

sometimes forget that they don't do it, so in many respects they should consider what Mr. Winterfield has just said.

Mr. Moore reported the quarter page advertisement to advertise the 5:01 meetings will appear next week. Mr. Randolph stated in that event this could be changed in those ads and he felt that resolved the issue. Mr. Moore stated the Zoning Commission would not have to meet. Mr. Heeke stated it would just be advertised for these two items.

Mr. Winterfield felt this was done in a high-handed matter as it was not condiered by the Zoning Commission and the change was made after the Zoning Commission hearings and they denied the public the opportunity to participate in the process and possibly change the result. He hears them saying that it doesn't make any difference what the Zoning Commission did and they will start anew here, as long as it is advertised twice and he doubted very much if that was the intent of the Town Ordinance.

Mr. Moore responded he felt the intent of the Town Ordinance and the State Laws was to provide notice to the public through the advertisement which they have always tried to follow the law. Mr. Randolph stated he was under the impression that they had completed the quarter page advertisement which is necessary under the State Law, and the changes must be advertised and he thought since the initial quarter page ads didn't have the changes, they couldn't go forward without bringing it back to the Zoning Commission but now feels they can as the whole purpose of this is to allow debate and allow things to change and they would be stymied in the event they were not able to make change and as long as notice is being given to the public by way of the quarter page ads, he doesn't believe the public has been denied anything.

Mr. Heeke stated in that event the Chair will reverse its prior ruling and Mr. Weinberg's motion and second by Mr. Ilyinsky is on the floor for discusison and voting and this would be for the 28' for pitched roofs and 25' for the flat roofs. Mayor Marix asked if this was going to be subject to it being advertised. Mr. Heeke stated it would have to comply with the State Laws. On roll call, the motion carried 3-1 with Mrs. Wiener voting against the motion.

Mr. Heeke asked that Section 6.40 also be taken care of in this advertising to which Mr. Moore agreed.

Mayor Marix asked if a motion had to be made to authorize the readvertising? Mr. Randolph responded as a result of the actions taken here, it will be readvertised. Mr. Moore indicated Mr. Zimmerman will make the changes in the advertisement to reflect the actions taken here, which will allow the public notice on this matter with two 5:01 meetings, one on January 22nd and one on February 4th.

ANY OTHER MATTERS. Mr. Heeke asked the record reflect the appreciation that the Town Council feels toward the Zoning Commission and the consultants and the public for its input throughout the Zoning Season.

ADJOURNMENT. There being no further business, the meeting was adjourned at 5:50 PM.

Grace T. Peters,
Town Clerk

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TOWN COUNCIL MINUTES OF
JANUARY 8, 1991

I. CALL TO ORDER AND ROLL CALL: The January 8, 1991 Town Council meeting was called to order by President Heeke at 9:30 AM in the Town Hall Council Chambers. On roll call, the following were found to be in attendance: Mayor Marix, President Heeke, President Pro Tem Ilyinsky, Councilwoman Douthit, Councilman Weinberg and Councilwoman Wiener. Also attending for all or portions of the meeting were Town Manager Doney, Town Attorney Randolph, Mr. Dusey, Mr. Moore, Mr. Zimmerman, Mr. Frank, Mrs. Peters, Mr. Bowser, Mr. Bitzer, Chief Terlizzese and Chief Elmore.

II. INVOCATION AND PLEDGE OF ALLEGIANCE: Invocation was given by President Heeke: "Dear Lord, be with us today during our deliberations and at all times, and be especially mindful of our concerns for our service personnel both here and abroad. Watch over them and protect them. We ask your divine guidance and protection. Amen."

Pledge of Allegiance was led by President Pro Tem Ilyinsky.

III. APPROVAL OF AGENDA. Mr. Moore requested Item X. C. 2 - Variance No. 1-91 - Mrs. C. L. Farris, 319 El Vedado requested the agenda should show that the gateposts do exist and the application request is for the ten foot high gates. Motion was made by Mr. Ilyinsky to approve the agenda with modification. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

IV. PRESENTATION:

A. Retirement of Robert Foose, Lieutenant - Fire-Rescue Department - Deferred from Dec. meeting. Mayor Marix presented Lt. Foose with a plaque on his retirement from the Town after 24 years 9 months of service.

V. COMMENTS OF THE MAYOR: Mayor Marix expressed her thanks for all the Committees and Commissions who work so diligently for the Town and are doing a great job.

VI. PUBLIC HEARINGS:

A. Landmark Designation for 300 El Brillo Way - Consideration of Resolution No. 1-91.

Mrs. Peters confirmed that proof of publication has been filed with the record.

The Town Attorney gave the oath to all of those who will make comment at this public hearing.

Mr. Frank explained 300 El Brillo meets the following criteria for designation:

Res. 1-91

C - embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials and craftsmanship.

D - Representative of notable works of one or more master buildings, designers, or architects whose individual ability has been recognized to have influenced their age.

Mr. Frank indicated the architect on this building was Maurice Fatio.

Mr. James Sved, consultant for the Town, addressed the Council showing slides and indicating the structure was designed and constructed in 1936 by the architectural firm of Trainer and Fatio. He stated the building occupies the corner of Travers and El Brillo Ways and there is a historic landmarked tree on the property. He indicated this is a British Colonial Style with Spanish Clay Tile Roof and has a large court yard up front. It is constructed of brick in the Flemish bond which is very durable and a beautiful piece of construction. He stated one of the most striking aspects of the house is the landscaping, being unsculpted. He stated the L shape portion of the house is where the guest quarters are located, and the garage is located close to the street. He stated the house is unique in respect to the landscaping and the lay-out on the lot and is worthy of landmarking.

Motion was made that the Designation Report be made a part of the record by Mr. Ilyinsky, seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Mr. Frank indicated no letters of opposition were received on this house and Attorney Broberg who represents the owners, the Huntingtons, indicates they have no objection.

Mrs. Jane Volk addressed the Council noting that Edie Huntington founded the Auxiliary at Good Samaritan Hospital and we all owe her a debt of gratitude.

Mr. Ilyinsky indicated he knew the Huntingtons and they have done many wonderful things for the Town over the years and he is grateful they are agreeable to the landmark status.

Mr. Heeke called for other comments and there were none.

Attorney Randolph read the Resolution No. 1-91 by caption:

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

Mrs. Douthit moved for adoption of Resolution No. 1-91 to designate as a landmark 300 El Brillo Way on the basis that it meets criteria C and D of Section XVI 38 of the Town of Palm Beach Code on Landmarks Preservation Ordinance No. 2-84. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

B. Landmark Designation for 363 Cocoanut Row - Consideration of Resolution No. 2-92. Mr. Frank reported 363 Cocoanut Row, the Chesterfield Hotel, has met the following criteria for designation:

- A. It exemplifies and reflects the broad cultural, political, economic or social history of the Nation, State, County or Town.
- C. It embodies distinguishing characteristics of an architectural type or as a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous material or craftsmanship.

Mr. Frank reported this property is already on the list of National Historic Places and this designation is voluntary.

Mr. Sved advised this was first designed by an unknown architect for the Lido Venice Hotel Company in 1925 and is a fine example of Mediterranean Revival commercial architecture. He noted notable architects who worked on this building were Mr. John Volk in 1937 and Mr. Roy Plockermann in 1960 who added the east portion in the back of the hotel.

He stated some of the noted architectural details are the rounded arched windows which lead into pilasters, the decorative parapet and the small cast stone porches. He stated the entrance to the court yard was closed in 1960 and at that time the original facade changed and the canopy entrance was added. He stated this building is very worthy of the Council's consideration for landmarking.

Mr. Heeke asked if proof of publication was received on this particular property? Mrs. Peters responded the publication included all three properties up for landmarking today.

Mr. Heeke called for public comments and there were none.

Mr. Frank mentioned the recommendation of the Landmarks Commission was for the exterior and the Preservation Foundation has a facade easement on this structure which was granted several years ago with the Federal Register designation which affords this building tax relief.

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

Attorney Randolph read Res. 2-91 by title:

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

Mrs. Wiener moved for adoption of Res. No. 2-92 concerning landmark designation for 363 Cocoanut Row, which meets criteria A and C. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Res. 2-92

C. Landmark Designation for 241 Seaview Avenue - Consideration of Resolution No. 3091. Mr. Heeke stated this was the Palm Beach Day School. Mr. Frank indicated this has met the following criteria: (C) and (D). He noted the architect in this case is Marion Syms Wyeth. He stated this is a voluntary designation of the entire site although certain portions of the building are more worthy of landmarking than others, but the Commission felt it was appropriate to have the entire site landmarked.

Res. 3-91

Mr. Sved stated the Palm Beach Day School/Palm Beach Private School was originally designed in 1931 by Marion Syms Wyeth and it was designed in the Art-Moderne/Art-Deco style. He stated this is a pure example of this style with the exception of the pitched roof and that was done because of excessive rains in Florida. He stated one of the most noteworthy aspects of this style is the overall verticality of the structure, and even though it is a long, low building, the decorative elements are made to highlight the verticality of the structure, such as the long banding of windows with the decorative inlay at the center and on the left the verticality of the pilasters and the entry with the stylized eagles perched upon the lintels. He stated in 1965 and following, there were several additions made to the structure, most of them by the architectural firm of Peacock and Lewis. He stated the entire structure is worthy of the Council's consideration today of landmarking.

Mr. Frank explained this is a voluntary designation. On motion of Mrs. Wiener the designation report was made a part of the record for 241 Seaview Avenue, the Palm Beach Private School or the Palm Beach Day School, as it is known today. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Attorney Randolph read the Resolution No. 3-91:

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

Mrs. Douthit moved that Resolution 3-91 be adopted designating the property at 241 Seaview Avenue as a landmark in the Town of Palm Beach as it meets Criteria C and D of Section XVI of the town of Palm beach Code of Ordinances - the Landmark Preservation Ordinance No. 2-84. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Mrs. Harwitz complimented the Council and Mrs. Volk for designating a landmark which had such great family life and the warmth of the people has added to the life of the house and the land itself and she appreciated that very much.

VII. LICENSES AND PERMITS:

Licenses &
Permits

A. Charitable Solicitations:

1. The Lord's Place, No. 229-91
2. Yeshiva University Cardoza School of Law, No. 238-91.

Mrs. Peters reported both were recommended by staff for approval. On motion of Mr. Weinberg, the applications for charitable solicitation permits were approved. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Other:

Other

1. Jewish Arts Foundation, No. 299-91. Mrs. Peters explained the Jewish Arts Foundation do not have a current audit. Toby Drucker addressed the Council indicating the audit has been contracted for and they anticipate having the audit within a month. Mr. Weinberg moved the permit be granted, contingent upon the filing of the audit prior to the event. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

2. American Friends of the Bnai Zion Medical Center, No. 315-91. Mrs. Peters asked if there was any representative in the room to speak to this and there was none and Mrs. Peters asked that this be deferred until next month. Motion was made by Mr. Ilyinsky to defer No. 315-91 to the February meeting. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

B. Transfer of 4 COP Alcoholic Beverage License from Andrew's Petite Marmite to Hyman Goldfeld/ECIB Palm Beach, Inc., d/b/a Bice Ristorante, 313 1/2 Worth Avenue. Mr. Doney explained the application has been reviewed by all appropriate departments and the fee has been deposited and staff recommends approval. On motion of Mr. Ilyinsky, the transfer was authorized. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

VIII. NEW BUSINESS:

New Business

A. Other

1. Little Red Schoolhouse at Phipp's Ocean Park - Request by Preservation Foundation of Palm Beach Inc., for Town Council Authorization to Add Air Conditioning System. Leslie Smith speaking for the Preservation Foundation of Palm Beach indicated they would like to install an air conditioning system and the Preservation Foundation would negotiate the contracts, get the bids, work with licensed contractors, get the proper permits and work with FP&L to install a separate power line which would be billed direct to the Preservation Foundation and they would undertake the cost of the service and maintenance of the unit.

