the following:

- The Landmarks Commission disregarded the entire concept without looking at the north facade, which would change even if there was no addition to the north end.
- She would have liked to obtain the expert opinion of the Landmarks Commission relative to plans that were in place, and wanted to know how the Commission looked at the preliminary design.
- She was disappointed that consideration had not been given to moving the park north of Town Hall and making it a part of the building.
- She reviewed options and stated that there were many things to consider that could add to the beautification of the center of Town, to Town Hall, and to the functionality of Town Hall.

Council Member Markin advised that she was not adverse at all to waiting until next month and would welcome a look at the numbers, alternative plans and to compare solutions.

President Pro Tem Kleid commented that he believed the time had come to move forward. He stated that clearly the expansion was not something a large section of the Town wanted, and to pursue that would probably keep discussion going for another year or two. He commented that the departments that had been proposed to move out of Town Hall made sense, and that staff should be given another month to come back with more concrete proposals.

President Pro Tem Kleid seconded the motion made by Council Member Wyett to reverse the decision made last month by the Town Council to bump out Town Hall. On roll call, the motion carried 4/1, with Council Member Markin dissenting.

Discussion ensued relative to the motion, and Council Member Wyett clarified that his motion did not include as a mandate all departments stay on the Island, and that it was only a suggestion.

3. Traffic and Parking Improvement Plan - Consideration of Strategies for the Seaview/Seaspray Area.
[Thomas G. Bradford, Deputy Town Manager]
TIME CERTAIN: 11:30 A.M.

Deputy Town Manager Bradford referred to his memorandum to the Mayor and Town Council, dated January 4, 2007, and included in the backup material, to provide an overview of the Townwide Traffic and Parking Improvement Plan as well as staff's long term and short term recommendations. The Traffic and Parking Improvement Plan reviewed parking problems at Seaview Park, Palm Beach Public, Palm Beach Day, Hebrew Academy and the Recreation Center. He discussed strategies that had been identified related to those issues.

President Coleman suggested that the Town Council discuss the items which could be acted on first, and then discussion could take place on the questionable items. He believed that there was a consensus of the Town Council relative to the "decaling" of the 400 block of Seaview Avenue and recommended discussing that item first.

Town Manager Elwell advised that the Town Council did not have to provide direction on that particular issue as staff had included it among the six short term recommendations. Staff wanted to make it equally clear, for the record, that the surrounding areas where complaints had been received, in recent months, did not qualify for "resident only permit parking." The data did not support it, but it was something that staff would continue to monitor; and if at a future date, it changed, staff would then address it.

In response to President Coleman, Mr. Elwell advised that, in the absence of direction from the Town Council to do otherwise, staff would move forward to complete the administrative process to implement permit parking in the 400 block of Seaview.

In response to President Pro Tem Kleid, Mr. Elwell stated that a hardship would be placed on the residents if they were unable to park in front of their homes in the morning hours. He noted that staff was recommending that the Town provide a better service to the community by trying to stabilize the area with permit parking.

Council Member Markin asked if the residents would be inconvenienced if the Town implemented permit parking for the residents only? Where would visitors, staff, service people park without getting ticketed and/or harassed?

Major Gary Sallenbach explained that residents, with parking permits, normally park on the street, and their service personnel park on the residents' driveway. He noted that on individual occasions, and on a case by case basis, the Town has made exceptions for people to park temporarily, and for a short period of time, to perform certain service work. The Police Department has also issued temporary permits for residents on a case by case basis.

Council Member Wyett suggested that the first step the Town should take was to restrict parking before 10:00 a.m. and see if that works for the residents and the Town. He advised that if it did not work the Town could move onto something else.

Discussion ensued regarding decal parking and prohibiting parking before 10:00 a.m.

James Thompson, 426 Seaspray Avenue (moving to 441 Seaview Avenue), commented in favor of resident parking permits. He suggested the use of a guest card, which could be placed on the dashboard of a vehicle for maintenance people, guests, etc. He stated that restricting parking before 10:00 a.m. would not solve that problem.

Council Member Wyett stated that Mr. Thompson raised a reasonable solution. He noted that with decal parking, a resident should also receive at least one permit for street parking that could be used by service personnel on a temporary basis.

In response to President Coleman, Mr. Elwell advised that staff would look at the latitude the Town had through State Statutes in using both the Arlington and Gainesville plans. He noted those issues were not particular to this street, but existed on other residential streets where these plans were already in place.

Mr. Elwell clarified that the Police Department did not issue temporary permits provide for guests, but in certain cases did issue them for service providers. He stated that staff would look into creating an adjunct to the system that provided explicitly for these other types of visits to the property.

President Coleman advised that the Town would immediately move forward with decal parking. Staff, concurrently, would look at the most liberal way that the Town could afford the flexibility to the residents under State Statutes.

Mr. Elwell clarified that the Town Council's affirmation for resident only parking would be sufficient.

The consensus of the Town Council was to proceed with affirming resident parking only on Seaview Avenue.

Cynthia Callahan, 345 Seaspray Avenue, commented that people would begin to park on Seaspray Avenue once resident only permit parking was implemented on Seaview Avenue, as they would have no where else to park.

President Coleman advised that the Town would continue to study the impacts of resident only permit parking and what actions could be taken.

Barbara Chevallard, 330 Seaspray Avenue, commented on the parking situation created by special events held at the Public School.

Michael Spaziani, 322 Seaspray, Chairman of the Recreation Advisory Commission stated that, after discussion on elevating the tennis courts, he would comment on the elevation of the tennis courts.

Norman Goldblum, 109 Everglade Avenue, commented on reversing Seaview Avenue, one-way eastbound. The line up of cars would occur on Cocoanut Row instead of on County Road.

Mr. Elwell described the process staff had gone through, and the reasons for identifying the three long term approaches and six short term approaches in the Town Council back up. He stated that Mr. Bradford would further explain each of the six short term items, and why staff believed their impact would be beneficial.

Mr. Bradford discussed reversing the directional flow of the 200 block of Seaview Avenue to one-way eastbound. He reviewed the time frame and addressed the following related to this item:

- Identified problems associated with drop off, pickup, congestion, and traffic flow in the area.
- Reversing the directional flow would provide more stacking and queuing in the morning and afternoon for Palm Beach Day Academy. The amount of queuing could be altered to the roadway of Seaview Avenue as opposed to County.
- Traffic congestion at the Royal Palm/Cocoanut Row intersection, which queued back toward the Royal Park Bridge, might be avoided.

Mr. Elwell explained how seventy-five to eighty percent of the street would be stacking space instead of twenty percent of the street.

In response to President Coleman, Mr. Bradford advised the drop off for Palm Beach Public School would have to stay on Cocoanut Row at this time.

Mr. Elwell explained that, for the short term, the drop off needed to stay on Cocoanut Row, because it was not completely in the purview of the Town. The Town needed to work with the school to make a long term change. Staff did agree that a long term change would be beneficial in eliminating congestion at the corner.

In response to Council Member Wyett, Mr. Elwell stated that staff agreed that, if the 200 block of Seaview was changed to one-way eastbound, it would be a concern when making a left turn coming out of Seaview, but the pros and cons had been weighed. He noted that the left turn movement might ultimately need to be prohibited if it could not be made safely, and a police presence might need to be placed there to assist. He explained that there were also some issues raised regarding proper site triangles at that intersection, and some parking spaces might need to be the removed. Staff would examine this issue further and would provide further advice at next week's meeting.

Norman Goldblum commented on the queuing that occurred on South County Road for vehicles waiting to get onto Seaview Avenue as well as the congestion at that location. He suggested the placement of a traffic light with a left-hand turn signal.

Council Member Markin stated that she agreed with Mr. Goldblum. She clarified that if the road was changed to one-way eastbound, vehicles would have to make a left turn across traffic to get onto Seaview Avenue, which was now one-way going west. She advised that when there was only one lane going south, it would be much more disruptive going down South County, which had two lanes.

Chief Reiter recommended that this issue required more detailed examination, and advised that the traffic consultant would be better able to address this item.

Brian Mirson, American Consulting Engineers of Florida (ACE), commented that there was no perfect answer. He stated that creating a right turn, right turn, right turn circulation pattern between two streets that were not residential, conceptually was the starting point by which the left turn movements could be resolved. He advised that changing the 200 block of Seaview Avenue to one-way eastbound was a better solution than what was presently there, although there were challenges involved with it.

Mr. Elwell stated that primarily the Palm Beach Public School drop off traffic would flow much better if the change was made. Traffic would stay off of Seaspray and would head back out of Town. He advised that staff believed they had a much better chance of success in their efforts to educate parents of students at the Palm Beach Day Academy.

President Pro Tem Kleid stated that, at a considerable expense to the Town, consultants were hired, and they were the experts who were clearly advising the Town that this plan was better than the one the Town currently had. He suggested that the Town Council take the advice of their consultant and move forward with their recommendation.

Jack Thompson, Headmaster for Palm Beach Day Academy, advised that he believed the recommendation was good for the Academy. He suggested that there be a uniformed police officer directing traffic, not a crossing guard. He stated that, it was his understanding, a crossing guard could not direct traffic but only guide crossings.

In response to President Coleman, Mr. Thompson stated that fifty percent of the students at the Academy were from the Island.

In response to Council Member Markin, Mr. Thompson advised that staggering the pickup time could, in the future, be accomplished. He noted that pickup had always been problematic, and in the last five or six years, the Academy had many more after school programs. The Academy never blocked three streets with traffic, and the hold up, every afternoon, on County Road was about ten to twelve minutes; and on some days not at all, due to many children staying for after school programs. He noted that a longer queue made sense, but reiterated that he did worry about County Road and requested the placement of a police officer there.

Mr. Elwell explained that short term recommendation #3: Locate the Palm Beach Day School student drop off area as far as feasible, to allow queuing to the west and elimination of the current congestion at the South County Road and Seaview Avenue intersection, was a companion to short term recommendation #2: Change the 200 block of Seaview Avenue to one-way eastbound, which Mr. Thompson stated were acceptable to the Academy.

Mr. Elwell suggested that the Town Council authorize staff to make those changes. He explained that the change in direction of the street would not occur immediately because advanced notice to the community would need to take place.

President Pro Tem Kleid made a motion directing Town staff to proceed with Item #2: Change the 200 block of Seaview Avenue to one-way eastbound; and Item #3: Locate the Palm Beach Day School student drop off area as far as feasible to allow queuing to the west and elimination of the current congestion at the South County Road and Seaview Avenue intersection. The motion was seconded by Council Member Markin. On roll call, the motion carried unanimously.

Mr. Bradford reviewed Item #4: Establish a school speed zone within the appropriate areas to require reduced travel speeds during specific times of day and allow the possibility of appropriate traffic control and pedestrian control devices where needed. He explained that State law allowed speed limits lower than the minimum during specific times of the day.

Council Member Wyett made a motion to approve Item #4: Establish a school speed zone within the appropriate areas to require reduced travel speeds during specific times of day and allow the possibility of appropriate traffic control

and pedestrian control devices where needed. The motion was seconded by Council Member Brooks. On roll call, the motion carried unanimously.

It was the consensus of the Town Council that discussion of the tennis project would occur at 2:00 p.m., after the lunch break.

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The luncheon recess was taken at 12:35 p.m.

The Town Council Meeting of January 9, 2007, was reconvened at 2:15 p.m.

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Town Manager Elwell advised that there was one additional item to be discussed today on staff's short term recommendations, which was Item #1: Stop the Seaview Tennis Center Improvement Project scheduled for construction starting in the summer of 2007, to revisit parking alternatives on Town property, including the elevated tennis court concept to provide parking underneath.

