TOWN COUNCIL MINUTES OF DECEMBER 14, 1993

Roll Call

I. CALL TO ORDER AND ROLL CALL - President Weinberg called the December 14, 1993 Town Council Meeting to order at 9:35 AM on December 14, 1993 in the Town Hall Council Chambers. On roll call the following Elected Officials were found to be in attendance: Mayor Ilyinsky, President Weinberg, President Pro Tem Wiener, Councilwomen Douthit, Smith and Royal. Also attending for all or portions of the meeting were Town Manager Doney, Town Attorney Randolph, Town Clerk Peters, Chief Terlizzese, Chief Elmore, Major Craft, Mr. Bitzer, Mr. Dytrych, Mr. House, Mr. Moore, Mr. Dusey, Mrs. Martinuzzi, Mr. Wilson, Mr. Jakubiak, Assistant Chief Koelz, and Mr. Elwell.

Invocation

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

Presentations

III. PRESENTATIONS

A. Retirement of Lieutenant James G. Farrier, Police Department, 19 Years, 10 Months of Service - Plaque was presented by Mayor Ilyinsky to Lt. Farrier in recognition of his 19 years of service.

B. Retirement of Assistant Chief D. Gene Frazier, Fire-Rescue Department, 35 Years of Service - Plaque will be presented to Assistant Chief D. Gene Frazier at the January Town Council meeting.

C. Retirement of Rhanolda Glenn, Par 3 Golf Course, 20 Years, 6 Months of Service - Plaque was presented to Mrs. Glenn by Mayor Ilyinsky in recognition of her 20 years 6 months of service.

D. Retirement of Captain Thomas M. Perry, Police Department, 21 Years, 1 Month of Service - Plaque was presented to Cpt. Perry in recognition of his 21 years 1 month of service.

E. Retirement of Lieutenant Melvin Smith, Fire-Rescue Department, 26 Years, 8 Months of Service - Lt. Smith was not able to be in attendance and this matter was deferred to the next Town Council meeting.

F. Retirement of Sergeant Ronald Tillotson, Police Department, 26 Years of Service - Sgt. Tillotson was presented with a plaque by Mayor Ilyinsky in recognition of his 26 years of service.

G. Retirement of Officer Charles Warwick, IV, Police Department, 21 Years, 7 Months of Service - Officer Warwick was presented with a plaque by Mayor Ilyinsky in recognition of his 21 years of service.

Comments of the Mayor

IV. COMMENTS OF THE MAYOR - Mayor Ilyinsky asked everyone to bow their heads for 30 seconds to honor those friends of the Town who have passed away in the past year. He wished everyone happy holidays.

Approval of Agenda

V. APPROVAL OF AGENDA

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

APPROVED AGENDA(ITEMS VI. THROUGH VIII.) A motion was made by Mrs. Wiener, seconded by Mrs. Smith to approve all of the items on the "Approved Agenda". On roll call, the motion carried unanimously.

VI. APPROVAL OF MINUTES OF OCTOBER 12, AND NOVEMBER 9, 1993

Licenses & Permits

VII. LICENSES AND PERMITS

Charitable Solicitations

A. Charitable Solicitations

1. Albert Einstein College of Medicine of Yeshiva University; No. 10-94
2. City of Hope; No. 13-94
3. JFK Medical Center Foundation; No. 16-94
4. American Red Cross, Palm Beach County Chapter; No. 20-94
5. Good Samaritan Foundation, Inc.; No. 35-94
6. Brandeis University; No. 76-94
7. The Schepens Eye Research Institute; No. 107-94
8. The American Jewish Committee; No. 125-94
9. Rehabilitation Center for Children and Adults, Inc.; No. 126-94
10. The Lord's Place Auxiliary; No. 229-94
11. Hanley-Hazelden Foundation, Inc.; No. 239-94
12. Juvenile Diabetes Foundation, Palm Beach Chapter; No. 240-94
13. The American Ireland Fund; No. 260-94
14. Simon Weisenthal Center; No. 264-94
15. Friends of Akim USA - Palm Beach Chapter; No. 280-94
16. Dana Farber Cancer Institute; No. 288-94
17. United Jewish Appeal - Federation of Jewish Philanthropies of New York; No. 346-94
18. The Salvation Army Women's Auxiliary; No. 362-94