Little Red
Schoolhouse

She stated there have been seventeen classes scheduled to go into the school house for two hour sessions and with the doors open, the traffic noise level is very high and they felt the air conditioning would make a tremendous difference. She reported that Mrs. Fortin has donated the air conditioning unit.

Mrs. Douthit thought it would be more comfortable with the air conditioning but she didn't think it was representative of the era. Mrs. Smith recalled other historical sites have been air conditioned without detracting from the buildings and this building would be air conditioned by vents from below. She recalled Seagull Cottage was air conditioned and she didn't believe that detracted from the building itself. Mrs. Douthit responded she wasn't thinking about the building but the children having a real feel of how it was to go to school at the turn of the century. Mrs. Smith stated the children that have visited already noticed there were electrical outlets and they noticed the smoke stacks do not go through to the roof.

Mayor Marix stated it is difficult for children now to relate to what their grandparents and great grandparents had to go through and since these children are not in this building very long, she thought if it was a matter

of teaching a child about what things were really like, they should know it was quite hot. Mrs. Smith responded they intended to turn the air conditioning on before the class to cool off the building and it would not necessarily be on during the teaching classes. Mayor Marix felt they wouldn't have a feel of what it was like in the olden days. Mrs. Smith believed they knew and she didn't believe the installation of an air conditioner would change their historical values, as the children were fascinated by the slates and the fire buckets and the pencils and the books that were used and she felt it would be a convenience to have the place air conditioned.

Little Red
Schoolhouse

Mr. Heeke pointed out this school house is not in its original location as where it is presently situated, there is no way they can get a breeze through the building. Mrs. Wiener felt the school house and its appointments are the focal point and she believed when all of them go to a museum or the theatre and they are uncomfortable, that is what they concentrate on rather than what is being presented and she felt keenly that there would be no taking away from the feeling if there was air conditioning and she thought the offer from the Preservation Foundation should be accepted.

Mr. Grace addressed the Council indicating one of the more important lessons to be learned by the children visiting this school house is that there was a day in the history of this state when the school houses did not have the crutches of our modern way of living and when it was cold outside, it was cold inside the school house and when it was hot outside, it was hot inside the school house and the children learned it was possible to live and survive and overcome these inconveniences which are a part of nature but in the modern school houses, have been removed. He felt and has had some experience as a school teacher that it would be a vital part of the experience of those children to spend an hour or two being somewhat closer to nature and having to put up with the convenience of being a little bit too hot or too cold and if we are going to have preservation, we should have it with authenticity.

Mrs. Wiener indicated she would like to remind the Council that for sometime there was some talk about giving this building to the Palm Beach County School Board and she asked the Council to not act on that as she felt someone would come along and they would be able to keep it in Palm Beach. She recalled the Preservation Foundation did come along and do the job and now there may be staff involvement and it may be if it is not air conditioned, they may find there may not be people to staff it and then they would be back where they started from.

Mrs. Smith indicated she disagreed with one thing Mr. Grace stated and that when it was hot, they were hot, but when it was cold, they had the pot bellied stove. She wondered why this was not an item of consideration when Sea Gull Cottage was restored as she didn't hear anyone objecting to the air conditioning and heat of that building. Mayor Marix thought it was a different situation with Sea Gull as that was not meant to be a learning experience for children and is simply a preserved building and serves as a headquarters. Mrs. Smith indicated it was their hope that Sea Gull would be a fine example of historical restoration which would be a learning experience for all who entered the building and it was not intended to be a headquarters.

Mrs. Douthit made a motion that the air conditioning be denied for this year only without prejudice and by saying no now, doesn't mean they can't come back next year and make the request again. Mr. Heeke passed the gavel to Mr. Ilyinsky to chair the meeting and seconded the motion.

Mrs. Harwitz addressed the Council indicating she was very much for the motion so when the children come into the room, they can feel what it was and not have the comfort of the air conditioning.

Mrs. Smith felt they could get the feeling from the school house and the air conditioning could be turned off, but another concern is that the funding is available for this project now but may not be available next year.

Mr. Ilyinsky argued the point that most of the great cathedrals and churches of the world have air conditioning. Mayor Marix disagreed pointing out St. Peter's and Westminster Abbey are not. Mr. Ilyinsky stated he would hesitate to deprive them of the air conditioning.

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

Fireworks
Display -
Flagler
Museum

2. Consideration of Application for Fireworks Display by the Henry Morrison Flagler Museum for Saturday, Feb. 2, 1991 from 7 PM to 8 PM for Annual Open House. Mr. Doney reported the Flagler Museum has cancelled the request and he recommended the Town Council accept the withdrawal. Mr. Ilyinsky moved the letter dated January 4, 1991 from Mr. Charles Simmons be accepted to cancel the fireworks display. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Mid-Town
Beach
Nourishment
Project

3. Proposed Mid-Town Beach Nourishment Project - Proposed Contract for State Funding with Department of Natural Resources - Request Town Council Authorization to Execute Contract and Initiate Related Actions as Needed. Mr. Doney reported the background is set forth in Mr. Elwell's memorandum dated Jan. 4, 1991 and it is recommendation that the Town Council approve the recommendations as set forth in that memo. He stated the Department of Natural Resources and the State of Florida through DNR has appropriated approximately 3.2 million dollars for the Mid-Town Beach Nourishment Project and the purpose of the agreement as required by the State is in order that the Town may be reimbursed for the expenses incurred to date. He stated the amount that the Town is eligible for reimbursement is based upon the State's formula is \$604,480. He indicated the staff and the Town Attorney have reviewed this and have had discussions with the DNR and another part of this is there is Federal Funding in a pending status and he believed there is Federal Funding in a pending status and he believed there is no danger in authorizing the Mayor to execute the Agreement as it would enable the Town to be reimbursed for eligible costs to date and if there never is a Mid-Town Beach Nourishment Project because there never is Federal Funding, the Town would be ahead by the amount reimbursed and he recommended the Council authorize and approve the recommendations set forth in Mr. Elwell's memorandum.

Mayor Marix indicated she has no problem executing this agreement but would like some reassurance that in no way will the execution of this Agreement interfere with the possibility of the PEP reef or the reef together with sand, as she doesn't want to do anything that will be taken as dividing that Reef program. She wanted to be sure that no one in any way could use this to stop the Town from proceeding further with either the reef if they so decide, or a reef with sand behind it, if they so desire. Attorney Randolph responded that it is his understanding that this project and the reef project are to be considered independently each of the other and that the fact that funding is received from one should not have an effect on the other. He cannot, however, give a guaranty that someone might not say they have funding for the beach nourishment project, why should they give consideration to a reef project but he could assure them that because of the fact they will be considered independent of each other, this should not affect the other project.

Mayor Marix felt it was more than likely they would not have a sand renourishment project shortly and more likely they won't be able to keep doing it every four years and there are many reasons to imagine they will have immense difficulty getting the Federal Funding necessary to do this. Mr. Randolph pointed out there is a very liberal cancellation clause in paragraph 13, which indicates that without cause, the agreement can be terminated at any time. Mayor Marix indicated she was asking for assurances as she knows there are hard feelings between the sand renourishers versus the reef builders and she doesn't want to be put into a position of signing an agreement which will close some doors which they need to still have open. Mr. Randolph indicated his assurance would be qualified in a way that

he just expressed. Mayor Marix responded if he didn't believe it was a big problem, then she would sign it. Mr. Randolph stated he doesn't consider it a big problem but felt it was difficult to give a guaranty of any kind but he didn't feel that executing the contract should in any way affect the other project as they are both being considered independently.

Mayor Marix asked Mr. Doney where they stand now. Mr. Doney responded to the best of their knowledge, based upon telephone communications with the DNR, and in particular Mr. Whitfield, that no portion of this appropriation for the Mid-Town Beach Nourishment Project could be used for a PEP Reef project or any other project. He stated to the best of the staff's knowledge, they would not jeopardize any other application for either independent project for a reef or a joint project should that come along and they will be evaluated based upon its own merits and the actual scope of the project at that time. He didn't believe he could give any unconditional assurance but believed that authorizing the agreement to be executed and receiving the reimbursement of funds expended to date for eligible costs would be in the best interest of the Town and should the staff learn something later, they would advise the Mayor and Town Council, if they thought it was something that was putting the Town into a bad position.

Mr. Winterfield addressed the Council noting Mr. Doney referred to the telephone conference and his recollection of the call at a meeting was that the State would allow the Town to choose between the two projects, but would not at this time in any event approve both for simultaneous execution and asked if that was correct? Mr. Heeke responded that was correct. Mr. Doney clarified that what Mr. Winterfield is referring to is the conference call made at the last Council meeting and the call that Mr. Doney was referring to was Mr. Elwell's conversation with Mr. Whitfield of the DNR which concerned money appropriated by the Legislature and is referred to in the Dec. 19th Memo.

Mayor Marix asked if there was some way that Mr. Randolph could outline the fact that in no way do we want to have any possibility with the reef prejudiced? Mrs. Douthit understood this money was to reimburse the Town for the research that has been made looking into "borrow areas" and "sand grain size" and this will reimburse us for that cause, and she believes they should take advantage of the reimbursement of these monies while it is available. Mayor Marix wanted to be assured there were no strings attached.

Mrs. Wiener suggested a letter be sent along with the Agreement that we are concerned that we are not jeopardizing either project we have under consideration and if it is only to reimburse the Town for expenses to this point, we will sign it and perhaps we can get something from them in writing.

Mr. Randolph stated it is not merely to reimburse the Town but also to move forward and he recommended that in executing the contract, they write a letter of understanding along with the contract indicating and repeating the conversations which have been made with staff that indeed this has no effect on any project which is before the State.

Mrs. Wiener stated her problem with that is if it is a covering letter with the Mayor's signature, then that is a valid contract no matter what the letter says and she would rather see it in writing from them before the execution of the contract and in that way, they will all understand what is going on.

Mayor Marix asked if the attorney had seen a copy of her memo stating her concerns to which Mr. Randolph responded affirmatively and stated he was attempting to tell her they have every reasonable assurance that can be expected that signing the contract will not have an effect on a separate application.

Mr. Ilyinsky moved that the Town Council authorize the Mayor to execute the contract and approve the other recommendations as set forth in Mr. Elwell's memorandum dated January 4, 1991 and a letter be sent to DNR indicating that the contract's execution is contingent upon DNR's approval of the interpretation of the letter. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

3. Application to Department of Environmental Regulation FY 1991 Public Works Program for Mid-Town Beach Nourishment Project (Federal Funding via Corps of Engineers) - Request Town Council Authorization to Submit Application and Initiate Related Actions as Needed. Mr. Doney explained the background on this is set forth in Mr. Dusey's memorandum dated January 2, 1991 and Mr. Dusey is recommending that the Town Council authorize the Town Manager to request the Corps of Engineers' funding for Federal funds for Fiscal Year 1993 should the Town not obtain funding in 1992. Mayor Marix wanted to be sure by renewing this request this time is different from last year as there is another request pending at this time and she wanted to be quite sure that one would not effect the other. Mr. Doney stated this request relates only to the Mid-Town Beach Nourishment project and would have no effect upon the pending application regarding the PEP reef. Mr. Heeke pointed out if we failed to make this application and then did not get funding for 1992, it would be 1994 before the funding could be obtained. Mr. Ilyinsky moved the Town Manager be authorized to submit the application to Department of Environmental Regulation FY 1993 Public Works Program for the Mid-Town Beach Nourishment Project and initiate related actions as needed. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

IX. APPROVAL OF WARRANT LIST AND FUND EXPENDITURES FOR DECEMBER, 1990. On motion of Mrs. Wiener, the Warrant List and Fund Expenditures for December, 1990 were approved. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

X. DEVELOPMENT REVIEWS:

A. Major matters Previously Considered by the Architectural Commission at their meeting of Dec. 19, 1990. Mr. Moore stated this is ready for approval with the exception of B86-90, Peter Stanley application for a new residence at 1332 N. Ocean Blvd. Mrs. Wiener moved for acceptance of the Architectural Commission meeting of Dec. 19, 1990, other than B 86-90 Peter Stanley. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

The major matters were:

B28-90A - Revisions to residence woned by Wells Road Land Co., 133 Wells Rd. Deferred.