Mr. Elwell described the concept, noting that it had been considered previously by the Town and rejected, but it had never been considered in the context it was being addressed today. The Town was looking at the entire neighborhood, looking more broadly at traffic and parking solutions in order to improve the quality of life in Town. The concept was to make improvements to the tennis center by elevating the tennis facilities and installing parking at the surface level, underneath the elevated tennis facilities. The estimate of the number of spaces that could be gained in the Traffic and Parking Improvement Plan was a net increase of 120 spaces, almost 150 spaces. He noted that if the Town Council decided that the pros sufficiently outweighed the cons, staff would move forward. The quantity of off street parking spaces that would be provided could be the most significant single act that the Town could take in improving the situation in the area where the schools and the recreation center were.

Mr. Elwell stated that the project to renovate the tennis center during the summer of 2007 would be expensive with some down sides. He commented that if the project proceeded as planned, the Town would forever lose the opportunity to elevate the tennis courts, and a substantial amount of money would have been invested for a new tennis center, which would have to be taken apart later. Staff suggested that they stop the scheduled construction.

President Coleman commented that the question of whether to start this project this summer or next was really a tactical versus a strategic question.

In response to President Coleman, Mr. Elwell advised that staff would not take much more than a couple of months, and it might be sooner, to come back before the Town Council, if they decided to postpone this project, with more explicit alternatives.

Michael Spaziani, Chairman of the Recreation Advisory Commission, stated that his main concern was that it took three years to get this last approval through for the tennis project. He noted that there had been a great deal of opposition, and he was afraid that if the project was delayed any further, the window of opportunity would be lost to start the project in May or June. The project might be lost all together. He stated that he supported elevating the tennis courts as it would alleviate all problems the Town had relating to parking and would provide new courts. The problem with that issue was that the tennis players would be without courts for a year and a half. He suggested resolving this issue quickly.

Council Member Brooks assured Mr. Spaziani that they would find other locations for tennis players that currently utilize Seaview Park.

Motion made by Council Member Brooks, seconded by Council Member Markin, to delay the renovation of the Seaview Tennis Courts until parking issues are thoroughly studied. On roll call, the motion carried unanimously.

In response to President Pro Tem Kleid, Mr. Elwell addressed Item #6: Continue discussions with school board personnel in order to enforce the previously agreed upon exit route for public school busses via Cocoanut Row and the Flagler Bridge. He advised that this was a staff matter, and that staff had been in dialogue, through the Police Department, with school board officials. The school board had been reminded that they were not honoring agreements they made here in the Town Council chambers during the lengthy considerations relative to the design of the school and traffic issues. He noted that the Town had, in the communication, received cooperation, but had not seen that cooperation in action on the ground. The Town would continue, in those efforts, and was hopeful, by the time they met in February, this issue would be resolved. He stated that they did have direction from the Town Council to pursue this, and staff was actively working on it.

4. Update Regarding Phipps Ocean Park Tennis Court #6.
[H. Paul Brazil, Director of Public Works]

Director of Public Works Brazil provided an update regarding Phipps Ocean Park Tennis Court #6. He commented as follows:

1. The contractor completed the hydro-jetting of the subsurface material last month.
    - The amount of blistering had been reduced that occurred after it rained, but staff did not agree that it solved all the problems, and there were still dead spots.

- The contractor wrote the Town stating that he was willing to resurface the entire court but not to rebuild it.
- The Town Attorney was contacted.
- The contractor had contacted his attorney.
- The contractor withdrew his offer to resurface the court as he believed his work had been completed according to the project plans and specifications.
- The contractor would not extend the warranty any further than he had, which was approximately two and a half years.

Mr. Brazil advised that staff anticipated the cost to completely resurface the court, to be approximately $10,000. The court originally cost $65,000 to be installed, and staff expected that a complete rebuild of that court would be on the order of $75,000. The Town had a $7,000 retainer that they had been holding back from the contractor, because his work had never been accepted.

Mr. Brazil advised that the Town had a Performance Bond, and he needed to work with the Town Attorney to determine if that Performance Bond was something the Town could still pursue. He requested that he be allowed to present further information at next month's meeting. He advised that he did not expect that the contractor would willingly participate in any of this.

President Coleman suggested that the $7,000 retainer be given to Attorney Randolph, the Town should put in a new court, the contractor should be sued for performance, the Town should mitigate its damages and move forward.

Attorney Randolph advised that the Town did have the $7,000 retainer, the right, under the contract, if the work was not done properly, to have the work redone, and to charge it back to the contractor. He noted that there were many options available to the Town, but the Performance Bond needed to be examined for options.

The consensus of the Town Council was to rebuild the court as promptly as possible in view of what would be occurring at the Seaview Tennis Center.

Mr. Elwell advised that the Town Council could take action authorizing Town staff and the Town Attorney to take every action up to and including filing a lawsuit.

Motion was made by President Pro Tem Kleid, seconded by Council Member Markin, to authorize Town staff and the Town Attorney to examine the Performance Bond and to take every action up to and including a lawsuit. On roll call, the motion carried unanimously.

B. New queue

1. Consideration of Scheduling an Attorney/Client Session, Pursuant to Section 286.011(8), Florida Statutes, Regarding Mar-a-lago Club, L.L.C., L.C. vs Town of Palm Beach, Case No. 50 2006 CA 14069 XXXX MB AD, Fifteenth Judicial Circuit Court, Palm Beach County, Florida, to Discuss this Matter Immediately Following this Regular Town Council Meeting in the Town Council Chambers, 360 South County Road, Palm Beach, Florida. Attorney/Client Session Attendees: Mayor Jack McDonald, Town Council President Denis P. Coleman, Town Council President Pro Tem Richard M. Kleid, Town Council Members William J. Brooks, Susan Markin, and Allen S. Wyett, Town Manager Peter B. Elwell, Attorney John C. Randolph, and a Court Reporter from Ley & Marsaa Court Reporters, Inc.
[John C. Randolph, Town Attorney]

Attorney Randolph stated that the Town's insurance carrier required the Town to use their defense counsel in defending lawsuits filed against the Town. He advised that, it was believed that due to the unique nature of this case, a lawsuit filed by the Mar-A-Lago Club against the Town, Mr. John Duvault, Esq., would be uniquely qualified to represent the Town. The insurance company authorized the Town to use Mr. Duvault as defense counsel.

Attorney Randolph informed the Town that Mr. Duvault's fee would be at a governmental rate of $225 an hour, which was far less than his normal rate. The insurance company indicated that they would pay up to $200 per hour toward his rate and requested that the Town pay any difference over and above what they paid. He requested that the Town Council authorize the hiring of John Duvault, Esq. as the defense counsel in this case.

Council Member Brooks made a motion to hire John Duvalt, Esq. as defense counsel on behalf of the Town of Palm Beach who was the defendant in the lawsuit

filed by Mr. Donald Trump/Mar-A-Lago Club; and the Town absorb the overage of $25 per hour for Attorney Duvalt's fee. The motion was seconded by Council Member Markin. On roll call, the motion carried unanimously.

2. Florida Department of Transportation (FDOT) Schedule for Replacement/Construction of the Southern Boulevard Bridge and Flagler Memorial Bridge.
[H. Paul Brazil, Director of Public Works]
TIME CERTAIN: 10:00 A.M.

Director of Public Works Brazil referred to his memorandum to the Mayor and Town Council, dated December 28, 2006, and included in the backup material, to address the Florida Department of Transportation (FDOT) Schedule for Replacement/Construction of the Southern Boulevard Bridge and Flagler Memorial Bridge.

Mr. Brazil advised that FDOT and Kimley-Horn, FDOT's consultant, would update the Town Council on the progress of the design and design alternatives for the Royal Poinciana Bridge, as well as address the Town's concerns regarding simultaneous construction of the two bridges. He stated that FDOT had assured the Town on several occasions that the two bridges would not be constructed simultaneously.

William Leidy, FDOT Project Manager for the Flagler Memorial Bridge, introduced Paul Cherry with Kimley-Horn.

Mr. Cherry provided a power point presentation to discuss the Flagler Memorial Bridge Project. He noted that a Project Development and Environment (PD&E) Study for the Flagler Memorial Bridge was being conducted as required by the State. He reviewed the process used in conducting the PD&E Study as well as the options available relative to the build or rebuild of the bridge.

Mr. Cherry advised that a public workshop would be held in March 2007. He stated that property owners, in the area, would receive individual letters, and the meeting would be advertised in the newspaper. He noted that public involvement would be continuous throughout the process.

Council Member Markin asked if they had considered, as an option, attaching Bradley Park to the Royal Poinciana side by placing an underpass to enable pedestrians to get from Bradley Park over to Royal Poinciana Way without having to cross the road.

Mr. Cherry advised that FDOT had looked at that option, at the request of Town staff, and discussed the complications related to that suggestion. He noted that Town staff had concerns related to the idea of raising and changing the appearance of the bridge and advised that FDOT recommended providing staff with computerized images to show the impacts that would occur before and after.

In response to President Pro Tem Kleid, Mr. Cherry advised that Kimley-Horn was in charge of the Flagler Memorial Bridge Project only. The Southern Boulevard Bridge Project, had just started, and had not, as yet, had its kick-off meeting. He stated that it was the desire of FDOT to bring the two teams together. He commented that the real question was how much inconvenience there would be for the Town when they got into the next phase of the project; and when they did get into that phase, they would come back to show how this would all be sequenced together.

Mr. Leidy discussed the construction schedule for the two bridges commenting as follows:

- FDOT committed to the Town, to the City of West Palm Beach, and to Palm Beach County that they would maintain four lanes of traffic, at all times, on Flagler.
- FDOT would maintain two lanes of traffic on Southern.
- No permanent closures of either bridge.
- Construction years for both projects were originally in the same fiscal year: 2010 and 2011. The Southern Bridge had been moved to 2011/2012.
- FDOT would try to speed up the construction start for the Flagler Memorial Bridge Project to the beginning of fiscal year 2010/2011, which would be Fall of 2010, a six-month head start. The construction for the Southern Boulevard Bridge could be delayed until Spring of 2012. There would be about twenty to twenty-two months of lag between the start of the two bridges. There was a three-year construction window, and things could be done to shorten up the Flagler Bridge construction schedule to where there might be an overlap of one year.
- FDOT understood the Town's concerns and would be happy to meet with Town staff again.

President Pro Tem Kleid discussed the comments made by Mr. Pollock, Operations Engineer, FDOT, West Palm Beach Operations, at the last Town Council Meeting, as noted in the minutes, that the Florida Department of Transportation obviously would not have both bridges under construction at the same time.

Mr. Leidy advised that his office, who was presently in charge of the projects, never committed to sequencing. He stated that they understood the Town's concern, and would do all they could to stagger the projects so there would be as little overlap as possible. He explained that by State Statute, FDOT had to program the bridges into their work program within six years of they were found to be structurally deficient. He commented that they had already delayed the Southern Boulevard Bridge Project one year, and it would be very hard for them to delay it much more, given their statutory requirements.

Mayor McDonald read the letter he received from James A. Wolfe, P.E., District Secretary, District 4 of the Florida Department of Transportation, which stated that the two bridges would not be worked on simultaneously.

Mr. Leidy commented that what Mr. Wolfe was saying, in that letter, was that FDOT would not close lanes, and would maintain the four lanes of traffic, either through phase construction or a temporary bridge, and that the Southern Boulevard Bridge would maintain two lanes of traffic. He noted that there was a difference, in FDOT's opinion, between closure and construction.

In response to Mayor McDonald, Mr. Leidy answered that it was FDOT's position, that the bridges could be constructed simultaneously without causing any lane closures in excess of what existed today.