VIII. NEW BUSINESS

Bid Awards

A. Bid Awards

1. Sealed Bid No. 94-003 - Two Replacement Diesel Yard Trash Trucks

2. Sealed Bid No. 94-004 - Contract Building Inspector

B. Other

1. Consideration of Request for Authorization of Payment of the Waiver of Recourse Endorsements Under the Fiduciary Liability Insurance Policy for Retirement Board Members for FY94.

REGULAR AGENDA - Mrs. Smith asked there be an item heard under Any Other Matters and that would be discussion on the Beaches. Mr. Weinberg advised this will be number five as there are four other matters, 1. Discussion on the Citizens Committee on Airport Noise (C-CAN); 2. South Fire Rescue Station; 3. an additional item on the South Fire Rescue Station; 4. Request by Mrs. Douthit to change the Town Council Meeting of February 10 to February 9, 1994. Regular Agenda

Mrs. Royal requested time under Any Other Matters to report on the National League of Cities convention.

Mr. Moore advised under Development Reviews, they have several matters, under Old Business, XV.C.1, Variance No. 58-93, there is a request to withdraw that application; XV.C.10, Special Exception 28-93, a request to defer until the March 8, 1994 Town Council Meeting; XV.D.1, Reconsideration of Special Exception 10-92, request has been received to defer this matter to the February Town Council Meeting; XV.B.1, Attorney John Wilbur requested the Appeal of the Planning, Zoning & Building Department's Decision to deny the request for a fund-raising event in Dec. 1994 by Bethesda by the Sea Episcopal Church be deferred to the January Town Council meeting; Mr. Weinberg suggested the Town Attorney review the Charitable Solicitation Permit Ordinance as many of the organizations who make a request for charitable solicitation permits are not charities and there should be a change in the name to something that would properly reflect the nature of the organization; Mr. Weinberg requested the representative from the Fellowship of Christians and Jews, Mr. John Brogan has asked for time on the agenda to address the Council and this will be VIII.B.2 which will be heard before the Public Hearings.

Mrs. Wiener did not believe it was automatic to grant a request for deferral just because the request has been made and she was specifically referring to the Linda Gary matter. Mr. Moore explained there is an automatic deferral under the Ordinance and this would be to January and if the Council approves, they could defer the matter an additional thirty days to February. Mrs. Wiener did not agree and suggested the deferral on the Linda Gary matter be until the January 11, 1994 Town Council meeting. Mrs. Royal noted the attorney for Linda Gary has sent a letter indicating he will not be available in January.

A motion was made to approve the Regular Agenda as amended by Mrs. Smith, seconded by Mrs. Royal. On roll call, the motion carried unanimously.

Mrs. Jane Volk addressed the Council on the Special Exception No. 28-93, noting that there was a request made for the Linda Gary matter to be heard in January and she would like to make that same type of request for this particular application on behalf of the Phipps Plaza Property Owners instead of the request that it be heard in March, 1994. Mrs. Smith noted the Agenda has been approved with the changes. Mrs. Volk responded she tried to be recognized but was not successful. Mrs. Wiener believed that when this was originally discussed with the new owners, the Agreement was that they would not be returning to the Council until there was a full season under their belt and she was not pleased to find it on the agenda for consideration at this meeting. Mrs. Smith recalled when they were originally before the Council, they were advised to come back after the winter, and she too was not pleased to see this on the agenda. Special Excep. 28-93

Mrs. Wiener noted that all of the residents may not be here at the time this would come up and if there is a document from the Phipps Property Owners with signatures from the residents, it will be given equal credence and weight.