B77-090 - New residence for Mr. & Mrs. Stephen Levin, 446 N. Lake Way - Deferred.

B91-90 - Addition to residence of Seymour and Rhoda Cole, 233 List Rd. Removed from agenda.

B105-90 - Additions and remodeling to residence of Gerard Haryman, 112 Woodbridge. Deferred for restudy.

B106-90 - Renovation to residence of George Phillips, 264 Dunbar Rd. Approved conditionally.

B110-90 - Renovation to residence of Frederick J. Keitel, III, 412 Brazilian Ave. Approved conditionally.

B111-90 - Addition to residence of Dr. & Mrs. Rolla D. Campbell, Jr., 257 Dunbar Rd. Approved.

Mid-Town
Beach Nour-
ishment
Project

Approval of
Warrant List

Development
Reviews

Major Matters-
Arch.Comm.

B223-90 - Boat House Renovation for Mr. & Mrs. Stephen Levin, 446 N. Lake Way. Deferred.

Appeal

B. Appeal

App.B86-90

1. Appeal of Architectural Commission Decision by Peter Stanley, Application No. B86-90 for new residence at 1332 N. Ocean Blvd. Mr. Jim Drago, Architect for Mr. Stanley addressed the Council on behalf of Mr. Stanley.

Attorney Randolph noted this is an appeal pursuant to Section 5.388 of the Town Code of Ordinances, and he read that portion of the Ordinance. Mr. Randolph requested that staff and those who will give testimony on this matter be sworn in and cross-examination should be afforded the applicant and others involved, to which the Chair agreed. Mr. Randolph administered the oath to all who would be testifying for this portion of this meeting.

Mr. Drago exhibited a rendering of the front elevation of the proposed residence, pointing out they do meet all the criteria of the Code and in some cases have reduced what is required. He noted the allowable maximum height is 35' and after working with the Architectural Commission for over six months, they have compromised and brought the height down to 31', which they feel is the lowest they can go to have the high ceilings which his clients desire. He noted the front setback is 35' and since this particular piece of property runs on an angle, there is one point in the front yard where they meet that but the remaining portion of the property exceeds the 35' setback. He stated there is an existing home there which does not meet the setbacks and they propose to demolish that home and meet stricter setbacks.

Mr. Drago indicated the minimum rear setback is 10' and it will be 10' or greater; the minimum side yard setback is 30' and they will provide that. Mr. Drago noted the required lot coverage is a calculation of not to exceed 25% of the total lot and in their case, the calculation is 3218', and they are proposing 3218' and the problem there is this is a corner lot and with providing the required setbacks, the 3218' proposal may appear to be excessive, but actually it is not since it is a huge lot. Mr. Drago stated the north side setback is required at 15' and they meet that requirement. He stated the last two requirements are the reason they are here as he felt these two could not be compromised and that is the maximum square footage allowed and the cubical footage. He stated they do come up with the figure of 6436' as the maximum square footage by presuming that they are allowed to build a two story home and doubling the lot coverage that is allowed. He pointed out this will be a home that would meet the Code requirements as they have provided 5400 square feet, and they need all of this to make this work as a five bedroom home. He reported the maximum cubic footage, if the height figure is multiplied by the width times the allowable length, they would end up with 112,630 cubic feet which would conceivably be allowed, however, they are proposing only the 55,000 cubic feet.

Mr. Drago read the portion of the Code, which spells out the criteria they must follow and which they have been at odds with the Architectural Commission:

"The proposed building or structure is not visibly excessively dissimilar in relation to any other structures existing for which a permit has been issued or to any other structures included in the same permit application facing upon the same or intersecting public or private ways, alleys not included, and within two hundred feet of the proposed site in respect to one or more of the following features:

1. Cubical content
2. Gross floor area
3. Height of the building
4. Other significant design features.

He felt the most important keyword in this text is the word "visibly" pointing out the ARCOM code differs from the Zoning Code as it states it has to be visibly excessively dissimilar. He stated the garage is buried underground so it is not visible and it is not counted in their logical calculations, so the numbers do not reflect the basement of the house since it is buried under the first floor living area. He stated the square footage would be the same thing as obviously you wouldn't count anything you cannot see, and that is the way they interpreted the Code.

He stated another keyword is "and" and this was made clear to him in the second or third meeting with ARCOM and he viewed the definition of neighborhood states it has to be within 200' "AND" facing on the same street and he felt that has been inconsistent in the analysis that have been produced as there are homes which don't face on the same street to which they have been compared.

Mr. Drago referred to the definition of the word "visible" from Webster's which states it may come up again and they are:

it is apparent - it is open - it is conspicuous - and that is the definition that he has used.

Mr. Drago indicated the part of the Code they are addressing are those specific rights the Stanley family has which are part of the property and the lot is valueless without certain specific rights and he was concerned about these two specific rights - the cubical content and the gross floor area, which he interprets one way and the ARCOM interprets another.

Mr. Drago noted since there is no positive pre-written formula for ARCOM to follow, they have used the logical formula for calculating gross square footage and cubic footage.

He believed they have met eight and one half out of nine criteria that they were required to follow with regards to ARCOM and he would like to go through those items:

"The proposed plan conforms with good taste and design. It contributes to the Palm Beach image as a place of beauty, spaciousness, balance, taste, fitness, charm and high quality. The proposed plan indicates the structure is reasonably protected against external or internal noise, vibrations, and other factors, protecting the environment. That the proposed exterior design and appearance is of superior quality and shall call the nature of the local environment to appreciate in appearance and value. That the proposed design is in harmony with the area and the Comprehensive Plan of Palm Beach. That the proposed design is not excessively similar to any other neighborhood structures. The proposed design is appropriate in character to neighboring areas in respect to significant design features, such as materials and quality of architectural design. The proposed design is in conformity with the standards of this Code and other applicable Ordinances insofar as the location, appearance and structures are involved. The project's location and design adequately protect the unique site characteristics, such as scenic views, natural vistas and waterways."

He believed that he has met or exceeded all of the required criteria. He understood the two parts that they have not met are the cubical and the gross floor area and he thought that was a semantic disagreement.

He referred to the visible cubical content question. He determined that cubical content was they took their first floor which has a square footage of approximately 3200 square feet and multiplied that by nine feet high (the height of the ceilings) and came up with the number that is approximately 29,000 cubic feet.

He stated the second floor is 2183 times the nine foot high ceilings, which gives them 20,000 square feet. He added they did follow the formula which was suggested in one of the other analyses and that is the reason they

have the cubic footage of both floors, and adding the area of floor trusses which separate the first floor and the second floor, which is an additional 6400 square feet.

He stated it was difficult for them to follow so many different formulas, but he wished to follow the formula with the information he received from ARCOM and also what they think is logical and they took two homes, both within the 200' requirement and are facing on the same street. He noted one of these homes is one lot away from this home and that was built by Mr. Stanley. He stated that home, according to Mrs. Frost-Golino's calculation has 73,825 cubic feet so they are not excessively dissimilar. He noted the house just adjacent to this property to the north and that home has 44,405 cubic feet, according to Mrs. Frost-Golino's calculations and if you take those two numbers and average them, it would be 59,115 cubic feet and they are at 55,000 and he feels that is not excessively dissimilar.

Mr. Drago then addressed the gross floor area and on the first floor they are proposing 3218 square feet; the second floor is 2183 square feet and that totals to 5401. He noted the previous Stanley home was 6726. Mr. Heeke asked him to identify the homes he is referring to by the street numbers. Mr. Drago stated the previous Stanley Home is 1326 N. Ocean Blvd., which is one lot south of the proposed property and the other one to the north is 1340 N. Ocean Blvd.

He stated he believed some would argue that the basement in this home would have to be counted, even though it cannot be seen, and that is why he made the point "visibly" is part of the Code and they are using it the way it is defined in the dictionary.

Mr. Randolph asked that the Exhibits be numbered and identified. Mr. Drago indicated the Code Compliance Chart will be Exhibit No. 1. He stated the second one is a comparison with the footprint of the old versus the new and that will be Exhibit No. 2.

Mr. Robert Moore, Director of Planning, Zoning and Building noted there is a question on the figures, as the figures Mr. Drago quoted were 6435 square feet and 55,500 cubic feet are in dispute and explained the intent of the ordinance is that the structure and the item at issue here is the mass of the house - square footage and cubic content - and how it appears to the neighborhood and the neighborhood is defined in the Ordinance as structures within 200'. He has attempted to settle that issue as Mr. Drago's method of calculation and the Town's method are at odds as the 55,500 cubic feet that Mr. Drago arrives at, the Town arrived at a different figure. He stated in an effort to settle this, he authorized Mr. Sved from Jefferson-Randolph Architectural Consultants, who assists their staff on landmarking matters, to do a survey to settle the issue. He noted an independent report was subsequently submitted by Mrs. Frost-Golino which was evaluated and similar comparisons were made for the purpose of this appeal. He noted the concerns are somewhat valid, such as the concern of North Ocean Boulevard versus the areas to the west as this is an area where they can't draw a complete circle within two hundred feet as the circle can only encompass the north south and west. He noted in the report that was prepared the houses are declared to be much larger by their calculations and they have used existing plans on file and some dimensions were taken from the field and he explained the methodology they used for calculation. He stated for the purposes of continuity, calculations for total square footage and total cubic footage were determined by measuring the exterior dimensions by excluding interior petitions, garages, attics and attic spaces, as well as floor joist areas. He stated by rescaling all measurements they measured heights from the finished floor. He stated the issue with Mr. Drago is whether the basement is visible and in fact it is visible from Ocean Terrace as this is a corner lot and there are two street frontages visible to the public. He noted Mr. Drago excluded areas which were not visible and that was not the methodology used by the Town or by Mr. Sved and his group and in fact the entire home was taken as it would appear en masse. He believed the intent of the Ordinance is to reflect as to the mass of the house and how it appears in the neighborhood, not taking credit for something that may not be visible, but the entire mass of the house.

Mr. Moore indicated he has done the calculations and created an average of the area along North Ocean Blvd and the proposed design has been determined for 1306, 1326, 1330, 1340, 1350 and 1356 North Ocean Boulevard and the average square footage determined was 3,421 and $\frac{1}{2}$ square feet and the proposed Stanley residence was 7,755 square feet, or 126% larger than the average of the North Ocean Boulevard addresses.

Mr. Moore indicated on the cubic footage comparisons, there is a similar percentage as 1306 was 70,726, 1326 is 66,414; 1330 is 31,203; 1340 is 32,249; 1350 is 20,856; and 1356 is 33,726; and the proposed Stanley residence is 73,107 cubic feet or 114% larger than the North Ocean Boulevard addresses. He stated it was the Architectural Commission's finding that in fact the house was too dissimilar for the area within 200' and a subsequent survey reinforced that it was also dissimilar for the Ocean Boulevard side.

Mr. Drago addressed the Council indicating the majority of what has just been stated is not in the Code with regards to the 200' as the Code states just that, within 200'. He stated the second thing is the measuring from the height of the floor and it is difficult since there is no established formula and they recently have completed a house just a few doors away and have relied on that. He stated this property was purchased with the assumption that nothing was going to change, especially formulae that were not published. He did not believe the word "mass" appeared in the Code also. He stated another word is the word "average", as there is no place in the Code where it states you take the average of all the small houses and that is how they got the figure they are supposed to meet.

Mr. Drago wanted to stay in a positive mode and show all the benefits of the house as that is what they are banking on, as the house is beautiful and it suits the Stanley family's needs and that is the reason they bought the property.

Mr. Drago stated the Code says "it can't be visibly excessively dissimilar" to any house and he can't interpret that to mean they have to be the same as the smallest house, as that wouldn't make sense, as the Code is trying to restrict what you do, but is not forcing you to do the most mediocre design as there could be a home in the neighborhood which is mediocre. He felt his definition was clear when it says "any" house and if they are going further than 200', that was okay, but then they should pick the biggest house.