Mayor McDonald noted that the Metropolitan Planning Organization (MPO), at their last meeting, stated that they were unaware of the proposed project to construct the bridges simultaneously.

In response to Mayor McDonald, Mr. Leidy advised that FDOT presented their work program to the MPO every year, and he was certain that they had been made aware of these projects a year ago.

After further discussion, Town Attorney Randolph confirmed that the MPO was in the loop but advised that there needed to be more coordination between the various organizations.

Mayor McDonald advised that Commissioner Koons had commented at the MPO meeting that when the work contracts were drawn up, there should be substantial flexibility to change the timetable, and both bridges should not be permitted to be closed simultaneously.

Discussion ensued relative to the height of the bridge. The consensus of the Town Council was that they were opposed to a 65' bridge.

In response to Council Member Brooks, Mr. Cherry stated that determining whether the Flagler Bridge could be rehabilitated was complicated because of the historic aspects of the bridge.

In response to Council Member Wyett, Mr. Cherry stated that the height of the bridge could go to a maximum of 30'.

President Coleman discussed possible litigation relative to the right of way to the north of the Flagler Bridge, which had been discussed previously. He explained that the property was conveyed to the Town subject to reversionary rights.

Council Member Markin commented as follows:

- Logistically, safety was a real issue for the Town, when evacuating.
- What difference would it make if the openings and closings of another bridge was minimized by making it higher, when the Town committed to the openings and closings of a 21' foot bridge in the middle of Town.
- The entry to the Town would be aesthetically better if they were all the same height.
- The idea about taking the sidewalk out into the water would make it appealing to walk on.

President Coleman thanked the representatives for their presentations.

William Diamond, 220 Wells Road, asked if the construction contracts, would contain incentives for penalties to either move up the work or if it was delayed, to have the contractor pay penalties.

Mr. Cherry responded that it was a FDOT question, but they would recommend it. He noted that they found incentives to be a very effective tool.

Mr. Leidy stated that when they reached that point in the project, they would discuss incentives/disincentives. He noted that at their meeting yesterday, FDOT discussed whether the construction could somehow be sequenced to finish the bridges by November 1st in order to miss a season.

3. Status of Adelphia Conversion to Comcast.
[Jack McDonald, Mayor, and Marta Casas-Celaya, Director of Government and Community Affairs, Comcast]
TIME CERTAIN: 10:30 A.M.

Mayor McDonald provided a brief overview on the issues concerning cable service in the Town. He explained that the representative of Comcast had contacted the Town to request a meeting, and that was the reason for their being invited to appear before the Town Council today.

Marta Casas-Celaya, Director of Government and Community Affairs, for Comcast in the Palm Beach and Treasure Coast Region, introduced Beth Fulcher, General Manager, in charge of services for Palm Beach.

Ms. Casas-Celaya provided a brief update on the status of Adelphia's conversion to Comcast.

In response to President Coleman, Ms. Casas-Celaya advised that Comcast was presently working with the Town on undergrounding. She noted that there had been several meetings to discuss the different aspects of undergrounding, and they were looking at it in terms of how it would impact the Town's residents as well as how it would impact Comcast.

Council Member Brooks welcomed Ms. Casas-Celaya back to the market and stated that Comcast has had very good relationships with municipalities and television stations over the years. He wanted to emphasize the request of President Coleman relative to undergrounding and requested that Comcast keep the Town in mind as they moved towards undergrounding their overhead facilities. He noted that one of their competitors, Bellsouth, was being exceptionally cooperative, and the Town hoped that Comcast would do likewise.

Ms. Casas-Celaya responded that they would be very cooperative and explained that one of the reasons Bellsouth may be so cooperative was that their facilities were not up to date and Comcast's were.

Mayor McDonald stated that he would like Ms. Casas-Celaya to clarify two customer service issues.

1. When someone called Comcast to report an outage, what was their commitment in terms of restoring service? What was the time frame?

Ms. Fulcher responded that Comcast tried to respond within twenty-four hours and certainly tried to exceed that. She advised that their definition of an outage was three to five residents in an immediate vicinity calling in to say they were out of service. She noted that Comcast's goal for one person calling in an outage was forty-eight hours, but in season they might have some difficulties adhering to that. She stated that they have staff on call twenty-four hours a day.

2. When a customer called to schedule service, what was the block of time that Comcast allocated to that person?

Ms. Casas-Celaya responded that they set aside four hour appointment windows.

In response to Mayor McDonald who stated that it was his belief that the Town's contract required a two hour window, Ms. Fulcher advised she would check on that.

Brian LaRue, 214 Chilean Avenue, commented that he had a problem with his service and was receiving very few channels.

Ms. Casas-Celaya requested his name and number and stated she would be happy to help anyone that needed their assistance.

4. West Palm Beach Utilities Water Quality Improvements and Drought Contingency Plans.
[Ken Rearden, Assistant City Administrator]
TIME CERTAIN: 11:00 A.M.

Assistance City Administrator Ken Rearden discussed the progress of the Water Quality Enhancement Program conducted by West Palm Beach Utilities noting that they had made a great deal of progress. He informed the Town that, in the Fall, they had received their twenty-year water use permit from the Water Management District, which touted the innovativeness. He noted that they had won an award from the American Council of Consulting Engineers for their wetlands based reclamation project; and the Water Management District presented to them, as an award, the nomination from the Florida Water Environment Association for the Reuse Project of the Year for that project.

Mr. Rearden commented that they were doing things right, and it was unfortunate that the hurricanes stirred up the water in Lake Okeechobee, which caused all the taste and water problems.

Marjorie Craig, Director of Public Utilities for the City of West Palm Beach, provided a power point presentation to review West Palm Beach Utilities water quality improvements and drought contingency plans. She commented that when she came before the Town Council last year, she had stated, and it was still the case, that the City of West Palm Beach Mayor Frankel was committed to improving the taste and odor of the water. She discussed their three phased approach: immediate goals, short term goals and long term goals.

Nigel Grace, Vice President of Malcom Pirnie, advised that they have been assisting the City of West Palm Beach in addressing their water quality issues. He continued with the power point presentation commenting on the following:

- Core objective and the progress that had been made;
  - Spring 2007 Taste and Odor (T&O) Control Strategy;
  - Planned/Ultimate T&O Control Strategy;
  - Pilot Plant - Configured to Represent Future Operating Configurations;
- Implementation Time line of Objectives in Three Phases

Mr. Grace distributed a flyer published by the City of West Palm Beach relative to the presentation.

Council Member Markin advised that she had two questions.

1. How would the flooding, such as the Town experienced several weeks ago, affect the City of West Palm Beach's operation in terms of the quality of water?

2. What was the percentage of growth at their plant that facilitates Palm Beach?

Ms. Craig, in response to the first question regarding flooding, advised that the water quality was not remarkably affected, and they did not have an algae outbreak.

Ms. Craig, in answer to Ms. Markin's second question regarding growth, advised that the plant could be expanded, but they believed that facility would be sufficient for the east side of Town. She explained that they were looking at building a membrane plant out west to meet the needs of the western communities. The ability to have two different facilities to provide water was an extra insurance policy, and the water currently going out west could be reserved for any growth that was to occur on the east side.

In response to Council Member Wyett, Ms. Craig stated that the membrane facility out west would be a low pressure membrane facility. She advised that they had not as yet gone into a lot of detail as to the exact type of membranes that would be used. There were many new improved types, and the cost of membranes had gone down.

Mr. Rearden advised that due to all the improvements they had made, the City of West Palm Beach would be coming back to the Town with a possible small rate increase.

5. Proposed Elder Care Program.
[Allen S. Wyett, Town Council Member]
TIME CERTAIN: 2:00 P.M.

Council Member Wyett stated that resident Madelyn Greenberg had brought to his attention the need for elder care in the Town of Palm Beach. He commented that over six years ago, a survey had been conducted, which reported that there were over 1,000 residents in that category. The numbers were rising for those requiring elder care, as medical technology had enabled people to live longer.

Madelyn Greenberg, 3360 South Ocean Boulevard, commented that elder care was a matter very close to her heart, as were the needs and issues that existed for many of the Town's elderly and at risk population. She explained that through her plight as a care giver for her parents, she had been brought into an unique position, which was to become more knowledgeable than most as well as a perfect advocate for the elderly and at risk population in the community. She noted that there were many residents, who were present today, in support of this issue.

Ms. Greenberg explained that the lifeline that had existed for her over the years as a Palm Beach resident and care giver were the incredible Town of Palm Beach Fire-Rescue paramedics. She commented that they were always there for her and her parents.

Ms. Greenberg stated that her concern was for those residents that did not have an advocate living with them, and suggested research into elder needs in order to find a program that could give them the ability to identify those at risk, who would otherwise not be identified by other servicing agencies, utilizing linkage with Fire-Rescue EMS, and a Fire-Rescue health advocate to work with a team of resident volunteers. She stated that there were other prototype programs out there, but the Town needed a program that was designed to provide a "gold standard" of care that the citizens deserved and expected as Palm Beach residents.

Ms. Greenberg stated that of the 10,000 plus residents, more than 62% were over the age of 65, which was the majority of the population. She requested that the Town Council grant permission for the Fire-Rescue Department to work with her to research the needs of the senior population.

Ms. Greenberg, on behalf of Charlotte Morris, 2840 South Ocean Boulevard, advised that she could not attend today's meeting but wanted it known that she endorsed an elder care program in the Town of Palm Beach, which would help to maintain her independence.

Ms. Greenberg requested the Mayor and Town Council make a concerted effort to resolve this issue using their authority as duly elected public officials and their abundance of foresight, compassion and civic mindedness. She gave special thanks to Council Member Wyett for his willingness to assist her, and for agreeing to place this issue on the Town Council Agenda.

Council Member Brooks thanked Ms. Greenberg for her presentation noting that he was sensitive to this problem, but the Town Council did not have any backup related to this issue and that was unfair to them. He suggested that this issue should be presented to the Medical Care Commission first, which could provide a report with the pertinent backup for the Town Council to consider.

President Pro Tem Kleid stated that it was a very worthwhile subject, but the Town Council needed more information.

Ms. Greenberg reiterated that she was asking for the Town Council's blessing to allow Fire-Rescue to be involved in this matter.

Fire-Rescue Chief Moran commented that the Fire-Rescue Department was at the disposal of the Town Manager. He noted that if there were additional services required by the community, it was his understanding that direction would come from the Town Manager as to what that expectation would be.

Norman Goldblum, 109 Everglade Avenue, advised that the Medical Care Commission (MCC) had a half day meeting scheduled this month at Morse Life, Morse Geriatric Center, to see their operation, not only as a geriatric home, but what they did relative to community outreach. He noted that the biggest part of Morse Life, Morse Geriatric was home health care. He stated that the MCC had taken this on without knowing that Ms. Greenberg had planned to make a presentation on elder care. He commented that the report from this visit would be available in the MCC minutes.

President Pro Tem Kleid commented that there had been a lot of positive statements made by members of the Town Council, giving an implied blessing, but the Town Council needed to follow a procedure. He responded to Ms. Greenberg that the Town Council was endorsing this as a possible program suggesting that staff and the Town Manager report back, next month, on the ramifications of this proposal.

Council Member Wyett stated that what he had been requesting was to authorize the Town Manager to authorize the Fire-Rescue Department to return next month with a report as to the type of services they could render to solve this problem.

Council Member Brooks stated that he agreed with both President Pro Tem Kleid and Council Member Wyett but suggested that the work of the MCC not be vitiated. He advised that he did not believe this was an appropriate venue, and that the request should go before the MCC with staff input and staff support.