William McCranny, resident of Phipps Plaza addressed the Council wished to comment on the request for the deferral as in looking at the minutes of the April 13th meeting, the request of the applicant was to come back when the season starts. He would appreciate if this would be heard in January. Mrs. Wiener stated they did request it but the Council said "No" as without the neighbors having some kind of a history concerning how this business is being operated, and she didn't think it would be quite fair to expect any different action, and they would have to get a history by going through a season first, so the Council will have some idea as to how things are working out and the neighbors will know. Mr. McCranny did not believe the mere fact that an operator of the restaurant changes, does not change the fact that the restaurant is there. Mayor Ilyinsky believed they should go on with the matters on the agenda as the time to discuss this is later when it is heard under Any Other Matters as the gentleman is not here to discuss it, to which the Council agreed.

VIII.B.2 - COMMENTS FROM JOHN BROGAN ON THE FELLOWSHIP OF CHRISTIAN AND JEWS: Mr. John Brogan addressed the Council informing them of the newly formed Palm Beach Fellowship of Christians and Jews, Inc. and it is dedicated to promoting understanding and respect among all citizens. He advised the mission is to advance justice, unity and peace by bringing together groups in the community to work by cooperation, education and interaction, or live, work and play together in harmonious fashion. He advised their board is made up of 24 outstanding community leaders and the four houses of worship participate as ex-officio Board members with voting privileges. He stated they will be having an inaugural event on Feb. 3, 1994 at the Breaker's and Bishop Christer Stendall, Professor of Divinity at Harvard University and Christopher M. Layton, Executive Director of the Institute for Christian and Jewish Studies, both world renowned figures. He requested the good wishes of the Mayor and Council, as well as their support and invited the Mayor and Town Council members to be honorary board members in the organization, if the Florida Sunshine Laws would allow this. He is pleased to be with them today and thanked them for their time. Comments from John Brogan on the Fellowship of Christians and Jews, Inc.

Mr. Weinberg thanked Mr. Brogan for the opportunity to join in this worthwhile community endeavor.

Mrs. Wiener asked the Town attorney if there was any reason why the Mayor and the members of the Council could not join in this effort, as she is a member of other organizations with members of the Council as individuals and she didn't imagine there were any conflicts. Mr. Randolph responded he believes as members of other organizations together, the Mayor and Council do that on an individual basis. Mrs. Douthit stated she was baffled as she believed they could do so, as long as they elect to do so. Mrs. Royal accepted with gratitude. Councilwoman Smith asked Mr. Brogan if he were asking them as members of the Council or as individuals, to which he responded as individuals. Mrs. Smith stated they would all be happy to join, as soon as the invitation is extended and she thanked Mr. Brogan.

Mr. Weinberg did not believe this was a charitable organization, to which Mr. Brogan responded the event in February is not a fund raiser.

Public HEarings

IX. PUBLIC HEARINGS

Dune Preservation Permit No. 2-93

A. Dune Preservation Permit No. 2-93 - Consideration of Application of Atriums of Palm Beach Condominium Association relative to property commonly known as the Atriums, 3400 South Ocean Boulevard; to allow removal of exotic weeds, pruning of some existing native vegetation, and installation of supplemental coastal native foredune and scrub dune. - Rob Barron addressed the Council, noting they have two projects which are virtually identical, one for the Atriums and the other for the 3360 South Ocean Blvd. Condominium and these are two six hundred foot stretches of the beach, with projects designed almost concurrently in the early eighties. He advised the Atriums is a modification of approximately 1700' square yards of the Dune, with half being the creation of a new dune and 1000 yards of foredune created which effectively doubles the shore normal width of the system.