Mr. Drago indicated there is a portion of the house which cannot be seen as there are existing shrubs 16' high and the garage doors cannot be viewed and if that needs to be proven in some way, he will find a way to do so. He has changed the design of the original house as originally it was designed similar to many of the other homes in the neighborhood which are two or three level homes, not dissimilar, but the difference that these homes have that the Stanley home does not have, is the driveways lead off the side streets so the garage doors can be seen from the street. He indicated his client has gone through great expense and took a lot of time to change the design from that concept so that they could meet ARCOM's requirement of not being visibly excessively dissimilar. He has been compromising with ARCOM as he has worked with them for six months and it has been an expense to carry the property.

Mr. Drago indicated he has relied on what had happened historically as the numbers that Mr. Moore reported, of all those numbers, the greatest numbers when they are comparing other numbers was the last house they did, so it is quite logical since the last house they did was that number, why would they think it was going to be any different as it was completed less than a year ago and they were going by what was in the Code and there were no new formula that had any bearing on them and they relied on the history of what they had done and the Code and the explanation of the Code and the months they spent with it before ARCOM and now they are told they are not meeting the new formula which are not published and are not part of the Code.

Mr. Moore clarified the figures produced were produced at his request because of a disparity and dispute

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between the staff and the Architectural Commission as to the size of the house and as to the cubic content and square footage, which is listed under criteria on Item F. He doesn't dispute that this methodology is not found in the Ordinance itself but was a tool requested by his office to attempt to resolve a dispute between the applicant who had made statements that it was not dissimilar as to cubic and square footage content to either North Ocean Boulevard or the other properties within two hundred feet. He stated in answering the other problems associated with it, they did extend the calculations to three houses south of the proposed house which included the prior Stanley house and they three houses to the north, falling within the two hundred feet, in an effort to try and give the benefit of the doubt to the applicant and not merely the "neighborhood" which would include all of the other properties that would be found as those percentages would be somewhat higher for the two hundred feet.

Mr. Heeke asked about the disparity between staff and the Architectural Commission wondering if this was on this application only? Mr. Moore stated the Architectural Commission because of testimony presented at their meeting by the applicant and neighbors was in dispute as to the cubic and square footage content and in an effort to try and resolve that, he requested staff to produce the figures as there was a definite disagreement as to how the cubic foot figure should be determined as one set of figures gave 55,000 and the other 73,000, which was a significant difference.

Mrs. Wiener asked for a clarification that all of the figures have been arrived at by each of them and the formula applies equally to every home, or whatever formula was used for this new proposed home is the same as the other that was discussed or was something different done to this home versus the other figures? Mr. Moore responded the figures he read into the record were arrived at by the methodology on each residence. Mrs. Wiener thought if there was a disagreement it was in two parallel columns. Mr. Drago did not agree stating what was said might have been misunderstood in that those other homes were not subjected to the formula he was subjected to on the one before the Council today. He noted that although each home was calculated using the same formula - he wished for them to understand two things, one is he doesn't dispute the figures done on the Jefferson-Randolph analysis, the analysis done by the Building Department and the third one done by Mrs. Frost-Golino, and he is not saying their numbers are wrong but what he is saying there are at least two different ways they have been calculated and there is no established formula, and he thanks Mr. Moore for doing this, but only wished it had been done six and one half months ago when they first came before ARCOM.

Mr. Drago stated he believed the numbers help them and if they turn to page five of the Jefferson-Randolph analysis, on the top column there is square footage and on the bottom, there is cubic footage and he referred to the second line, 1326 N. Ocean Blvd. - according to their calculation, that house is 5655 square feet and that is the last house built in the neighborhood. He stated if all the other homes were taken prior to that house being built and you average them up, you get 3000 square feet and he doesn't believe anyone will suggest that 5600 is not excessively dissimilar to 3000 square feet, so again historically, they allowed that and it is 89% larger than the average home that was existing at that time. He stated the one before them today is only 37% larger than the last home that was done if you use their calculations. He noted if his calculations are used, they are just about even. He stated even if they include the basement, which he doesn't think should be included, but even if you did use their numbers, 7700 square feet is only 37% larger than 5600 square feet so they are even smaller than what was allowed the last time.

Mr. Drago referred to the cubic footage, which is even better for them, as the last house they allowed to be built was 139% larger than the average cubic footage that was existing prior to that time and if you use their own formula, that is the case. He didn't think it was relevant that anyone in the past has been subjected to these formulas and he understands these are a tool to help lock in who is right and who is wrong, but in any case, the last house built was 139% larger than the previous average of 27,800 cubic feet. He is only asking this to be ten percent larger in cubic footage than the last house that was done and he doesn't consider that excessive.

Mr. Moore didn't know whether Mr. Drago was involved in the last house built for Mr. Stanley, at 1326 North Ocean Blvd., which is so excessively dissimilar to the rest of the average, he wished to point out that this was a remodel of a home which involved some additional work to be done to it and it came before Council for a variance and due to an error, the contractor tore down the entire house and had to start again and he recalled Mr. Stanley did come before the Council for a variance request because of the fact his contractor made a mistake and tore down the building, so it was a pre-existing house and it would have been a part of the existing neighborhood and he thought that was important for them to understand that ARCOM did not review that house as a brand new house but as a remodel, which he thought was a very important distinction. Mr. Heeke asked if it was within the same foundation to which Mr. Moore responded affirmatively.

Mayor Marix wondered if there could be a picture produced of the style of the 1326 house that they are talking about, because when she looks at this rendering for the new one and she has seen the 1326 house, she is having a terrible time comparing them. Mrs. Southit asked if there was any way to have the present rendering show in red the northern neighbor and in blue the southerly neighbor and how they compare height-wise as immediately to the west the roofline hits the first floor of the proposed new house. Mr. Drago indicated he will be happy to do that, but pointed out the street they are on and the street the neighbor to the east is on is about seven feet different.

Mr. Peter Stanley addressed the Council asking to have the opportunity to rebut a statement made by Mr. Moore on the foundation as the foundation was ninety per cent new and it was not the old foundation on the 1326 North Ocean Boulevard and it was not the same footprint as there was about 3000 square feet added to that house. Mr. Drago felt that bringing anything into the picture that is not in the Code is clouding the issue and he knows everyone has their own opinion, but he is trying to go by the Code.

Mr. Weinberg asked if they could after the lunch break bring back the delineation that Mrs. Douthit has requested? Mr. Drago stated he will try as he does have photographs of the surrounding homes and those which are adjacent and diagonal and he knows now they are talking about the height and he will be able to show he is not excessively dissimilar to height.

Lunch break was taken.

Meeting called back to order at 2:35PM by President Heeke.

Mr. Drago indicated over the lunch hour he has prepared some exhibits which showed elevations and the peak of his roof is 3.9" higher than the house next door, or 1340 North Ocean Blvd. Mrs. Douthit stated it looked like there was considerable difference in the length, and reported during the lunch break she visited the site and found the ground to be quite level but the peak appears to be one of the highest points along North Ocean Boulevard. Mayor Marix thought after looking at this drawing, it does give the impression of a rather small house. Mr. Drago stated it is more bold and has simpler lines. Mr. Heeke suggested this Exhibit be part of the record and be labeled No. 3. Mr. Drago indicated he just did this over the lunch hour and it is not to scale so he would rather it not be a part of the record, as he was just trying to produce what was requested of him.

Mr. Drago stated he has a drawing which is to scale and is as accurate as they can make it, according to the surveyor's dimensions, and it shows a cross section of the proposed house and the others which are adjacent. Mayor

Marix asked if they could use the one that is not to scale so the audience can make the comparison also.

Mrs. Douthit reported when she went to this site not more than an hour ago, there was a "For Sale" sign out front. Mr. Randolph stated this was not relevant to these proceedings.

Mr. Drago exhibited a rendering which showed a cross section cutting through the house they were proposing to build in an east-west direction, although there would be nothing to the east, as that is the ocean and to the west they can see the Martino residence and if that was measured from the street, they would be approximately the same height. Mr. Drago exhibited the north-south section and it shows the home to the north, and it is evident how they compare to each other and the proposed it only 3.9" higher. Mrs. Douthit was dubious of the drawing as when you head west, the street goes down and the line on the drawing doesn't show that. Mr. Drago stated the line represents the grade level and is the above sea level line and it runs horizontal and is a reference point.

Mrs. Douthit asked if he had any drawing which showed that slope? Mr. Drago responded she is right as the street does slope down about seven feet from the crown of the road in front of their house to the crown in front of the Martino house. Mr. Drago tried to put it into perspective stating if one drives down North Ocean Boulevard, and they see a two story home and that is what he is proposing, and if they drove down the road in front of the Martino home, they would see the garage level, the first floor and the second floor so there are three levels that can be viewed whereas there are only two levels seen on the proposed.

Mrs. Douthit asked how much higher the proposed house would be than the one existing there now? Mr. Drago did not know although he did believe the existing one was lower. Mrs. Douthit agreed. Mr. Drago stated the Code does allow 35' and they brought it down to 31' after the ARCOM hearings and at this point, even with nine foot high ceilings, the only thing they could do was eliminate the look of the roof, which would change the look of the house. and this is supposed to be a custom home for Mr. Stanley who has to live with it and it is not the sort of thing they wish to compromise a design because they are talking about a couple of feet or the peak of one roof.

Mayor Marix commented the peak of the roof may well be four or five feet higher but she would like to see a comparison of some type as the house they are showing appears to be huge all along the North Ocean Blvd., which is the mass they are talking about, and she thought that if they could simply have a drawing so they can compare it and they could have an idea of why ARCOM feels it is quite bulky. She recalled what is there now is a one story house and what they propose is a two story house. Mr. Drago recalled the house to the north is a two story also. Mayor Marix recalled it is only two stories in one place. Mr. Drago agreed noting there is two stories all along, but he believed they were allowed to be two stories. Mayor Marix indicated she is not discussing the two stories, simply the bulk and the way it looks. Mr. Drago did not know how he could accommodate any more as he has photographs of the houses in the area and has drawings to scale and has a survey to get the exact height of the house next door and they meet the requirements of the Code.

Attorney Randolph advised that even though it is not to scale he felt for identification and since much time has been spend on it, he thought this Exhibit should be numbered as Exhibit No. 3.

Mr. Heeke indicated this exhibit of photographs of the houses in the area will be Applicant's Exhibit No. 4.

Mayor Marix wondered if the rendering exhibited today should also be a part of the record. Mr. Drago advised this was and is a rendering not drawn to scale adn may be 75% reality and in any event, it was before ARCOM and is already a part of their record. Mr. Moore indicated this would be Exhibit No. 5.

Mr. Drago exhibited a photograph which was labeled No. 6, which showed the tall shrubbery on the south side of the property and they will remain, one is sea grape, the taller ones and the other is Australian Pine. He stated this relates to the left side of their rendering which shows the existing tall shrubbery. He indicated the picture was taken from the southwest corner of the property. Mayor Marix asked how much further from the road would the proposed residence be from the building shown in this photograph? Mr. Drago indicated it would be an additional five feet. Mayor Marix thought the rendering showed the greenery was much wider. Mr. Drago indicated the drawings do show the dimensions they are proposing.

Mr. Draho exhibited a photgraph of the house to the north of them, which would be Exhibit No. 7, which he thought showed bulk as this was 1340 North Ocean Blvd.

Mr. Drago noted this is Item "D" on the Exhibit No. 4 and this has a lot of roof on it and a portion of it is two stories. He stated when these two houses are next to each other, it will be evident they are different styles.

Mr. Drago exhibited a photograph of the Martino residence which shows three levels. Mr. Randolph stated this will be Exhibit No. 8.

Mr. Drago wished to address the issue of whether this is a house for Mr. Stanley's family, as they have sold the other house and he bought this lot on the oceanfront and the difficulty is if it were a spec house, they could change it but since it is for a client, they have spent a lot of time designing it for him to suit his needs and his family needs. He knows ARCOM would like them to reduce the size of the rooms but Mr. Drago felt there was no flexibility beyond what they have already compromised.