Council Member Markin stated that she did not have a problem with having this presented today, but advised that the Town had already given their blessing to the MCC to look into medical care treatments and services for the residents. She suggested that Ms. Greenberg present some of their issues specifically to the MCC so that they could incorporate those concerns in their study. She stated that the Town Council was concerned about these issues and that was the reason the Mayor put the MCC in place.

6. Reach 8 Beach Action Committee Recommendation Letter Dated December 14, 2006, and Overall Update Regarding the Reach 8 Project.
[Jack McDonald, Mayor, Allen S. Wyett, Town Council Member, and H. Paul Brazil, Director of Public Works]
TIME CERTAIN: 2:30 P.M.

Director of Public Works Brazil referred to his memorandum to the Mayor and Town Council, dated January 5, 2007, and included in the backup material, to address an overall update regarding the Reach 8 Project. He provided a brief history of this project, discussed the possible alternatives for action, the funding/fiscal impacts, and special considerations that the Town Council might want to consider.

Mr. Brazil advised that if the Town wanted to move ahead with the truncated project, he needed to be advised relatively soon, in order to actually build this year.

In response to President Coleman, Mr. Brazil commented on the following:

- There was nothing that could be started before this summer.
- The condominiums that were south of R-132, the northern most buildings, would see some immediate benefit and those further south would see no more benefit than the dunes that had been placed there in the past, if only 7,000' of the project area was done.
  - Noted that if the permits were applied for concurrently, the regulatory agencies would then be obligated to look at the larger

part of it, and the Town would be back into that 2 - 2 ½ year permitting process.

President Pro Tem Kleid stated that since nothing could be done before this summer, would it be possible to truck sand in to just rebuild the sand dunes?

Mr. Brazil advised that had been done previously in response to an emergency. He explained that the Town did not have a permit application process presently for just dune work. He stated that option was possible, and the Town could pursue that, but unless the regulatory agencies believed it was an emergency, he doubted the permit would be granted.

President Coleman asked if the Town should presently be working on a plan to have an emergency supply of sand available for delivery?

In response to President Coleman, Mr. Brazil explained that, in case of an emergency, the Town was working on a Plan B, and that they were always looking for upland sources of beach compatible sand. He stated that there were contractors that would work for the Town without notice and that staff was aware of the unit rates for those contractors.

Mr. Brazil stated that they did not have an easement south of the Lake Worth Pier, and the Town would have to scramble to get permission, in the case of an emergency.

In response to President Coleman, Mr. Brazil stated that the Town should negotiate the easements in advance.

President Pro Tem Kleid stated that the Town should have easement agreements in place if needed.

In response to Council Member Brooks, Mr. Brazil advised that 7,000' of the project area would be included and 2,000' would not. He clarified that the buildings immediately south of R-132, the closest ones north, would see some benefits. He also advised that the State of Florida had total control in declaring what was a state of emergency, despite what the Town's engineers might consider an emergency.

Council Member Wyett stated that he believed it was a good idea for the Town to consider permitting the 7,000' and then determine what should be done with the balance separately.

Discussion ensued and Mr. Brazil commented on the following:

- The Town had broached the subject of revetment with the regulatory agencies, specifically FDEP, and they had indicated dislike for a revetment.
- The only way FDEP would allow revetment was if nesting habitats for the turtles were completely washed away and as a last line of defense.
- Revetment did have some potential, but he did not want to state that it had good potential.
- South Palm Beach's plan for nine breakwaters.
- Study of down drift impacts from off shore breakwaters would take 2 - 2 1/2 years.
- Outright resistance to nourishment south of R-132 by the regulatory agencies.
- Buildings would be allowed to install seawalls, which would be faster to permit than nourishment or breakwaters.
- Normally seawalls would be difficult to permit, but the regulatory agencies understood what the Town was going through, and he believed those agencies would now be much more helpful in that area.
- Dunes might be the only option that could be completed faster than self-help seawalls.

Mayor McDonald commented that dune restoration was not shore protection.

After further discussion, President Coleman commented as follows:

- The Town should file the application to do the 7,000' of Reach 8.
- The Town should encourage buildings to make application for seawalls and assist them with in filing their applications.
- Seawalls were the fastest way to get some type of barrier between the buildings and the water.

Peter Pettie, 3400 South Ocean Boulevard, advised that he was one of five members of the Reach 8 Beach Action Committee. He commented that he, personally, was not opposed to the truncated proposal and believed it was better to receive eighty percent than nothing at all or to have the project delayed. He noted that he lived in the southern section, and would not benefit from the project.

Mr. Pettie commented on the following:

- Provided an overview of Reach 7.
- The Strategic Plan Implementation Schedule - May 13, 2003.

- Suggested that there were other engineering solutions that the Town could provide to protect those unprotected sections in a truncated Reach 8.
- Recommended the truncated project commence immediately.
- Revetment was a permanent engineering solution when a full beach could not be accomplished.
- Turtle issue was a moot issue relative to the dune issue.

In response to President Coleman, Mr. Pettie advised that he was speaking for himself, and that he was in favor of 7,000' of renourishment and 2,000' of revetment. He presented both sides:

- There would be a group that wanted to do everything in their power to have Reach 8 fully restored and not see a truncated project.
- There was another group that advised if they could get permanent armorment of the dunes and protect the seawall areas around the last three buildings, they would be in favor of that. He noted that would be an engineering solution.

In response to President Coleman, Mr. Brazil advised that if the Town approached the regulatory agency to modifying the Town's permit application right now, to include a truncated project for the first 7,000' and asked for revetment for the last 2,000', the Town could expect to be in the same permit loop that they were presently in, relative to the full project. He stated it would take years.

Ted Wagner, 3400 South Ocean Boulevard, concurred that something had to be done as the Town did have a severe emergency. He commented on the following:

- It was not a Reach 8 problem confronting them, but a Townwide problem. All citizens of the Town were equally, adversely affected by the lack of beach restoration.
- It was the responsibility of the Town Council to protect their residents, the property values, etc.
- The alternative was to go with the truncated plan, which he would accept but was not pleased with.
- Concurred totally with Mr. Pettie that the Town had to go to revetment and had to get it done.
- The Town had to have contact with all elected officials, and should send a contingent to Washington, if necessary.

President Pro Tem Kleid stated that all Town Council Members concurred and were working hard on the project. He noted that the Town had recently been in contact with Ron Klein, the Town's new Congressman. He noted that Congressman Klein was attempting to get congressmen from the entire coastal area together, as a group, to legislate for this. The Town was looking at obtaining all means of political support.

Alexandra Gladstone, 3400 South Ocean Boulevard, noted that she lived on Long Island. She commented on the following:

- A situation in Long Island concerning some properties that ended up under water after an attempt to block the drift of sand.
- A lawsuit in Westhampton, Long Island where town officials were sued.
- The Town of Palm Beach needed to undertake a study relative to the dunes.
- The Town should prove to the citizens that a partial project would be better than no project.

President Pro Tem Kleid commented on the vegetation in the dunes. He stated that a problem the Town faced was that they needed so much vegetation that they could not locate a source. The Town, presently, was growing the vegetation, which would be put in shortly.

Council Member Markin commented that she was in support of a truncated approach.

In response to Council Member Markin, Mr. Brazil advised that he did not have a confirmed date for the scheduling workshop that would be attended by representatives of FDEP in late January or early February, but he would know shortly when that would be held. He noted that the meeting would take place in Town Hall.

Harold Schwartz, The Patrician, 3450 South Ocean Boulevard, commented as follows:

- The Patrician did have a very nice seawall, but the property to their immediate south, The Claridge, did not. There had not been any activity observed at The Claridge to replace that wall.
- One of the options discussed was to have the buildings install seawalls, however, the permitting procedure would be very difficult.
- One could not rely on what other individual properties might or might not do or how long it would take them to rectify their problems.
- The building to the north of The Patrician had dunes, but no wall.
- Agreed that the Town should aggressively seek to schedule a meeting with the environmental agencies.
- The Patrician should be included in a yearly maintenance program.

Sam Granowitz, 3400 South Ocean Boulevard, commented in opposition to the truncated project.

Discussion ensued relative to the options available to the Town. President Coleman advised that the Town was trying to choose the best option and make the most informed decision.

Mr. Granowitz advised that he was opposed to the truncated approach because his property would not benefit from that plan. He explained that there would be a significant loss of property values as this situation dragged on. He did not think the Town of Palm Beach should be noted for having beaches that were eroded and nothing was being done to rectify that for a significant portion of those beaches.

Ted Scholl, The Claridge, 3456 South Ocean Boulevard, stated that seven months ago the building had applied for a permit to repair their seawall, for which they were still waiting. He advised that even when the seawall was fixed, they would need something over and above that wall for the surges they anticipated.

In response to President Coleman, Mr. Brazil stated that the Town could try to accelerate and help with the permits.

Mr. Scholl advised President Coleman that he was not the one that filed for the permit, and he did not know if Town staff had been contacted to assist them with the permitting process. He stated that he would have a representative of The Claridge contact Mr. Elwell and Mr. Brazil.

Council Member Wyett suggested that the Town organize all communities in the State that had similar situations on their shorelines and go to the legislature and see what the legislature would do for them. The Town had the means and the ability to hire lobbyists. The situation could get very political, and the Town should act immediately.

Mr. Elwell advised that there was a statewide organization that was very effective, the Florida Shore and Beach Preservation Association. The Town was a member of this organization, which lobbied on behalf of all coastal municipalities throughout the State. He explained that they had a separate administration and lobbying team in Tallahassee with good connections in the State government. The Association had significantly increased, over the years, the amount of funding that the State had put into beach programming. He noted that there had been an increase in the commitment of the State relative to funding but not for permitting. The laws of the State and the Federal government were very strict as to how and where sand could be placed, as well as limitations on other methods.

Ernie Lendman, La Bonne Vie, 3475 South Ocean Boulevard, commented that the Town of Palm Beach was one of the most unusual communities in the nation. The Town should take advantage of the enormous resources they had, which included, for example, major donors to political candidates. He noted that he had been in touch with the Mayor and discussed compiling lists of these major donors in order to ask for their assistance in solving this problem. He suggested that those people could be spokespersons, on the Town's behalf, in order to get help from Washington, etc.

Motion made by President Pro Tem Kleid to pursue an expedited truncated Reach 8 Beach Nourishment Project up to R-132; and Dune Restoration to take place south of R-132, with all efforts to be made to help the area south of R-132 with beach protection. The motion was seconded by Council Member Markin. On roll call, the motion carried unanimously.

Discussion ensued and Mr. Elwell advised that staff would schedule and publicize a permitting workshop to be held with State and Federal Regulatory Officials.

Council Member Markin urged the residents who were present today and who were affected by this issue, to make sure they got everyone to attend that hearing.

7. PB Cats, Inc.- Progress Report and Consideration of Final FY 2007 Payment. [Sarah E. Hannah, Assistant Town Manager]

Assistant Town Manager Hannah, referred to her memorandum to the Mayor and Town Council, dated January 3, 2007, and included in the backup material, to provide a status report on PB Cats, Inc. She advised that at the August 8, 2006, Town Council Meeting, the Town Council voted to grant PB Cats $150,000. The first $50,000 was given to the organization during the fiscal year 2006 from the General Fund Contingency. The remaining $100,000 was to be budgeted from the FY2007 General Fund: $50,000 in November 2006 and the final $50,000 installment would be given after today's Town Council meeting, based upon the Town Council's approval upon hearing a satisfactory progress report by P.B. Cats.

Ms. Hannah advised that Brian LaRue, Treasurer for PB Cats, would provide a progress report, and based on that report, staff requested that the Town Council either approve or disapprove the final installment of $50,000. She stated that PB Cats was also going to request an additional $100,000 for FY2007, which would need to be taken from the General Fund Contingency.

Brian LaRue, Treasurer for PB Cats, 214 Chilean Avenue, provided a power point presentation, regarding PB Cats Comprehensive Fiscal 2006 Annual Report including financial information for FY2006 and the proposed budget for FY2007. He reviewed the exhibits enclosed with the report and discussed the accomplishments of PB Cats.

Mr. LaRue commented as follows:

- PB Cats was requesting the final $50,000 installment specified for January 2007.
- PB Cats was not, at this time, requesting additional budget funds from the Town Council.
- PB Cats had produced a realistic budget that would achieve the goal for their T&R Program.
- PB Cats would, without the proper resources, have to drop back into a maintenance mode.
- Eradication of colonies in other communities resulted in rodent infestation.
- Two-fold purpose:
    - To request funds.
    - To show the public that PB Cats was a legitimate and viable program.
- Feral cats were not the cause of this problem, they were the victims of irresponsible human beings. It would be up to the citizens of Palm Beach to bring stability to the feral cats through their financial contributions.

Council Member Brooks thanked him for a very professional presentation. He advised that he had, in the past, voted against taxpayer dollars going to this program. He stated that when the Town Council allocated $150,000, PB Cats agreed to hold a fundraiser, but very little money had been allocated towards fundraising events.

In response to Council Member Brooks, Mr. LaRue responded that they had one fundraiser, which was held at McCarty's and expected to hold a fundraiser in March.

Discussion ensued regarding the budget of PB Cats and the in-kind donation for the use of the Fire-Rescue Station by PB Cats. Mr. LaRue advised that PB Cats would be moving out of the Fire-Rescue Station, and would be aggressive in their fundraising.

Council Member Markin commented in support of PB Cats and reviewed the accomplishments of the present Board, which took over in August 2006. She discussed the budget and goals of PB Cats stating that she hoped the Town would continue to support this program for the benefit of the residents and to ensure that the program was successful. PB Cats wanted to fulfill their promise to limit the population of cats in Town by controlling their propagation.

President Coleman complimented PB Cats on the progress it had made, but advised that he had some concerns with the program.

In response to President Coleman, Mr. LaRue responded that private donations were cash and not in-kind donations.

President Coleman stated that of the $296,000 budget, only $88,000 came from donations. He advised that if the support of PB Cats was measured by the money donated by the community, it was disappointing. He commented on the amount of money the Town had spent and would be spending for cats and stated that he could not vote for the Town to spend $200,000. He noted that PB Cats had been honest and applauded them for that, but stated he could not vote on the Town spending $200,000 for this program. He advised that he would be in favor of giving them the $50,000 now. He stated that they were perfectly honest and applauded them for that, but there was capacity on the Board and from the cat supporters to put up more money.

Mr. LaRue responded that in the four months that this Board had been active, they had spent $60,000, which included cash, time and effort. The Board had made a significant contribution.

Council Member Wyett stated that the Board had done a great job in the four months they were involved. He advised that while he understood President Coleman's position that PB Cats had not done enough, he believed that it was premature, and they had not been given enough time to perform. He commented that a measure was not how much the organization raised, but the quality of the job they were doing. He stated that if PB Cats was to disband, the cat population would explode again and all the good work would have been wasted. He advised that he would vote in support of PB Cats request for $50,000 now.

In response to President Pro Tem Kleid who asked what percentage of the $88,000 fundraising dollars in PB Cats 2007 budget would come from Gertrude Maxwell, Mr. LaRue advised that amount was zero.

Council Member Brooks suggested that PB Cats be given the $50,000, because that had been voted on by the Town Council previously, and suggested that PB Cats needed to concentrate on holding a major fundraiser at a major location.

Council Member Markin addressed President Coleman's concern about seeing some light at the end of the tunnel. She noted that when this had been discussed at prior meetings, it had been stated that this was not an instant fix and a year or two of aggressive sterilization was needed in order to see changes in the number of cats, overall cost of the program, etc. She noted that she personally did not think nor had she spoken to a resident in Town that was not willing to spend $20 per year in tax dollars to maintain a healthy program.

Council Member Markin commented on donations to PB Cats, explaining that the amount of money donated to organizations related to animal causes was far less than programs, for example, related to cancer research. She advised that holding a major fundraiser at a location such as The Breakers would cost $50,000, and PB Cats would be fortunate if they broke even from a fundraiser, due to the cost of the event and what they received in return. She commented that PB Cats wanted to raise money, and would be successful in doing so, but it was unrealistic for this organization to hold a major fundraiser at The Breakers or elsewhere in Town, at this point in time. It was just too expensive.

Jere Zenko, 232 Tangier Avenue, commented as follows:

- PB Cats consider culling part of the cat population in order to receive additional support and donations.
- The Town of Palm Beach was a place where it was thought they could have it all and there was a point at which one had to say no.
- Fundraising within PB Cats' Board was not at the level it should be in order to gain respect from the citizens who wanted to donate.
- The request for an additional $100,000 was an extraordinary amount of money to ask for, and PB Cats was not going about solving this problem in the right way.

Mr. LaRue stated that it cost $500 to trap and remove a cat, noting that it was not a solution to the problem. He reviewed the number of cats that the organization had trapped, spayed and neutered over a four year period and advised that the present population of cats in Town might be about 400. He stated that an exact number could not be determined, and that as cats were removed, the void would be filled by other cats, and if cats were totally removed, the void would be filled with rats.

Council Member Markin stated that it was totally unrealistic that mature cats would be adopted. She advised that feral cats do not get adopted, but kittens could be, noting that they had a very successful rate. She reviewed the approximate number of cats on the Island explaining that a census had been conducted.

Council Member Markin addressed funding by the Board of PB Cats and stated that it was unrealistic to expect contributions from Board members. She advised that people who get involved in animal programs of this nature, do so because they want to. It did not mean that they themselves had a great deal of money. She explained that when someone served on a board, that person put in time, experience or money. She stated that, in this particular case, she did not want the Board of PB Cats insulted by saying that they had not done enough, because they had not put cash up front when they had provided many hours of service in every single week.

Discussion ensued regarding Council Member Markin's role as an advisor to the Board of PB Cats.

In response to Council Member Brooks, Mr. Elwell stated that the $50,000 promised for January had been appropriated and was in the current year's budget. Further action was not needed to appropriate the $50,000.

Council Member Brooks made a motion to appropriate the $50,000, but the request for $100,000 was denied.

In response to President Pro Tem Kleid, Mr. LaRue stated that they were not requesting $100,000. He advised that he clearly stated, today, that he was asking only for the $50,000 that was specified for January. The additional $100,000 was in the budget, but he was not asking for that today.

Council Member Markin stated that they would be looking elsewhere for the $100,000 placed in the budget.

President Coleman clarified that the Town Council had originally approved $150,000. The appropriation stretched over two of the Town's fiscal years. He noted out of that $150,000, the Town had $50,000 left to be released and that was the only thing being voted on today.

Council Member Brooks amended his motion to approve the final $50,000 installment allocated to PB Cats in the General Fund Contingency of the FY2007 Budget. The motion was seconded by President Pro Tem Kleid. On roll call, the motion carried unanimously.

8. North Ocean Boulevard Seawall Revetment Project

a. Status Report [H. Paul Brazil, Director of Public Works]

Director of Public Works Brazil referred to his memorandum to the Mayor and Town Council, dated December 29, 2006, and included in the backup material, to provide an update regarding the North Ocean Boulevard Seawall Revetment - Declaration of Emergency Project. He advised that because of sea turtle season, the work needed to be completed by April 30, 2007, either that or they could not start the work again until November 1, 2007.

Mr. Brazil explained that the traditional bidding process in Town would not allow them to complete this work this year, and would make it necessary to complete the work next year. He stated that staff solicited bids from three reputable contractors who had worked with the Town in the past, rather than the traditional sealed bid process. Staff recommended that the Town Council adopt Resolution No. 7-07, declaring that an emergency situation exists with respect to the strengthening of the North Ocean Boulevard seawall and said strengthening be made by installing a rock revetment in front of the seawall.

b. RESOLUTION NO. 7-07 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Declaring That an Emergency Situation Exists with Respect to the North Ocean Boulevard Seawall.
[H. Paul Brazil, Director of Public Works]

Town Attorney Randolph read Resolution No. 7-07, by title, as printed above.

Motion made by Council Member Brooks, seconded by President Pro Tem Kleid, to approve Resolution No. 7-07 declaring that an emergency situation exists with respect to the North Ocean Boulevard Seawall. On roll call, the motion carried unanimously.

c. ORDINANCE NO. 2-07 An Emergency Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Providing for Amendments to the Town's Budgets Adopted for the Fiscal Year Commencing October 1, 2006, Providing an Effective Date.
[Jane Struder, Director of Finance]

Town Manager Elwell stated that staff was requesting the Town Council adopt Emergency Ordinance No. 2-07, which amended the FY07 budget to allow for the funding of the North Ocean Boulevard Seawall Project. The funding source would be the Comprehensive Coastal Management Program Pay-As-You-Go-Fund. It was staff's intention to reimburse this fund with funding from a Town facilities bond for the Town Hall renovation and other related facilities work.

Town Attorney Randolph read Ordinance No. 2-07, by title, as printed above.

Motion made by Council Member Brooks, seconded by President Pro Tem Kleid, to adopt Ordinance No. 2-07, an Emergency Ordinance to provide amendments to the Town's Budget adopted for the fiscal year commencing October 1, 2006. On roll call, the motion carried unanimously.

d. RESOLUTION NO. 6-07 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to Murray Logan Construction Corporation for the North Ocean Boulevard Revetment Project, SB 2007-05.
[H. Paul Brazil, Director of Public Works]

Director of Public Works Brazil referred to his memorandum to the Mayor and Town Council, dated January 4, 2007, and included in the backup material, to discuss the awarding of the contract for the North Ocean Boulevard Revetment Project, SB 2007-05, to Murray Logan Construction Corporation.

Town Attorney Randolph read Resolution No. 6-07, by title, as printed above.

Motion made by President Pro Tem Kleid, seconded by Council Member Brooks, to approve Resolution No. 6-07, awarding a contract to Murray Logan Construction Corporation for the North Ocean Boulevard Revetment Project, SB 2007-05. On roll call, the motion carried unanimously.

Mr. Brazil advised that in reviewing the draft permits that were about to be offered to the Town, it came to the attention of staff that it would be necessary to execute a Submerged Land Lease Easement Agreement. Staff requested the Town Council authorize the Town Manager enter into that lease agreement once the Town Attorney had reviewed it for legal form and sufficiency.

Motion made by Council Member Wyett, seconded by Council Member Markin, to authorize the Town Manager to enter into a Submerged Land Lease Easement Agreement once the Town Attorney has reviewed it for legal form and sufficiency. On roll call, the motion carried unanimously.

Mr. Brazil requested that the Town Council authorize a Waiver of regular construction hours. He noted that this would allow them to commence work at 8:00 a.m. through 6:00 p.m., Monday through Saturday, in lieu of the 9:00 a.m. to 5:00 p.m. He stated that they were additionally requesting that the contractor be allowed to work on President's Day, Monday, February 19, 2007.

Motion made by Council Member Wyett, seconded by Council Member Brooks, to approve a Waiver of regular construction hours: allow work to commence at 8:00 a.m. through 6:00 p.m., Monday through Saturday, in lieu of the 9:00 a.m. to 5:00 p.m., work restriction; and to permit the contractor to work on President's Day, Monday, February 19, 2007. On roll call, the motion carried unanimously.