Mrs. Ann Lilja, 110 Ocean Terrace addressed the Council understanding that Mr. Drago has taken the viewpoint that the neighborhood is from North Ocean Boulevard viewpoint and she does live on the side street, but she could look up toward the Stanley residence and she is opposed to the request for all the reasons she has previously stated before ARCOM as this is massive and huge. She recalled at the ARCOM meeting of Sept. 26 1990. Mrs. Wiener did make an appearance with Mr. Stanley and she was curious as to whether or not there was any personal support for Mr. Stanley. Mrs. Wiener responded that No. 1, this statement is totally incorrect and No. 2, she knows that Mrs. Lilja has had involvement with other people sitting at this Council table. She had never met Mr. Stanley but happened to be at the ARCOM meeting because a neighbor next door to her had applied for some building on his home and she was hopeful that ARCOM would agree with what they wanted to do and in case there was a problem, she would be willing to state her husband and her were pleased with what their next door neighbor was planning to do with that house and she had never met Mr. Stanley and there is no personal support on her part. She asked why Mrs. Lilja thought there was a problem as Mrs. Lilja has been involved with people at this table and since all of them sitting at the table are elected officials to work with anyone who calls them and wants to talk with them about any of their problems.

Mrs. Lilja thanked Mrs. Wiener indicating she knew at one point Mr. Stanley was seeking supporters and investors and she just wondered if Mrs. Wiener was involved. She indicated she has not spoken with anyone on the Council.

Mr. Joel Martino, 109 Ocean Terrace, just west of this proposed house addressed the Council stating that as part of the neighborhood, he felt his house would be adversely affected in aesthetics and character since he will be facing a 30' wall of glass and concrete which will be located twenty feet away from his home and he doesn't believe that there could be adequate landscaping to conceal this massive structure Mr. Stanley intends to build.

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Mrs. Wiener asked what the height of Mr. Martino's house was? Mr. Moore indicated he has the square footage and the cubic dimensions but not the height.

Mayor Marix asked if the wall of concrete and glass would be towering over Mr. Martino's house? Mr. Martino responded as he interprets these drawings, it looks like he will be facing the west wall of Mr. Stanley and it will be a wall made of concrete block and glass windows and since he has a lot of windows and so will Mr. Stanley, it looked like a design conflict of window to window twenty feet apart. Mr. Weinberg asked if he could estimate how high this concrete block would be? Mr. Martino estimated it would be about 30' although it will be more to the top of the roof. Mr. Weinberg asked about the horizontal dimensions? Mr. Martino indicated the proposed house will have a setback from the street of 25 to 30 feet and his house has less but roughly the house will be parallel.

Mr. Moore interjected that he does have the height of Mr. Martino's house at 109 Ocean Terrace and it is 27½ feet above sea level which is 11.5 at that point, which would make the structure 38' in height. Mr. Martino hoped they understood that since his house is very tall and Mr. Stanley's house will be taller, they may have some idea of what they would be looking at in this area. Mrs. Wiener asked at what grade would the Stanley house be built? Mr. Moore responded the proposed building would be 36.9' above the road and above sea level 47.25'. Mayor Marix noted this would be about 10' higher.

Dr. Sten Lilja, 1330 North Ocean Blvd., addressed the Council indicating there have been so many facts which have been presented and some of which have been challenged already, so it is difficult to figure out what remains to be challenged. He presumed that Town Council has read the transcript of the ARCOM meeting of Dec. 19, 1990 and he asked that Mrs. Leslie Smith and Mr. Jeffrey Smith of ARCOM be requested to speak. He recalled Mr. Drago did not know what the elevation of 1340 N. Ocean Blvd. relative to 1332 N. Ocean Blvd. and he understood Mrs. Douthit requested there be some way to judge the relative heights of the surrounding properties and in particular, she mentioned 1326 North Ocean Blvd. He has presented the Town Clerk with a rough drawing of an exhibit he prepared for the second ARCOM meeting for them to understand the proportions. He indicated at that particular ARCOM meeting, Mr. Drago confirmed that the biggest difference between his surveys and the ones that Dr. Lilja prepared, were one-tenth of a foot. Dr. Lilja explained the yellow markings on his drawing and Mr. Heeke interrupted indicating this will be Lilja Exhibit No. 1 and Lilja Exhibit No. 2 would be the photographs prepared by Dr. Lilja.

Dr. Lilja continued with his presentation on Lilja Exhibit No. 2 indicating it shows the relative heights of the surrounding properties. He pointed out this drawing is part of the report that the staff requested to have here for the last ARCOM meeting and is in the back of Mr. Sved's report. He explained the yellow markings on the drawing represent the changes that were made for the third ARCOM meeting and they indicate that Mr. Drago lowered the height for that meeting. He had remarked previously at an earlier meeting of ARCOM that Mr. Drago had at the second meeting actually increased the height of the body of the building and this is indicated on his drawing. He stated the yellow marks also show the lowering of the roof that Mr. Drago did at that time. Dr. Lilja stated since the second meeting, the figures have been changed and those that are not crossed off which are highlighted in yellow are the figures, which he felt were self-explanatory.

Dr. Lilja commented the elevation of the roof of 1340 N. Ocean Blvd., which had the addition of a dormer which became a second story is 41.5' and the corresponding figure for the Stanley building is 47.25', which makes a six foot difference in the height of the ridge of the roof of the two buildings. He noted Mr. Martino's elevation is 38.0 as compared with 47.25 for the proposed new house which is a difference of nine and one quarter feet, however, it was stated earlier that the biggest portion of Martino's house was at that level and he did not believe that was correct and if they referred to his drawing, they would see it was half or more than half of the building is considerably lower and comes out to an elevation of 31.95'. He believed he heard Mr. Drago claimed that the lot at 1332 was larger than the other lots in the neighborhood and as a consequence, the impression of bulk would be less and the facts do not support that position as the lot is 114' by 108', which is smaller than the 200 Ocean Terrace property and 1330 N. Ocean Blvd. property and much smaller than 1326 N. Ocean Blvd. He stated the size at 1332 is identical to 210 Ocean Terrace, 1340 N. Ocean Blvd., 1350 North Ocean Blvd. and a little bit larger than 110 Ocean Terrace and 110 Angler Avenue and marginally larger than 109 Ocean Terrace. He stated it cannot be a hindrance in this matter but as the concept of bulk impression and its surroundings were raised by Mr. Drago, it should be mentioned that the 1340 North Ocean Blvd. is non-conforming with only ten feet setback on the south side, which is the side that abuts 1332 N. Ocean Blvd. He noted 1340 N. Ocean Blvd. does have a somewhat larger overhang which will give an impression that something has been squeezed together and is not part of the Zoning requirements but he wished to mention it.

Dr. Lilja recalled Mr. Moore stated earlier that the proposed floor area and cubic content of the proposed building would be 166% and 168% larger than the average home in the area and he felt that was a professional way of stating this and this percentage is two-thirds times larger which would give them an understanding about the mass, particularly, since the footprint of the buildings in this area, including the proposed 1332 structure are very close, with the exception of the two two-story buildings at 110 Ocean Terrace and 109 Ocean Terrace. He pointed out the transcript of the proceedings of ARCOM's last meeting showed a multiple of up to four times larger volume of the proposed home as compared with the smallest houses in the area.

Dr. Lilja recalled Mr. Drago using 1326 N. Ocean Blvd. as an example several times as a model for comparison as "the last home built" and as Mr. Moore has mentioned 1326 N. Ocean Blvd. was built by Mr. Stanley and it strikes him that it may be improper to have this used as a standard as it slipped past partly because there was a lack of pertinent information at that time and that is regretted. He asked for an opportunity to be heard again later in this meeting on this subject.

Mr. Randolph advised as a procedural matter, he felt the applicant should be allowed to present his case and anyone else that has a comment to make can do so and the applicant should have an opportunity for rebuttal and that should be it, as otherwise they will be going back and forth all day. Mr. Heeke commented that was probably correct but he has assured the applicant he would be given whatever time he needed to present what he wanted to.

Mr. Peter Stanley addressed the Council, indicating he has a report from Jefferson-Randolph and in that report, he found two sketches that Dr. Lilja has just told us he had prepared and he wished to clear up this matter as if that is the case, there could be a problem. Mr. Moore advised these are part of the record of the Architectural Commission when they were given. Mr. Stanley asked if the Jefferson-Randolph people used Dr. Lilja's drawings as part of their report? Mr. Moore responded these were prepared at the time of the Architectural Commission's meeting and are a part of the record and also Mrs. Frost-Golino's report was given and that was a part of the record. Mr. Stanley asked if they were prepared by Dr. Lilja to which Mr. Moore responded affirmatively. Mr. Stanley asked if Mr. Jefferson use these? Mr. Frank responded they were part of the public record. Mr. Stanley indicated Mr. Jefferson is an architect and he would think as an architect, he would have prepared his own figures and not use the figures of a neighbor. Mr. Drago wondered how they became part of the record if they were only handed out moments before the meeting as the way he understood it, to become part of the record, they had had to provide their information a month ahead of time and if they were already in the loop, they would have two weeks within which to present it. Mr. Moore responded that anything that was presented at the meeting becomes part of the record.

Mr. Stanley pointed out they have a document here that is a professional opinion by an architect which is

using supporting data from a neighbor and that would not be a professional opinion. Mr. Frank believed that Dr. Lilja had prepared these drawings for a second meeting of ARCOM which would have been in September and when they were prepared they were turned into the Town and became a part of the Town's record and anyone, including Mr. Drago, had access to the drawings. Mr. Heeke asked Dr. Lilja if these drawings were presented at the second ARCOM meeting to which Dr. Lilja responded affirmatively.

Dr. Lilja further stated he didn't believe his figures were used by Mr. Sved for the report, as whatever was presented at the last ARCOM meeting was different and Mr. Sved used available drawings on file in the Building Department to come up with his figures and he wished to re-emphasize the figures he had submitted were declared correct by Mr. Drago at an ARCOM meeting.

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Mr. Stanley concluded there is an architectural analysis from Jefferson-Randolph, Architectural consultants, and they used a neighbor's figure and it is absurd to spend the Town's money for this.

Mr. Sved was asked if Dr. Lilja's figures were used in the preparation of the Jefferson-Randolph report? Mr. Sved stated he did not and this report was prepared for ARCOM's last meeting and were done with their own figures and their own drawings and their own measurements and Dr. Lilja's plans and drawings as well as some provided by Mr. Stanley and Mr. Drago, including their survey were included in the back of this analysis as reference only and none of those figures were used in his computations. Mr. Moore explained in the earlier computations and heights that were discussed, his records indicated a slight difference in the height that Dr. Lilja had submitted and those records were reflected in the proposed building going from 38.9' to 36.9 and 49.35 down to 47.45 and he doesn't know who made those changes.

Mr. Heeke didn't want to cut off anyone and asked if they were close to the summarization point? Mr. Drago indicated they were quite close. Mr. Heeke called on Dr. Lilja to talk about the Lilja Exhibit #2 of photographs he had taken. Dr. Lilja suggested again that the ARCOM commissioners be permitted to speak to the Council. Mr. Randolph advised this would not be appropriate for the Council to consider testimony of these commissioners at this hearing since the Town Council is ruling on a decision by the Architectural Commission at this hearing. Mr. Heeke indicated the Council does have the record on the meetings.

Mr. Randolph indicated the entire record and file of the Building Department which related to the matter before the Architectural Commission should be made a part of the record of these proceedings. Mr. Ilyinsky moved that the entire file of ARCOM on these proceedings and the Building Department's file as they apply to this application be made a part of the record. Mr. Randolph indicated that would be the minutes of that meeting and any transcripts. Seconded by Mrs. Douthitt. On roll call, the motion carried unanimously.