9. Report on December 2006 Flooding and Follow-Up Actions. [Jack McDonald, Mayor, Allen S. Wyett, Town Council Member, and H. Paul Brazil, Director of Public Works]

Director of Public Works Brazil referred to his memorandum to the Mayor and Town Council, dated January 4, 2007, and included in the backup material, to provide an overview of the storm water collection system and pump station performance during the rainfall event of December 14, 2006. The Town had experienced a record rainfall event receiving, in some areas of the Island, more than twelve inches of rain, at some points during the storm. The Town received rain at three to four inches per hour.

Ralph Del Deo, 265 Fairview Road, advised that Mr. Brazil very generously agreed to meet with the residents to discuss the system and how this could be prevented from occurring in the future. He commented on the following issues:

- Safety
- Response time
- Damage caused by mulch - The Town should consider adopting an ordinance dictating what types of mulch could be used.

President Coleman thanked Mr. Del Deo for the constructive way he addressed this issue.

Al Fix, 249 Fairview Road, stated that he was specifically concerned with the D-8 Pump Station from a reliability standpoint over a period of years. He suggested a meeting with Mr. Brazil and the Public Works Department, the first week in February. He advised that Mr. Brazil had indicated that a half a day could be allocated to the residents of his street.

President Coleman advised that Mr. Brazil had already agreed to meet with the residents.

10. Consideration of Re-designation of North Side RB Properties to RA. [Jack McDonald, Mayor]

Mayor McDonald stated that he was requesting clarification on how the Town Council would proceed regarding considering the re-designation of North Side RB Properties to R-A.

Attorney James Brindell explained that he represented forty-one of the ninety-five residents who own property on the lake from Dunbar and Reef Roads. The vast majority of those properties were R-A lots exceeding 20,000 square feet. He noted that there was R-A Zoning from Reef Road north to Indian and then from Inlet down to Onondaga. He advised that it made logical sense, and that was what these residents had been requesting for a year and half, to have their properties zoned R-A.

Attorney Brindell stated that they have offered to assist Town staff in providing them with the information they needed in order to get this to move forward. He explained that they had communicated with the North End Property Owners Association and advised that they did not have a problem with this request. He requested that the Town Council provide direction to staff to work with these residents and get this placed on the Planning and Zoning Commission Agenda to be considered in the process.

Council Member Wyett stated that he believed this request had been rejected the last time it was before the Town Council. He advised that he was opposed to this request and commented on the reasons for his opposition.

In response to Council Member Brooks, Director of Planning, Zoning and Building Close advised that staff would normally be directed, to study this during its normal Zoning Season as a study item in April or May. She noted that requests to study items were not often done outside of Zoning Season. She explained that in April or May, staff would come before the Town Council with Zoning Season study items and at that time, the Town Council could chose to direct staff to pursue this item.

President Coleman stated that hearing no motion they would move on. (*No action was taken regarding the suggestion of Attorney James Brindell to consider the re-designation of North Side RB Properties to R-A Zoning and add that item to the Planning and Zoning Commission's Agenda.).*

11. Training for Members of Town Boards and Commissions.
[Denis P. Coleman, Town Council President]

President Coleman explained that there had been various levels of conversation by the Town Council regarding training members for Town boards and commissions. He stated that he believed that members of boards/commissions should have some level of education. He suggested that commissioners be asked what their experience had been when on a board/commission, what they were deficient in, how they could have been helped, would they recommend a program going forward, and if so, what would it look like and what would be the price tag.

Council Member Wyett, as a past member of ARCOM, stated that it would be helpful to ARCOM members if they attended a four hour seminar. He stated that there were a number of issues that ARCOM members should be briefed on, and noted that most of the training he received as a member of ARCOM was as an alternate member.

President Pro Tem Kleid stated that he was not sure that a four hour course would do any good as far as some of the boards/commissions were concerned. He suggested looking for people with more experience in the fields of their board/commission, rather than trying to educate them initially. He agreed with Mr. Wyett that the learning process for board/commission members was to service as an alternate member first.

Council Member Markin stated when she was on the Planning and Zoning Commission, there were many programs available for members to attend. She suggested that discretionary money be placed in the budget for educational programs not only for board/commission members but for Town Council Members as well. She commented in favor of having board/commissioner members serve as alternates before becoming voting members.

Council Member Brooks commented on a presentation made by Royall Victor of the Civic Association on the functions of boards/commissions.

In response to Council Member Brooks, President Pro Tem Kleid replied that Mr. Victor's presentation did contain a training component, and he recommended that the Town follow it.

President Coleman stated that he was suggesting each board/commission decide what they needed from their experience, instead of the Town Council determining what they needed.

Yvelyne D. Marix, 1570 North Ocean Boulevard, stated that it was very important or could be very important, that prior to appointing a person to serve, they be required to attend a certain number of meetings of that board or commission.

Council Member Wyett suggested that there be a regulation that unless there was a vacancy, the position could not be filled by novices, when there were members applying for appointment to a board/commission.

12. Palm Tran Update. [Sarah E. Hannah, Assistant Town Manager]

Assistant Town Manager Sarah Hannah, referred to her memorandum to the Mayor and Town Council, dated January 4, 2007, and included in the backup material, to provide a Palm Tran update. She advised that Palm Tran, in an effort to save Route 42 and increase ridership, agreed to extend Route 42 from South Ocean Boulevard to Federal Highway in Lantana. She noted that there was a process that Palm Tran had to go through and if approved, it would be implemented in May.

Ms. Hannah noted that Palm Tran suggested that in order to help promote the new route, the Town of Palm Beach contribute to free rides to everyone that rode that bus route on either the first day of the new route or the first week of the route. It was $1.25 per ride, and based on current ridership it would be $500 to $1,000. She stated that Mayor McDonald suggested that the Town Council support this endeavor to increase ridership on this new route. She advised that Rex Taylor, Town Manager of South Palm Beach indicated that South Palm Beach might be interested in sharing the costs, Palm Tran would share the costs, and possibly Lantana would do the same.

President Pro Tem Kleid made a motion to allocate up to $1,000 from the General Fund Contingency to pay for the cost of free ridership for a week for Palm Tran Route 42. The motion was seconded by Council Member Markin. On roll call, the motion carried unanimously.

X. ORDINANCES

A. Second Reading

None

B. First Reading

1. ORDINANCE NO. 3-07 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Providing

for an Amendment to the Code of Ordinances at Part II, Chapter 1, General Provisions, So as to Create a New Section 1-15 to Be Titled "Noncompliance and Unpaid Liens," Said Provision to Provide That No Building Permit Shall Be Granted and No Application for Development Review Shall Be Considered Relating to Any Property Which Is in Noncompliance with Any of the Regulations, Codes or Ordinances of the Town or Against Which a Lien Exists in Favor of the Town Which Is Unpaid; Providing for Notice; Providing an Opportunity for Appeal; Providing an Opportunity to Show Good Cause as to Why Said Requirement Shall Not Be Applied; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.
[John C. Randolph, Town Attorney]

Town Manager Elwell advised that some additional work was required relative to Ordinance No. 3-07. He suggested that Ordinance No. 3-07 could be brought back next month, or it could be presented at an Ordinance, Rules and Standards (ORS) Committee Meeting.

Discussion ensued and it was the consensus of the Town Council to bring it back to the February 13, 2007, Town Council Meeting, for first reading.

XI. DEVELOPMENT REVIEWS

A. Appeals

None

B. Time Extensions

None

C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business- Less Than 15 Minutes

None

2. New Business- Less Than 15 Minutes

a. VARIANCE #1-2007 The application of Sumner G. Kaye relative to property described as Condominium Unit C-8, Palm Beach Hotel Condominium; commonly known as 235 Sunrise Avenue CM 7; located in the C-TS Zoning District. A request for variances to allow a 570 square foot real estate office on the first floor of the Palm Beach Hotel; and, to eliminate the required one (1) parking space for the additional 333 square feet of office space proposed to be created where lobby space currently exists.

Ex-parte communication was not declared by any Town Council Member.

Attorney Maura Ziska, on behalf of the applicant, presented architectural renderings, to provide an overview of the variance request. She noted that the hardship was a requirement of the Code, which preferred not to have retail as the character of the neighborhood. She stated that there were other real estate offices located on the first floor, in this area, which established precedence for granting this variance. She advised that denying this owner the same use allowed other real estate offices would be unjust. She explained that since there would be little traffic solicited by this business, and plenty of parking could be found on Sunrise Avenue, parking space should not be an issue.

Zoning Administrator Castro stated that staff would be studying a proposal this Zoning Season to allow offices back into the commercial Town-serving district. He advised that one of the provisions staff would be looking at was the actual character of the area: and if the area was conducive to office space; and if it was an area that historically had offices within that portion of the block or that building. He noted that he had not been able to determine whether there had actually been, in the past, a tenant in that space.

Mr. Castro commented further on the following:

- Staff had concerns relative to the office space being compatible for that area.
- The applicant did need a parking space variance, because this had not been a tenant space, and the creation of this additional space would generate the demand for one (1) parking space, on paper.
- The concern staff had was that there was no parking on Sunrise Avenue to begin with, and there was very little parking for that location.
- Staff had a very big concern that this request would increase the

intensification of the area.

- Staff questioned and did not see a hardship relative to the request.

Council Member Wyett advised that area did not have parking and to add additional businesses without parking allocations would not be in the public interest.

Attorney Ziska advised that the Palm Beach Hotel had a gated parking lot and the applicant did have one space reserved there.

Council Member Markin advised that residents of the Hotel had concerns regarding the development of the parking lot area, and the loss of parking spaces. She stated that parking was somewhat of an obstacle.

Town Manager Elwell requested that the record show, relative to parking concerns, that the results of the Town's Traffic and Parking Improvement Plan, which was recently completed, indicated that the most severe parking deficiency in any commercial area in Town was Sunrise, Sunset and Poinciana.

Council Member Brooks made a motion to deny Variance #1-2007 for the reason that the application does not meet the criteria set forth in Section 134-201(a), Items 1 through 7. President Pro Tem Kleid seconded the motion. On roll call, the motion carried unanimously.

b. VARIANCE #2-2007 The application of Gunther Lehmann relative to property described as lengthy legal description on file; commonly known as 1057 South Ocean Boulevard; located in the R-A Zoning District. Request for a variance to allow an in-fill addition consisting of 201 square feet thereby increasing the lot coverage to 27.1% in lieu of the 26.1% existing and the 25% maximum allowed in the R-A Zoning District.

Ex-parte communication was not declared by any Town Council Member.

Attorney Maura Ziska, on behalf of the applicant, presented architectural renderings to provide an overview of the requested variance. She advised that a deed restriction had been placed on this property, which only allowed one-story structures. She noted that a two-story structure could never be placed on this property and advised that the owners would like to utilize some dead space on the first floor of the residence.

Attorney Ziska advised that the hardship was the prior deed restriction because it did prevent any two-story addition where other properties in the R-A Zoning District were allowed two-story structures. The request was minor to accomplish a family need and was more sensitive to the neighborhood than a second story addition.

Zoning Administrator Castro advised that it was an unique situation that this property had a restrictive covenant only allowing one-story structures, at this location. He stated that staff questioned the hardship, but noted that there had been a case made relative to the restraints of the property size, its location and the restrictive covenant.

Motion made by Council Member Brooks, seconded by President Pro Tem Kleid, that Variance #2-2007 be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201(a), Items 1 through 7 have been met. On roll call, the motion carried unanimously.

3. Old Business- More Than 15 Minutes

a. SITE PLAN REVIEW #5-2006 WITH SPECIAL EXCEPTIONS & VARIANCES - MODIFIED The application of Adam Schlesinger relative to property described as lengthy legal description on file; commonly known as 2842 South Ocean Boulevard (former Hilton Hotel); located in the R-D(2), B-A Zoning District. The applicant is requesting to convert this existing 134-unit hotel into a 107-unit condominium hotel. The building will be completely renovated, including the demolition and reconstruction of the entire interior and exterior walls, and the addition of a partially sunken 200-space parking structure to replace the existing 144-space surface parking lot. The swimming pool will be relocated to the interior of the building on the fourth floor, and tennis courts will be built atop the parking structure. The building is and will remain 5 stories over a basement. However, the entrance road will be ramped up and the lobby will be relocated from the basement to the first floor. The hotel already contains customary hotel accessory uses including a gift shop and two dining rooms. These uses will continue in the new hotel but will be reconfigured. Special Exceptions to change ownership of an existing hotel in the R-D(2) district; to allow tennis courts to be built on a structure (the parking deck); and, to expand existing accessory commercial uses in the hotel by enlarging the gift shop from 168 square feet to 436 square feet and adding a small tennis pro shop of 528 square feet. Variances requested for the following: to enlarge a nonconforming building which will be partially demolished and reconstructed by greater than 50% of its existing cubic volume; unenclosed structures over 15 ft. high are required to meet setbacks. The entrance portals at A-1-A will be 4 ft. from the north and south property lines in lieu of the 30 ft. minimum required by code, a variance of 26 ft; side yard setback for hotel building of 27.40 ft. in lieu of 30 ft. minimum required by code on the north side, and 26.00 ft. in lieu of 30 ft. minimum required by code on the south side; hotels in the R-D(2) district are required to have 35% minimum landscaped open space. This site will have 25.3%, requiring a variance of 9.7%. The existing site has 19.3% landscaped open space.; lot coverage of 53.3% in lieu of 22% maximum allowed by code for a five-story special exception structure. The existing site has 27.8% lot coverage.; a maximum east-west building dimension of 424.25 ft. in lieu of the maximum 150 ft. allowed by code; a porte-cochere dimension of 50 ft. x 68.75 ft. in lieu of the maximum 30 ft. x 30 ft. allowed by code.; a tennis pro shop (accessory commercial use) outside the main building, and with its own external entrance which is not permitted by code; variance to allow parking to be arranged so that a car must be moved before another car can enter or exit a parking space, for the mechanical and stacked parking; and, a variance to allow 200 parking spaces in lieu of the 324 required for a hotel with dining rooms and accessory commercial uses. There are currently 144 parking spaces on the property. *Deferred from the April 11, 2006, June 13, 2006, and October 10, 2006, December 12, 2006, Town Council Meetings, and September 6, 2006, Special Town Council Meeting.*

Deferred Site Plan Review #5-2006 with Special Exceptions and Variances - Modified, to the February 13, 2007, Town Council Meeting, under Item VII., Approval of Agenda.

Code. A variance request to construct addition of function room with 1,695 total square footage, to replace current tent facility, with a 10.0 feet rear yard set back, in lieu of 28.88 foot minimum rear yard set back required by Code. A variance request to accommodate new mansard roof design and materials with a 5.8 feet side yard set back (no change from existing) at western property line, in lieu of the 19.72 foot minimum side yard set back required by Code. A variance request to allow outdoor dining room seating on the front outside balcony where said use is required by Code to be entirely within the principal building. A variance to allow a marquee wider than the entry way and with support closer than eighteen inches to the face of the curb. A variance request to construct 4,750 square feet of additional improved space, without providing the one additional loading berth required by Code. A variance request to provide 88 off street parking spaces, in lieu of 97 existing spaces and the 23 additional spaces required by Code as a result of planned improvements described in this application. A variance request to allow required parking to be stacked in a method which requires the movement of another vehicle in order to move another vehicle.

Ex-parte communication was declared by Town Council Members via conversations with Mr. Robert V. Matthews of Royal 160 LLC regarding this property, and with a neighboring property owner on Brazilian Avenue. Council Member Brooks visited with Mr. Robert V. Matthews of Royal 160 LLC, visited the site and visited a neighboring property owner on Brazilian Avenue.

Attorney Jacqueline S. Miller, on behalf of the Royal 160, LLC, owner of the Heart of Palm Hotel, submitted a letter of support from all the neighbors with one exception, Ms. Vivian Dorris, 155 Brazilian Avenue, who was represented by Attorney Kolins. She advised that they had been unable to resolve the concerns of Ms. Dorris relative to the new two-story building 10' from her property line, which would tower over her home. She requested that the Town Council defer variance request #15, which would allow the applicant to address Ms. Dorris' concerns. She stated that Attorney Kolins was present, and she expected that he would lodge his objections.

Attorney Miller presented Architect David Miller's site plans and architectural renderings, to provide an overview of the application. The Town, she believed, would request a Declaration of Use Agreement to address particular concerns.

Zoning Administrator Castro provided a brief history of the hotel commenting as follows:

- In 2001, the Heart of Palm Beach Hotel was renovated intensifying the use.
- In 2004, the hotel was expanded again, and staff believed there was a fairly large intensification of use relative to what was already existing on the site. Staff expressed concern, at that time, over parking, the function room and the expansion and operation of the hotel.
  - As part of the conditions of approval, it was mandated that a valet operation be put in place that specified the number of valets, at any given time, based upon the number of guests.
  - The big concern, at that time, was not so much the people that were staying at the hotel, but the actual function space being added, the number of people it would attract, and how it would be handled.

Attorney Miller advised that ARCOM unanimously gave preliminary approval, and explained that ARCOM would have final say relative to the design of what the front entry would look like.

Mr. Castro advised that the proposed plan showed additional intensification of use. The plan from an architectural and aesthetic standpoint were an improvement, but staff did have some serious concerns, which had been relayed to the applicant. He stated that the main concern of staff pertained to operational aspects and the intensification of use of the hotel. He commented on the following concerns:

- The expansion of the spa area.
- The outdoor seating and outdoor dining aspects.
- The addition of the function room would eliminate 9 parking spaces existing on the property.
- Based upon the expansion of uses, there would be a demand for an additional 23 parking spaces for all of the uses tied into the hotel.
- The restaurant, which would attract others to the hotel in addition to the guests of the hotel.
- The applicant was adding a lot of amenities and attractions to the hotel that might generate people who were staying at the hotel.
- A small fitness center, a small office space, and a boardroom to be located on the second floor.
- The valet operation outlined the number of attendants based on the number of guests only.
  - In 2002, at the time the Town Council originally approved the first

expansion, the real concern was the actual number of guests that would be attracted to the hotel that were not staying there and that was still a concern.

- The two-story addition was only 10' off the rear property line.
- The impact of the hotel expansion to the second floor, the second floor expansion to the back of the building, and the activity generated from that expansion.
- The list of neighboring property owners that support the project, submitted by the applicant, contained only one property owner on Brazilian Avenue.
- The intent of the C-B District ?
- The placement of loggia right on the property line, which changed the character of the street relative to the setbacks at that location.
- The elimination of storage dock.

Mr. Castro stated that staff recommended that if any approvals were given by the Town Council, a Declaration of Use Agreement outlining specific uses, hours of operation, valet operations, and how the function areas would be used; Staff recommended, as well, a construction Agreement as it related to the timing of construction, delivery of materials, etc. He explained that the sixteen variances were mostly architectural and aesthetic.

Attorney Ron Kolins, on behalf of Vivian Dorris, 155 Brazilian Avenue, advised that Ms. Dorris' home was immediately at the rear of the Heart of Palm Beach Hotel property. He explained that she would be the most impacted person relative to what was proposed today. He stated that, for the record, Ms. Dorris objected to all elements of the application, which included all of the variances, the special exception requests, and site plan approval.

Attorney Kolins advised that negotiations had been ongoing between the applicant and Ms. Dorris over the issue that was of primary concern, but it was not their only concern. He explained that the problem for them was that they ran out of time, but stated, they were working together in good faith to resolve these issues. He noted that issue primarily revolved around the placement of a brand new building, which would tower two and a half stories above his client's property and be only 10' off the property line.

Pat Seagraves, Architect, at the request of Attorney Kolins, presented a site plan, to point out and discuss the structure of concern.

Attorney Kolins advised that the applicant and Ms. Dorris had agreed, for purposes of today's hearing, to withdraw for consideration, the variance requests, site plan approval, and special exception that related to that building and including the building.

Attorney Miller confirmed Attorney Kolins' statement, but with one slight caveat, which was she did not want to request that the Town Council not give the applicant relief and allow 88 spaces. She explained that if the function room was eliminated, then their need decreased. She noted that she did not want to change that part of it, but obviously without the function room, the intensity of use would be decreased. She stated that she believed Mr. Kolins' statement was correct.

Attorney Kolins further stated, for the record, that he believed the variances were not based on any legal hardship, and in fact, hardship had not even been argued. The minimum variances had not been asked for and much of what was being requested was self-created. He stressed that they were working in good faith, and they thoroughly expected that, by next month, they would be back before the Town Council with changes that would be satisfactory to his client. He reiterated that they were requesting a deferral to next month's Town Council Meeting, for that portion of the application, which they agreed, was not up for consideration today.

After further discussion, Attorney Kolins stated that the objections he raised were for today's meeting. He reiterated that the two parties were working in good faith, and he hoped that the concerns of his client could be resolved.

Mr. Castro advised that the Fire-Rescue Department had several comments, most were related to building permit issues except for the clearance of the porte-cochere, which they were working on with the applicant. He explained staff's concerns and recommended that this application be deferred to draft a Declaration of Use Agreement and a Construction Agreement.

President Coleman suggested that any approvals given by the Town Council should be contingent upon successful resolution of a Declaration of Use Agreement and a Construction Agreement, both of which should contain strict penalties.

Council Member Brooks commented that the Heart of Palm Beach had gone through many mutations and noted that the proposed plan for the hotel was beautiful. He referred to a variance granted several years ago for 155 Brazilian Avenue in order to point out that case did not have a hardship. The variance had been granted for architectural and safety reasons.

In response to Council Member Brooks, Mr. Castro advised that the hotel had been built with the loading dock.

Attorney Kolins advised that the there was a hardship relative to the case for 155

4. New Business- More Than 15 Minutes

   a. SITE PLAN REVIEW #1-2007 WITH VARIANCES AND WAIVERS FROM ZONING IN PROGRESS The application of Philip Steinberg relative to property described as Corley Beach Estates Lots 4 & 4A; commonly known as 1640 South Ocean Boulevard; located in the R-A Zoning District. Site Plan Review to place a 100KW (3 ft.4in.W x 11 ft.8-3/16in. L x 6 ft. 6 in. H) generator on the subject property. Variances to allow the generator to be placed in the street side yard with a setback of 17.6 feet in lieu of the 35 foot minimum required; and, to allow height of the walls to screen the generator to be 12.5 feet (street side yard wall) and 10.5 feet (rear yard wall) in lieu of the 6 foot maximum allowed. Waivers from Zoning in Progress regarding the requirement for a maximum load of 75% of the load required to power the house; and, to not require the generator to be contained within a building.

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

Attorney Maura Ziska, on behalf of the applicant, provided an overview of the application request for placement of a generator in the street side-yard setback. She advised that the plan had been presented to ARCOM last month, and they supported the variances. ARCOM further suggested that the applicant drop the generator into a pit to make it lower, which they were able to engineer. The generator would be dropped about four feet, but it would require a setback variance and a wall height variance. She noted that it would be much more hidden than originally proposed.