Dr. Lilja asked if a letter from Dr. Barry Lerner had been received to which Mr. Heeke responded affirmatively and he read the letter of objection. Dr. Lilja indicated he had another matter which he felt he should bring up and directed his comments to Mr. Heeke as President of the Council, noting he has witnessed over the past four months the exceptional efforts of the Architectural Commission to do their job in accordance with their mandate in the Code. He felt the outcome was evident in the unanimous vote of 7-0 as well as from the transcript of that meeting on 12-19-90. He felt it was possible that the ruling of the Town Council and the denial by ARCOM will end up in court, therefore, he felt the matter was extremely important not only because of the very strong precedent it would set with or without a court case, but also as it reflects on the future viability of ARCOM, and for that reason, he felt it was most important that the Council vote today be based on arguments presented here today and on whatever official records it has at its disposal. He stated it could be quite detrimental to the Town's future capability to enforce its ordinances and to the Town's position in court if the Council's vote was diluted by some conflict or crusade. He recalled at the very first ARCOM meeting on 9-26-90, Mrs. Wiener was present in the audience seating just behind Mr. Stanley and spoke to him on several occasions and made it obvious to ARCOM members and to people in the audience that she was displeased with the proceedings. He felt that by these actions, prior to any decision made by the Commission, Mrs. Wiener created the appearance of having prejudged the matter which is on appeal to the Council today.

Mr. Ilyinsky wondered if this was proper and felt there was something wrong here. Mrs. Wiener felt there was something wrong right along. Mr. Weinberg felt there should be no personal attacks. Mr. Heeke ruled that Dr. Lilja had the floor. Mrs. Wiener asked if the President did not consider his remarks out of order? Dr. Lilja was asked if he was at the ARCOM meeting and what he was saying was his impression? Dr. Lilja responded it is his personal knowledge. Mrs. Wiener recalled distinctly what had happened and told Dr. Lilja they would have to face each other in another forum at another time but she remembered quite distinctly that Dr. Lilja was sitting several rows in front of her at that time. Dr. Lilja indicated that was not correct. Mrs. Wiener stated Dr. Lilja was incorrect in every one of his remarks and she does resent them and will meet in another forum at another time. Dr. Lilja requested permission to continue. Mrs. Wiener appealed to President Heeke indicating two members of the Council have already indicated their displeasure with this and she is the third and she does consider these remarks were improper and to allow this kind of political carrying on prior to the Caucus this evening was not appropriate.

President Heeke responded he does not wish to harness any member of the public from speaking of what they have seen or observed, and he doesn't feel the Council is afraid of anything that would be said. He stated we are always judged by perceptions by what we do and say. He indicated he had a question in his own mind about retaining even tempers and consider judgment when it comes time for a vote but he was more concerned about how they respond when the question is presented to them and accordingly, he asked Dr. Lilja if he would voluntarily discontinue his comments to which Dr. Lilja agreed, noting that his final point has not been brought out.

Mr. Moore gave a summation and asked if the Jefferson-Randolph Architectural Report be entered into the record and on motion of Mr. Weinberg, this was made a part of the record. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Mr. Moore continued with his comments: "In closing and in summary, because of the discrepancy in the figures that were presented at the Architectural Commission and the feeling of the Architectural Commission members as well as members of the public in the discrepancy, the figures were asked to be put together by the Town's Administration by the consultant that normally works for the Landmark Commission, Mr. Sved. Those figures are represented here today and I would like to refer you to those figures because they were somewhat controversial as far as what was known to be the "Old Stanley House" or the prior Stanley House at 1326 N. Ocean Blvd. and it was narrowed down by Mr. Drago that that house would be similar, in fact, to the proposed house at 1332. Further evidence that was presented today was by the Town and by those that were for the appeal representing Mr. Stanley and those that were opposing the appeal - did not hone in on one fact. We do not disagree - the Town and the Architectural Commission did not disagree with the fact that the house at 1326 was a larger home. In fact, what was being compared as the larger home at 1326, in fact, the 5,655 square feet and on cubic feet, 66,414 cubic feet, is in fact located on a lot twice as large as the proposed house at 1332. Dr. Lilja in some of his statements did introduce that, but if that was not introduced by the Town at an earlier date, and in our closing, we feel that is very relevant here because in fact, on a house twice as - on a lot twice as large as the subject lot, the square footage is possibly 27% more than what is being placed on this property. The house in question at 1332 on a half the size lot again is a house that has three levels and so as a result on cubic footage, it is without garage of course, twelve per cent larger on half the lot. The Town's Architectural Commission felt that this area was in fact - this area of discrepancy was in fact too large for the neighborhood. As to the argument that there is no lot yard - there are no terms in the Architectural Commission ordinance to deal with mass and bulk - in fact that is a correct argument per se. However, the Town's Zoning Ordinance does deal with the Lot, Yard and Bulk Regulations within its contents and the words "Lot, Yard and Bulk" is synonymous with mass and the size of a structure. The Town Zoning Ordinance cannot anticipate every problem

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that may come before it in creating regulations that govern Lot, Yard and Bulk regulations, in fact, that is why there is a variance procedure which we will be going to next in these proceedings. In addition, the Town has seen fit in its wisdom to institute an additional layer of control, upon construction and development within the Town. That is found in the area for landmark structures and historic properties in the Landmark Preservation Commission Ordinance and in fact, it is found for all other structures in the Town's Architectural Commission Ordinance. Mr. Drago's argument that was given as to the mass or the location of the house within 200' is a good argument and in fact, we recognize the way that Ordinance could be read in a separate manner. In fact, that is why we gave you two sets of figures. We gave you two sets of figures, one of them along North Ocean Boulevard - 200' to the north and 200' to the south, with the proposed structure at 1332 as well as the Ordinance has been interpreted since its inception of an area 200' in circumference from the surrounding property which would include the smaller properties to the west. The properties that I have given you earlier and my comparisons of 27% larger on the twice the size of the lot for the square footage and the 12% larger on twice the six of the lot as far as cubic content were on North Ocean Blvd. properties only. The area that Mr. Drago wished us to concentrate on. In fact, the percentage of the average of those houses - the 114% larger on cubic and 126% larger on square footage of the average of those homes on the Boulevard - those facts speak for themselves and we will not belabor them. In short, the Architectural Commission felt that this was one property that should have been looked at more closely by the applicant to reduce the size and the impact on the neighborhood."

Mr. Drago set up two sets of Exhibits, Exhibit No. 1 which was the Code Compliance Chart. He wished to rebut the comments made prior and secondly, he will review all the positives about the house as what it comes down to is this is a home that someone will live in and is an attractive house and he will go through the positives and hoped to show they have done everything they could possibly do. He addressed 110 Ocean Terrace, Ann Lilja's home, and she had commented about views and she felt they were going to reduce her view. He understands the difficulty people have reading the drawings and he wished them to understand the house they are proposing will effectively give more view to 110 than the existing one does, as they are setting it back an additional five feet, and that should be borne in mind. He referred to another point by Mr. Martino who was concerned about what was going to be there and Mr. Drago believed that what is proposed would be a reduction from what now exists. He believed that in addition to the difference in the design and there is existing landscaping there that will remain.

Mr. Drago wished to rebut the comments made by Mr. Lilja and Mr. Moore about the impression of bulk and the lot being twice as large that 1332, which is the last house recently completed. He stated the Code requires exactly what they have given and they have more than met the Code which states they can't be more than 25% and they are not. He stated the fact that it is a larger lot is irrelevant as it is not part of the Code that they, as professionals, are supposed to be following. He thanked Mr. Moore as he was the final catalyst that gave them the calculations which brought this to the head as they were shooting at a moving target and had no idea where they were going as they had no idea what was required although they had comments from the ARCOM commissioners of what they personally wanted on it, but when they looked at the Code to see how it addressed those issues, it was never clear.

Mr. Drago pointed out another thing that he agreed with was a statement of Mr. Lilja's that larger overhangs give the impression that the house is smaller to which he agreed, and in fact, they originally had larger overhangs and it was suggested that they change those which they did and in fact, they made a lot of compromises through the last six months which gave them the impression they were going to be approved and every time we went back, they were closer and closer but the bottom line was they never were approved. He would have liked to keep the larger overhangs as it is his feeling it helps the look of the house.

Mr. Drago indicated he has made the point of comparing it to the smallest house as you just can't compare the largest house to the smallest house in the neighborhood as that doesn't make any sense. He heard Dr. Lilja say they slipped past due to lack of information and he finds that hard to believe as he thinks this has been the most difficult thing he has ever had to go through so many things that didn't have logic written on them in his mind. He believed he has gotten caught up in some sort of politics which had nothing to do with the house and he is sorry about that as this is unfortunate for Mr. Stanley who has hung in there with him. He had one comment to make that this is a great country and we can buy the property next door if it is for sale and no one is prohibited and in fact the neighbors who have been there for a long time always had the opportunity to buy that lot and demolish the house and give themselves an open view. He stated his client bought the lot and wants to do exactly what he is allowed to do, no more - and he is not asking for a variance nor any favors but simply is saying he made the compromises, he has tried to work with the owners of the other properties in the neighborhood and he has done everything that he could possibly do, met with the Board members on an individual basis and hung in there for six months and this design is better because of all of that and now we are at the final stage and they have met the Code and now request they have a positive vote.

Mr. Stanley thanked Mr. Drago for his professionalism in presenting his case and asked the Council to look favorably on this and give an affirmative vote.

Mr. Heeke limited further discussion at this point to members of the Council.

Mr. Ilyinsky commented this has taken a long time and probably the most time on any issue that has been before him since he has been on the Council, which is an indication to him about how this Council does feel about this type of an issue. He felt they find themselves in a rather unfortunate situation and the consequences of it could be far more reaching than some people seem to realize, especially in regards to development and redevelopment in the northern end of Palm Beach and he disagrees gently with one of his colleagues' assessment of what that part of town is all about, especially the area between Queens Lane to Onandago along North Ocean Boulevard and if huge houses to the bursting point are allowed to proliferate with little thought to the neighbors and neighborhoods, they as a Council will have failed to protect not only the aesthetics of this lovely area but those citizens who have chosen to live in smaller houses and he has nothing at all against Mr. Stanley or his family but simply feels that because of its bulk this house does belong elsewhere and he moved to uphold the Architectural Commission's findings. Seconded by Mrs. Douthit.

Mr. Heeke commented when he reads the Section 5-387 (f), words jump out to him that state: "in relation to any other structures existing: and that is not trying to limit them to a hard and fast definition of mass or bulk but it is an application of what they all see and each sees it differently. He thought that this section is part of the Code which has to be met and he can see a difference between a lot which is one and a half or two times the size of another and the fact that the percentage on that lot of coverage is less and the overall effect that one gets when one looks at something of that size. He has viewed 1326 as he is sure has every member on this Council. He stated the computations which the Building Department has furnished and they have computed the cubic and the square footage sizes in the same manner for each building they used in their comparison which show large discrepancies with the proposed project to the existing surrounding areas, particularly within the 200'. He stated sometimes things get by us all and 1326 is one of the situations and perhaps that was a learning experience which called out attention to something and those who are familiar with our Zoning season are aware that we are considering further refinement to development and redevelopment in the R-B Zoning District because we are concerned about this. He felt the north end neighborhood is a precious, vital thing to this community and he was deeply concerned about what something of this

size would do to that area. He doesn't feel it has met the Code and ARCOM's reaction to this was correct.

Mr. Weinberg commented he bears Mr. Stanley no ill will and sympathizes with him completely but he felt this proposed house would represent an unacceptable physical obstacle and imposition on his next door neighbor, Mr. Martino.

Mrs. Douthit knows this is before them to uphold the ARCOM or reverse their decision and she wishes to uphold the Architectural Commission as there are several architects on that Commission and other knowledgeable commissioners who have worked extraordinarily hard on this project and although Mr. Drago and Mr. Stanley are very pleasant gentlemen, they have failed to convince her in any way that this far larger house could make a colossal impact on the neighborhood.

Mrs. Wiener asked the Town attorney that in view of the accusations and remarks made earlier concerning herself would they preclude her from making comments on this or voting? Mr. Randolph responded it would not unless she believed she had a conflict. Mrs. Wiener indicated she was very sorry this took six months to get to the heart of the matter and knew that ARCOM found several other houses in the area to be more bulk than what they expected it to be as many times you cannot tell until a house is actually built. She thought perhaps in the future the bulk consideration should be one of the first considered rather than windows and doors. She felt the bulk was the heart of the matter and regardless what kind of peculiar impressions some people do have, or the politics of this situation, she happens to feel very strongly that on a lot this size, this particular house is too large, however, it doesn't mean that anyone who wishes to build a house larger than 2500 square feet in the north end of Town should be denied. She felt there was such a thing as protecting a neighborhood and killing something.

Mayor Marix hoped that something good would come out of this recalling she has exceedingly requested many times that the drawings presented be far more accurately done from the very start, as she believed that would save hours of everybody's time. She thought it should be part of the requirement that the size of the house be shown in a proper exhibit in relationship to the homes surrounding the proposed project, as she strongly believed that ARCOM would have realized in the very beginning that this house was just too large, had they been provided a pretty accurate picture of exactly what was in front of them and she urged that a presentation be required of all applicants that a clear picture be presented of actually what they are dealing with.

On roll call, the motion carried unanimously.

A short break was taken.

President Heeke called the meeting back to order.

C. Variances, Special Exceptions and Site Plan Reviews:

OLD BUSINESS:

1. Special Exception No. 13-90 with Variance - Old Guard Society of Palm Beach Golfers, 223 Sunset Avenue; to allow a social club to locate in a C-TS Zoning District and further to allow occupancy of 3500 square feet in lieu of 2000 maximum allowed. A variance is requested to Section 6.21 which would require 54 parking spaces, 14 parking spaces would be assigned this tenant. C-TS District Postponed from December meeting. Attorney Broberg addressed the Council on behalf of the applicant, noting they are in a predicament as they have to move their location and they have found a spot at 223 Sunset Avenue and need two special exceptions and a variance. He noted the first Special Exception is to allow a social club in a C-TS Zone. He noted there are over two hundred members of the Old Guard Society and more than half live in the Town, which he viewed as a Town-serving organization, noting they have been here for over seventy years. He stated to accomplish what they wish, they need 3500 square feet, which would exceed the 2000 square feet limit in the C-TS area and he pointed out the fact they are Town-serving due to their longevity.

Attorney Broberg indicated the variance issue is the parking, with one parking space required for every four members, which means they have to have 54 parking spaces. He recalled in their present location they have twenty parking spaces allocated to them. He believed there were never more than ten or twelve people who use the Club at any one time. He commented they have been allocated fourteen spaces by the landlord and they have the right to use fifteen more, which would give them 29 parking spaces, until such time as the landlord leases the remainder of the building. He took the number they are supposed to have is 54, and minus 14 which they have would leave 40 spaces. He stated twenty-five per cent of the 215 members is 53.7, which is what is in the area at one given time, and if they take the fourteen that they are allocated in the lease, times four, it comes to 56 and he believed they could provide parking for at least twenty-five per cent at all times and he has been told that no more than 25 come at any given time.

He thought based on the history of the Old Guard and based on the fact they have 20 spots at their present location and it hasn't caused any problems, they are asking the Town to allow the variance and grant the Special Exceptions.

Mr. Moore gave the staff comments: Police Department requests off-street parking be kept on site; Planner states parking problems should be closely evaluated and he had no problem with the use; Building Department has no objection to the Special Exception but parking variance needs to be addressed and social functions must be held at alternate locations or after 5:30 PM. He stated the Town Manager agrees with the Building Department comments. He believed the variance for parking is quite severe and the issue of policing this situation would be of advantage to the Town and to the Old Guard to ensure there would be no violation of the conditions if this is granted, although he believed the attorney had an objection to revocation of this in the event the parking didn't work out, as Attorney Broberg felt they could be self-policing and confined to the premises after working hours. Mr. Heeke asked Mr. Moore to explain to the Council what his suggestions were as he and Mr. Moore had talked about this previously. Mr. Moore stated the suggestion was that in the event of a failure, as this is a massive parking variance and quite unusual and because of the normal operation of the Old Guard, and recalled they were neighbors with them for almost nine years, and they indeed do not have the vehicular traffic which is normally generated that would require all of those spaces that would be required as this is not that type of a Club Use, however, they occasionally do hold social functions, which could be putting tournaments, which obviously could not be held at this location; to Conch Chowder by Rick Caruso. He thought if a social function is held which would be beyond the normal parking, it was suggested that they have an immediate penalty of the loss of the use of the Club for a thirty day period and if future violations occurred, progressive penalties would be imposed.

Mayor Marix asked if she heard Mr. Moore state they could have social functions after 5:30? Mr. Moore stated it is his recommendation that any type of social function they might want to hold, which is off-site, that they be held after 5:30 PM and the purpose of holding it after 5:30 is the parking. Mayor Marix noted at this time, they have 20 parking spots and at the new location, they will have 14, so she looks at it that they recall only need to have a variance of six spaces as she views them as grandfathered in for the 20 and there is a deficit of the six parking spaces at the new location.

Mr. Moore responded the spaces cannot travel with the Use, and the building has to provide its own. Mayor

Old Business

Spec. Excep.
13-90

Marix wondered if they gave up their rights to social functions then they would only have to look for six additional parking spaces. Mr. Moore pointed out the applicant attorney states they are now using 20 but the Ordinance indicates they need 54 spaces.

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Mr. Adrian Winterfield wondered why they needed the 3500 square feet when only 25% of the membership use the facilities at one time and asked what other activities are anticipated wondering if there would be a dining facility for the members; would there be service of alcohol.

Mr. Joseph Pusateri responded for the Old Guard Society, indicating they are a small group and although their membership is 215, most of the time only 40 or 45 members actively use the Club and only half of that figure come at one time and they have never had a problem with the parking and the twenty spaces seemed to be adequate. He felt as far as their functions are concerned, they will hold their social functions at the Breakers. He pointed out they have been around for almost 73 years and have not caused any trouble and their relationship with the Breakers is very amicable although the Breakers have now indicated they would like to have their building. He noted when they move, they still have the privileges of the golf matches, putting, etc. and most of their functions at the present time are held at other places in Town or in the Clubs in Town and they don't have any large functions at the Club rooms itself. He stated as far as the dining, they do have a snack bar for those members who come for lunch. He knows he has to have the alcoholic beverage license transferred.

Mrs. Wiener felt this group has had a fairly decent record and have been a great joy to each other and not bothered anyone and she sees no reason of putting restrictions on them as it is a known fact by the Building Department which shared the Breaker's old building with them, that there were about twenty people there at one time and she moved that Special Exception No. 13-90 with variances be granted. Seconded by Mr. Weinberg.

Mr. Moore asked if this was with the condition that social functions be held at an alternate location or after 5:30 PM. Mrs. Wiener agreed to amend her motion to state that. Mr. Heeke wondered if there could be another addition to the motion that the Council has found a Town-serving purpose for the occupancy in excess of the 2000 square feet. Mrs. Wiener further amended her motion to state Council has found a Town-serving purpose for this occupancy. Secoder agreed to the amendments to the motion. On roll call, the motion carried unanimously.

NEW BUSINESS:

New Business

Var. 1-91

2. Variance No. 1-91 - Mrs. C. L. Farris, 319 El Vedado Road; to allow installation of 12.5' high gates, in lieu of 6' high maximum allowed, with gate posts at 10' high, in lieu of 8' allowed, and to provide a 7.7' front yard setback in lieu of 15' required. R-A District.

Mr. Moore recalled there was a correction on this as the gate posts are already there and this variance is for the gate only. He stated there is a 10' gate post with 2.5; ornament already existing. Mr. Ilyinsky asked how high the gate was on the house at the end of El Vedado? Mr. Moore guessed it would be about 8.5'. Mrs. Douthit stated her concern noting there was a 7.7' setback in lieu of 15' required and there are properties to the west.

Mr. Moore responded there was no objection to this location by staff, only because it is a dead end street and the purpose of the setback of 15' for this location is to allow on-going through traffic to pass without stacking and causing a problem. He stated originally they had objection to the height although on the south side of the street, there are a set of conforming gates but at the end of the street, there are non-conforming gates, but there are higher gate posts throughout the entire block.

Steve Bruh, architect for Mrs. Farris, addressed the Council on behalf of his client. Mrs. Douthit asked if there were gates which were higher in this area? Mr. Moore responded there are some gates in compliance in the block, at four feet, but the ones at the end of the block are non-conforming. Mrs. Douthit noted the exhibit is perfectly lovely, but wondered if it could be ten feet at the outside and then dip down instead of arching upwards? Mr. Bruh advised the gates and the columns at the end of the street are ten feet and there are all along the street different levels of gates and entry-ways, and the reason for the gates arching upwards is to try and get a sense of scale within the framework of what is happening on their property and adjacent properties.

Mayor Marix believed if a four foot gate was installed it would look absurd with the huge gate posts which exist, and she thought there had to be a tall gate installed to give it balance.

After further discussion, a motion was made by Mrs. Wiener that Variance No. 1-91 be approved except that there will be a change in the height, which will be eight feet and the gate posts will not be raised and the lights will be allowed to be placed on top of the gate posts. Seconded by Mr. Ilyinsky. On roll call, the motion carried 4-1, with President Heeke voting against the motion since he could find no hardship.

Var. 2-91

3. Variance No. 2-91 - Gregory Papadopoulos, 111 El Brillo Way; to allow installation of a kitchen over the garage; said kitchen prohibited by Section 5.51 (b) (5) of the Town Zoning Ordinance. R-A District. Mr. Papadopoulos addressed the Council indicating he is a new owner and wishes to renovate the residence and has been approved by the Architectural Commission. He requested permission to expand the existing garage and install staff quarters above the garage, for the caretaker and his wife who will occupy the premises year round. He stated his reason is when they are not in residence, they would prefer the main house remain closed and therefore, the kitchen is needed in the staff quarters. Mr. Moore advised staff has no objection, provided the standard Kitchen Removal Agreement is provided. Mrs. Douthit moved the Council approve Variance No. 2-91 be granted conditioned upon the standard Kitchen Removal Agreement being executed. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Var. 3-91

4. Variance No. 3-91 - 259 Worth Partnership, 259 Worth Avenue; to allow construction of an architectural column providing a nine foot front setback in lieu of ten feet required. C-WA District. Mr. Jeffrey Smith, architect addressed the Council indicating they are renovating 259 Worth Avenue for Tiffany's and two other tenants and wishes to reduce the size of the building by breaking it up into three separate looking buildings and they will face the building in coquina and needs a variance since the existing concrete structure sits on the setback and they will remove the balconies and by adding the coquina and other architectural details, they need a variance of twelve inches. Mrs. Douthit moved for approval of Variance No. 3-91 with the nine foot setback on the ground floor, as it is a great addition to the avenue and suggested if they are going to have awnings, they should make it 6'6" from the sidewalk upwards to which Mr. Smith agreed. Seconded by Mrs. Wiener. Mr. Moore explained the Architectural Commission felt the reduction of the sidewalk may be a problem and if approved, it should be contingent upon the fact there would be no future arcade and it should be coordinated with future tree planter boxes. He indicated Engineering states the columns should not coincide with tree planters and if the planters are relocated and trees are replaced, seven feet clearance should be required.

Mr. Smith pointed out they are proposing a nine foot sidewalk and only at the column locations. Mr. Moore indicated the Building Department has no objection.

On roll call, the motion carried unanimously.

Var. 4-91

5. Variance No. 4-91 - Francis Conroy, 437 Primavera Way to allow installation of gates at two driveway

locations at a five foot front setback in lieu of 15' required. R-B District. Mr. Sidney Neil, Architect, distributed the exhibit he had prepared on this variance. Mr. Moore advised the gates do comply with the zoning restrictions but the street is a dead end to the Bike Trail and because of the configuration of the front yard, it would make it impossible to set the gates back and still comply because of this, the staff has no objection. Mr. Heeke noted this is an irregular shaped lot which required the house to be set at an angle on the property. Mr. Heeke asked if the police department had any safety questions to which Mr. Moore responded negatively. Mrs. Douthit suggested electronic devices be installed so that everyone could get in and out of the area.