Attorney Ziska advised that there were two letters, placed in the file, from neighbors in support of the project.

Attorney Ziska advised that the hardship, which ran with the land, was that the configuration of the house and topography made it difficult to place the generator in any area other than the one proposed. She noted that an additional hardship was that the setback was taken 15' from the centerline of the road plus another 35'. The generator was much further from the street than what appeared as the Code dictated.

Architect Harold Smith presented photographs and a site plan to discuss the merits of the application.

Zoning Administrator Castro advised that he had visited the site several months ago, and he was not sure why the applicant was not able to place the generator in a location elsewhere, which he indicated on the site plan. He stated that the generator was a full source generator, which would power the entire house, and that was the reason the applicant was requesting a waiver from Zoning in Progress. He noted that, it was his understanding, the applicant had purchased the generator, and he then met with him prior to Zoning in Progress and that was the reason for the request for the waiver. He stated that he believed the generator was presently in storage. He explained that the applicant was also asking for a waiver to not enclose the generator within a building.

Mr. Castro advised that staff questioned the hardship relevant to the variances. He noted that ARCOM requested the applicant sink the generator further down into the property and his concern was that he did not know what the wall height was at the highest point along Via Fontana.

Mr. Smith advised that the highest point along Via Fontana would be 7.88' above the crown of the road.

Ms. Ziska explained that it was originally 12.5' and that they dropped it 4'.

Discussion ensued regarding the placement of the generator in the location suggested by Mr. Castro. Council Member Markin commented that location would be further away from all neighbors, and would not require a variance.

Mr. Castro noted that the generator would still have to be enclosed, and the applicant was requesting a waiver within a building. The full source generator would be entirely enclosed within an accessory building.

In response to Council Member Markin, who asked what was located in the space opposite of where the pool was, Mr. Castro advised that he recalled that there was a patio and grass in that area.

Attorney Ziska advised that it was the applicant's only outdoor entertaining area, because the front yard and the driveways were all unuseable space. The generator, if placed there, would be at the level of the house, almost eight to ten feet higher than if placed in a pit, and if placed into a pit outside of the setbacks would fall into the outdoor entertainment area.

In response to Council Member Brooks, Attorney Ziska responded that the 100KW generator had already been purchased. Zoning in Progress stated that generators could only power 75% of the household load, and this generator powered 100% of the household load. She commented that she did not know if that would pass Zoning in Progress or not. She explained that, in addition, there was a section in Zoning in

Progress that stated if a generator was over 60KW, it would have to be placed inside of a building, which was the other waiver of Zoning in Progress that they were requesting.

Council Member Brooks commented that once the Town Council granted a waiver for Zoning in Progress, how would other requests for Zoning in Progress waivers be handled?

Attorney Ziska responded that approvals would be granted on case by cases basis. She explained that she believed this would be determined by April during Zoning Season as to whether or not this would become a rule and an Ordinance that allowed only 75% of the load or the generator would have to be placed inside of a building. She noted that presently they were in between a change in the rules, and the generator had already been purchased.

Council Member Brooks stated that he could not support this application.

Council Member Wyett stated that he could not support the application as presented. The general rule was de minimis, and they were not using de minimis. There were several other locations on that site to place the generator without variances. He noted that if the applicant could do something without a variance, they should not be here for a variance.

President Pro Tem Kleid stated that he was trying to understand the rationale as to why the applicant believed the Town Council should waive Zoning in Progress.

Attorney Ziska explained that the applicant had purchased the generator about a year ago, which had more power than allowed by Zoning in Progress. The generator could not be returned. The applicant wanted to use it and did not realize that he would have to go through this process, which did take some time, before they were able to appear before the Town Council.

In response to Council Member Markin, Ms. Ziska reiterated that the applicant did not realize when he purchased the generator, he would have to go through the Town Council approval process.

Motion made by Council Member Brooks, seconded by Council Member Markin, that Site Plan Review #1-2007 with Variances and Waivers from Zoning in Progress be denied for the reason that the granting of the Site Plan Review would adversely affect the public interest and that the specific requirements of Section 134-329, items 1 through 11 have not been met. On roll call, the motion carried unanimously.

b. SITE PLAN REVIEW #2-2007 WITH SPECIAL EXCEPTIONS AND VARIANCES The application of Royal 160, LLC relative to property described as lengthy legal description on file; commonly known as 160 Royal Palm Way; located in the C-B Zoning District. Request special exception approval for continued operation of hotel under new ownership. Prior to the adoption of the zoning in progress for hotel condominium conversions, the Applicant and the professionals engaged by the Applicant have had several pre-submission meetings with Town staff in connection with this application. These meetings have included provision of draft applications, the required traffic concurrency analysis and architectural plans for staff's review and analysis for completeness. The Applicant believes it is vested and not subject to the zoning in progress for hotel condominium conversion. In the event, however, that the Town Attorney concludes that the Applicant is not vested, the Applicant requests that the Town waive the application of the zoning in progress for this application. Request special exception approval for expansion of hotel's accessory uses, including 1,500 square foot expansion of spa facility; addition of 1,335 square feet of public space, plus 360 square feet of back room space, for function room in a building in lieu of existing tent facility; replacement of the existing second floor function space with a 3,600 total square foot dining room including 840 square feet for outdoor seating on balcony. Request special exception approval to permit outdoor dining with maximum of 56 seats on 840 square foot second floor balcony on front facade. Request site plan approval for expansion of an existing hotel within nonconforming building. This site plan request includes the addition of a 1,940 square foot porte-cochere/covered drop off and relocation of the loading dock from the front facade to under the west wing of guest rooms: relocation and construction of new lobby; the construction of a 1,695 total square foot addition in the rear yard to serve as function space in lieu of the existing tent facility space: an expansion of the spa facility to 4,100 square feet; replacement of the existing second floor function space with a 3,600 total square foot dining room, including 840 square foot dining area on balcony: renovation of guestrooms (net reduction of units: 95 to 80): construction of an enclosure for an existing outdoor fire stairwell; new roof design and materials; infilling the walls of the balconies: a new 2,160 square foot loggia in the back pool area of the building fronting the swimming pool: and adoption of exclusively valet parking for the site. A variance request to permit construction of porte-cochere/covered drop off with front set back of .34 feet, in lieu of 34.72 foot minimum required front yard setback required by Code. A variance request to permit construction of relocated curb cut and porte-cochere/covered drop off, expansion of existing spa and construction of permanent function space, which increases lot coverage to 66.4%, in lieu of the 61.4% existing lot coverage and the 50% maximum lot coverage allowed by Code. A variance request to permit construction of relocated curb cut and porte-cochere/covered drop off, expansion of the existing spa and construction of permanent function space, with overall landscape space of 23% overall landscaped space (no change from existing), in lieu of the 30% minimum overall landscaped space required by Code. A variance request to accommodate new mansard roofing design and material, to permit overall building height of 35.27 feet from zero datum (no change from existing) in lieu of the 30 foot maximum overall building height allowed by Code. A variance request to accommodate new mansard roofing design and material to permit building height of 34.61 feet from zero datum (no change from existing) in lieu of 25 feet maximum building height allowed by Code. A variance request to have three (3) architectural tower features in lieu of the two (2) maximum tower features allowed by Code. A variance request for two (2) of the architectural tower features with front yard setbacks of 24.5 feet and 24.88 feet in lieu of the 39.72 foot minimum front yard setback required by Code. A variance request for three (3) architectural towers, 5 feet maximum in height, with an overall building height of 40.27 feet, in lieu of the 35 feet maximum overall building height allowed by Code for the towers. A variance request to enclose an existing exterior stairwell creating a tower feature with an existing 6 foot rear yard set back, in lieu of the 28.88 foot minimum rear yard setback required by

Brazilian Avenue, which was the lay of the land that created a safety hazard. He noted that he did not believe that case was relevant to this particular application.

Jorge Sanchez stated that he was here both as a neighbor and because his firm, Sanchez & Maddux, 140 Royal Palm Way, had been hired by Mr. Matthews. He advised that the Condominium Association for 140 Royal Palm Way, which was adjacent to the Hotel, had met and all the property owners were present. The Association unanimously agreed that the proposed project would be a terrific improvement.

In response to Council Member Markin, Attorney Miller stated that the variance request was for eighty-eight parking spaces, but due to intensified use, as Mr. Castro addressed earlier, they would be required, by Code, to add twenty-three parking spaces.

In response to Council Member Markin, Mr. Castro advised that a condominium hotel did not have different requirements. He advised that a study item for this year was to look at the impacts of changing a hotel to a condominium hotel.

Council Member Markin stated that she believed the project had a lot of merit, it was a good project and a great addition and asset to the Town. The variances related to the architectural elements had merit as well, but noted that her biggest concern was the parking. She suggested that the applicant address some of the functionality within the hotel in order to arrive at a compromise so parking was not such a strain on the area.

President Coleman presented his list of what he would like to postpone versus what they could take action on today. He suggested the process that should occur would be for the Town Council take action on the items they believed they could agree upon, raise objections and concerns, and then talk about those objections and concerns next month.

Town Manager Elwell stated that, in the last couple of months, the Town Council had worked hard not to do partial approvals, but to identify those elements that required further discussion, and once they had been addressed, approve the entire application.

Council Member Brooks made a motion to approve the site plan, subject to completing a Construction Agreement, a Declaration of Use Agreement, and subject to Attorney Miller and Attorney Kolins coming to an agreement on the subject property, and intensity of use.

Mr. Castro stated that the Town Council could review employee parking under Section 134-230 - Determination of Parking Needs of Commercial Uses. He noted that there was a provision, if this item was deferred, for the applicant to go back and look at the number of employees, tell staff how many employees would be in each specific service area, and staff could calculate the actual demand based on provisions in this section.

Town Attorney Randolph stated that if the Town Council moved this forward and granted the variances, the Town Council, by having done that, agreed that the applicant would be exempt from Zoning in Progress (ZIP).

After further discussion, it was determined that the item relating to Zoning in Progress for hotel condominium conversion would be held in abeyance until next month.

Mr. Robert V. Matthews, owner Royal 160 LLC, addressed several issues:

- The current function space would be cut by 2/3's.
- Valet parking created an extra 50 parking spaces.
- Off-site parking for employees.

In response to Council Member Markin, Attorney Miller advised that the applicant planned to place a retractable awning that would cover the entire outside dining area space.

The Town Council reviewed the twenty-one requests and identified those items that required further discussion and those that did not. Zoning Application Items 2, 3, 5, 17, 19, 20, 21 as well as the Declarations of Use Agreement, Construction Agreement, clarification of underground utilities, parking in concert with Mid-town, and trash and can cleaning would all be addressed at the February 13, 2007, Town Council Meeting.

Discussion ensued regarding Zoning in Progress for hotel condominium conversions.

Ms. Close suggested Item #7 and #8 be included on the list of items to be discussed further. The items referred to landscape open space and lot coverage.

In response to Attorney Miller, President Coleman suggested that those items be added to the checklist for discussion at next month's Town Council Meeting.

Council Member Wyett made a motion to defer Site Plan Review #2-2007 with Special Exceptions and Variances, 160 Royal Palm Way, to the February 13, 2007, Town Council Meeting. The motion was seconded by Council Member Markin. On roll call, the motion carried 4/1, with Council Member Wyett dissenting.

D. Other

There were none.

XII. ANY OTHER MATTERS

There were none.

XIII. ADJOURNMENT

There being no further business, the Regular Town Council Meeting of January 9, 2007, was adjourned at 7:50 p.m.

APPROVED:

Denis P. Coleman
Town Council President

ATTESTED:

Susan A. Eichhorn
Town Clerk