Var. 4-91

Mr. Ilyinsky moved that Variance No. 4-91 be approved. Seconded by Mrs. Wiener. On roll call, the motion carried.

No. 6. Variance No. 5-91 - Nathan and Barbara Greenber, 19 Sloan's Curve Drive - to allow height of existing interior west wall to be raised to 13' in lieu of seven feet maximum allowed. PUD-B District.

Var.5-91

7. Variance No. 6-91 - Marshall Sloan, 17 Sloan's Curve Drive; to allow height of existing interior north and west walls to be raised to 13' in lieu of 7' maximum allowed. PUD-B District.

Var. 6-91

Paul Fleischer, manager of the Residences at Sloan's Curve, addressed the Council indicating the Greenbergs wish to raise the height of this wall for a noise abatement as their back yards and pool areas are situated practically on the road and the traffic noise is a nuisance. He stated they wished to raise the wall and replace the landscaping. He indicated the topography of the land is such that the homesites are on the level plain but the roadside slopes downwards and at the Sloan's house, would effectively mean the wall slopes down hill and they would like to bring the wall to a level on this house and the Sloan house as opposed to having it slope off with the land and this would accomplish the noise abatement which the Greenbergs would like to achieve. He stated most of the wall would be invisible and the future planting would obliterate it from sight from the roadway. Mrs. Douthit asked if she understood he was saying there would be two walls and a three foot gap in between them on which they will be installing the landscaping? Mr. Fleischer indicated that was correct.

Mr. Moore noted there are two problems with this application and it was made clear to the applicant that this particular portion of the PUD and the means of deeding the property at that point in time allowed the neighboring wall to be raised which was part of Townhouse No. 1, the northerly town house directly on the curve and the hardship was the lights coming directly onward and Council granted that. He explained these applicants knew at that time the proposal to skip Lot 1 would not join in and it would be Lot 8 and 7 which would and they would go beyond Lots 6 and 5 going further south and there could be no joining of the wall.

Mr. Moore recalled when the PUD was originally approved, this landscaping had to be approved, prior to the building permits being granted and was approved and tagged at the nursery with Mr. Weinstock and Mr. Grace and this whole conception of the tiered effect of the road, looking up into the Phase 3 area which involved the Townhouses and the single family residences was well conceived and thought out by the Mayor and Town Council, as well as the Architectural Commission at the time. He indicated there would be no continuity in the walls if they continue to grant the applications as applied for and not only will they have a problem with the height, but there will be a higher wall on Lot 7 than on Lot 8 and that will require additional advertising.

He noted if the landscaping is lost, they will have a visibility problem with the discrepancies between the walls as the landscaping and planting was done prior to the lots being sold to the owners and was in place before the property was purchased, so they were well aware of what the conditions of that curve were. He stated they have a right to grant a variance for the wall but he believed the portions of the wall along this road he believed was the common area. Mr. Fleischer explained the lot lines do go past the walled areas so even though the developer was the person who installed the landscaping, the survey shows that the walls are actually owned by the individual property owners and that includes both walls. Mr. Moore indicated they have made the ruling the Council can hear these individual requests as it is contingent that this be considered as R-B zoning when the single family lots were approved under PUD-3. He believed they could grant a variance if the wall were set back from the common space. Mr. Fleischer indicated they are agreeable to do whatever the Council requests.

Mrs. Wiener asked when an application is received, they normally get the information and wondered if there was a lack of communication as Mr. Fleischer is stating it is not common space and she believed that Mr. Moore was not sure now if it was and it looks like there is a lack of communication. Mr. Moore did not believe it was a lack of communication as when they came to them the first time, they were told staff was opposed to extending the wall on top of the Sloan's Curve wall itself and they are not showing that they own this wall but are saying it is the Sloan's Curve wall and if they own the wall, he would like to see it on the survey to make that determination.

Mr. Fleischer indicated it is being presented to the Council as the wall belongs to the individual owners. Mr. Moore stated they should have asked for a survey to make that determination and they did not. Mrs. Wiener asked if that would change the facts? Mr. Moore stated it would as if it is a homeowner's ownership of the walls, it would change the facts as any kind of approval would be contingent upon their approving the raising of the wall.

Mr. Weinberg asked if each resident owns his own wall, how would that change the circumstance? Mr. Moore advised if that is the case, the Council may grant the variance. He summarized there are two problems, one is the ownership of the wall and the second is the height of the variance will be higher than what has been advertised. Mr. Fleischer indicated they would basically just like to make the wall level and follow the grade of South Ocean Blvd. Mrs. Wiener recommended this matter be deferred until the facts are all gathered as to the ownership. Mr. Moore indicated if they off-set the wall and moved it further east off of the wall in question, they could install the six foot wall in at their own grade level if they offset it from the main structural wall, that is the retaining wall inside the tier.

Mr. Heeke asked if this could be accomplished without a variance to which Mr. Moore responded affirmatively, noting they would have to off-set the wall and they could lose the space, but it could be built on their own property. Mr. Weinberg noted that would mean there would be three walls on the property. Mr. Moore agreed and cautioned that there are other homes along there that are not being added to. Mr. Weinberg felt they had a hardship due to the noise. Mr. Fleischer advised those situations of the people who have not applied for the wall are different than these as Lot 1 on the north side of the curve, the pool area is on the other side of this house from the road and there are no windows on that side of his house so the noise doesn't bother them. He noted the gentleman to the south of Mr. Greenberg has a space of eight to ten feet to his house and there are no windows on the side of his house and he has a big wall enclosing his pool area, so there is no noise problem there also. He stated it is only the houses at 17 and 19 Sloan's Curve who have their pool areas abutting the roadway.

Mr. Heeke agreed this ought to be deferred as the wall would have to exceed six feet to tie into Mr. Sloan's wall.

Mrs. Wiener suggested this be taken before the Homeowners Association as she would feel more comfortable if they were made aware of what is going on here. Mr. Fleischer stated he would bring the minutes of the Association which will show that anything the homeowners wanted to do with the wall was fine with the Board of Directors as long

as it was paid for by the individual homeowners.

Motion was made to defer Variance No. 5-61 and Variance No. 6-91 be deferred by Mrs. Douthit, seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Var. 7-81 8. Variance No. 7-81 - Lowry Bell, 240 Banyan Road - to allow construction of a two story dwelling providing a 34' front setback in lieu of 35' required. R-A District, Mr. Moore reported the problem here is the front yard setback on a portion of the house, due to an error of a surveyor employed by the applicant. He has investigated this and he believed it is an honest error by the surveyor and Mr. Bell needs a one foot variance to allow the construction to continue.

Mrs. Douthit moved that Variance No. 7-81 be approved. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Var. 8-91 9. Variance No. 8-91 Tauni de Lesseps, 452 Worth Avenue, to allow installation of an awning carport structure providing a side yard setback of 1' in lieu of 10' required. R-B District. Stephen Bruh, Architect, addressed the Council for Mrs. de Lesseps requested the variance indicating there is no garage on the property and his client would like a hard roof structure as the grounds are covered with large ficus trees and in order to protect the cars, they wish to install this carport. Mrs. Douthit asked what kind of a hard roof structure was he talking about? Mr. Bruh responded it would be a wood structure with barrel tile to match the existing residence. Mr. Bruh advised that the neighboring piece of the property to the west has almost the exact same type structure. Mrs. Douthit moved for approval of Variance No. 8-91 on the grounds that those four or five properties along this area are very peculiarly shaped. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Other D. Other

Zoning Ordinance Amendments Hearing 1. Consideration of Recalling Zoning Commission to Hear Additional Proposed Zoning Ordinance Amendments. Attorney Randolph reported there was one item which he didn't know if the Council addressed to the extent they had intended and that dealt with Public Service Signs and it appeared to him that someone wanted to address that and he didn't recall that happening at the last Zoning hearings.

Mr. Randolph further explained a subject was raised which was considered by staff subsequent to the meeting relating to colonnades being a Special Exception and this was addressed fully, however, since everything in the Worth Avenue Guidelines related to a Special Exception, there was some consideration in staff's mind as to whether or not colonnades should be a Special Exception.

He thought the Council may want to call the Zoning Commission back to consider either one or both of those items and if they do call them back, he would recommend they also consider those items which they amended which were more restrictive than the initial advertisement, which was the height in the R-B District which went from the recommendation of 30' to 27' and from 27' to 25'. Mr. Randolph recalled another item made more restrictive by the Council's recommendations, was when an owner or tenant of a property located within the C-TS, C-WA, C-PC, or C-B Districts which had received approval of a Special Exception prior to the passage of Ordinance No. 4-80, shall be required to obtain approval by the Town Council prior to being granted a new occupational license and he recommended to call the Zoning Commission back to address these four items. Mr. Heeke agreed they definitely had to be called back on the change in the height recommendation and he would like to hear some more input from them as he didn't believe it was fully discussed and considered.

Mayor Marix suggested perhaps they could also address one and two story issues. Mr. Randolph indicated other considerations would require staff to look at some of these items. Mrs. Wiener felt they should be recalled also. Mr. Heeke believed they needed to also look at Public Service signs.

Mrs. Wiener made a motion to recall the Zoning Commission to hear additional proposed Zoning Ordinance amendments with regards to Public Service Signs, Height Regulations, Special Exception for Colonnades on Worth Avenue and requirement for Town Council approval prior to being granted a new Occupational Licenses for those applicants who were granted Special Exception prior to 1980.

motion was made by Mrs. Wiener that the dates for the Council to hear the Zoning Commissioners recommendation be March 20, 1991 with the two public hearings scheduled for 5:01 PM on April 9, 1991 and April 23, 1991. Seconded by Mr. Ilyinsky.

Mr. Winterfield suggested as a matter of procedure the Zoning Commission should reconvene after their initial meeting to hear the recommendations to consider the text of the report as what they have been doing is authorizing the Chairman and Secretary to sign the report and he recalled the last Zoning Recommendations had an item in it which the Commission did not ever consider at their hearings. Mr. Heeke believed the report should be circulated to all Zoning Commissioners before the Town Council receives it.

On roll call, the motion carried unanimously to approve the Zoning calendar.

Communication from citizens XI. COMMUNICATION FROM CITIZENS:

A. Mr. Winterfield offered a memoranda for the record dated December 14, 1990 and January 8, 1991 on the Palmo Way Facility.

B. Mr. Winterfield believed an Ordinance on the books should be upheld and he referred to the Flag Ordinance which states no more than two flags should be flown at the same time and noted the Police Department violates this Ordinance as they fly three flags. He recalled there is a hotel which also violates this ordinance and a travel agency and a residence on the Bike Trail which flies six flags. Mr. Heeke asked this matter be checked out.

C. Paul Prosperi advised the Council this year is the 50th anniversary of the Norton Gallery of Art and invited the Mayor and Council, Attorney Randolph and Town Manager Doney to attend the Feb. 17th Ball as their guests.

D. Mr. Doney noted there is a communication from the Mayor of South Palm Beach advising the Council of a meeting on Jan. 24, 1991 at 2PM at the Town Hall in Manalapan regarding a potential beach nourishment project in the south end of Palm Beach County and requests a designated elected official and a staff member attend on behalf of the Town. Mr. Heeke asked if anyone wished to attend and Mr. Ilyinsky volunteered to attend with Mr. Doney as the staff person.

Mr. Heeke asked any Council member who wished to attend to do so.

E. Mr. Doney noted Mr. Weinberg is going to attend a conference on water next week and the Mayor and he would attend the conference on Resizing Government for the future and on motion of Mrs. Wiener authorization was granted for this travel. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

F. Mr. Doney requested all members to look at the list of upcoming meetings.

XIII, Adjournment. Meeting was adjourned at 5:15PM.
3110

Adjournment

Grace J. Peters
Town Clerk