He advised three hundred square yards of invasive exotic plants are being removed and will be replaced with native plants, including a total of 5000 individual plant units, with a substantial species diversity package which means they are adding new species to the property including about some half dozen of the endangered or threatened species. He advised this will include pruning an area of the seagrape which is on the dune crest and is subject to wind damage. He stated they are adding vegetation on both sides which will effective downsize. He advised he has received the approval of Palm Beach County Beaches and Shores as of yesterday.

Mr. Moore advised Mr. Ganz-Matzen, the Town's expert, has reviewed the project and has listed a series of conditions that should be complied with and if the applicant has no objection, the staff would recommend approval of this application. Mrs. Smith moved approval of Dune Preservation Permit 2-93 for the Atriums. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Dune Preservation Permit No. 3-93

B. Dune Preservation Permit No. 3-93 - Consideration of Application of Atriums of Palm Beach II relative to property at 3360 South Ocean Boulevard; to allow removal of exotic weeds, pruning of some existing native vegetation, and installation of supplemental coastal native foredune and scrub dune. - Mr. Robert Barron addressed the Council on this application, noting it was very similar in design and one difference is this property has a little less exotic vegetation to remove. Mr. Moore explained the Town's expert, Mr. Ganz-Matzen has reviewed this application and has listed the conditions he would recommend for approval. Mr. Barron advised he has reviewed the conditions and he has no objections. Mrs. Smith moved for approval of Dune Preservation Permit #3-93 for 3360 South Ocean Blvd. Mrs. Douthit seconded the motion. On roll call, the motion carried unanimously. Mr. Moore stated the County does need to issue a permit on both of these applications before the Town would issue their permit.

Licenses & Permits

X. LICENSES AND PERMITS

A. Charitable Solicitation

Charitable Solicitations

1. Joseph L. Morse Geriatric Center; No. 248-94 - Mrs. Peters explained this applicant was late in filing their application and results form and they wish to hold their first event on Dec. 16, so if this is approved, it should be done so conditionally with a waiver of the advertising rule. Faye Nelson addressed the Council on behalf of the Morse Geriatric Center and apologized for the late submittal and the oversight in submitting the form, explaining she was only on the job six months and didn't know a permit was necessary to raise funds in the Town until last week. Mrs. Wiener noted there had been previous violations to which Mrs. Nelson responded that was correct and that is why the woman who handled this was no longer there. Mrs. Wiener asked if there was some way she could incorporate something into her file so that in case she moves on, they don't have the same situation. Mrs. Nelson responded she will do this and also make the Executive Director aware of the procedure. Mrs. Smith asked that their Board of Directors also be made aware of this so there can always be compliance with the regulations. Mrs. Nelson stated she will ensure this is made a part of the agenda for the next board meeting, so there is an awareness of this procedure. Mrs. Wiener moved that the Town Council grant permission to the Joseph L. Morse Geriatric Center to hold their event on the 16th, and the waiver of the advertising be granted and also that a letter be received from Mrs. Nelson or someone else in authority at the Morse Center, indicating that the members of the Board are aware and that something has been placed in the file, so that in the future, this cannot happen. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

2. Paracare Association of Palm Beach, Inc.; No. 143-94 - Mrs. Peters explained Paracare also has filed their application for permit late and if granted, it should be done so conditionally, as it has not been reviewed by the various departments, and they also were late in filing their results form for last year. Attorney Dennis Koehler addressed the Council on behalf of Paracare and he apologized for the administrative oversight in not filing the application on a timely basis and in returning the results form for last year. He apologized and introduced his co-counsel, Mr. Norman Kaplan, the President of Paracare, Ron Perron; Treasurer Rex Davis and Frank Fleming, the Vice-President. He felt the presence of all of the officers is an indication that they are sorry about this and this will not happen again. Mrs. Wiener stated she was puzzled as to why they have an attorney and co-counsel as these are the Town's people and she didn't understand why they needed counsel. Mrs. Douthit noted Paracare has been a great benefit to the community and she moved the Charitable Solicitation Permit No. 143-94 be approved for Paracare with the condition that it be approved by all Departments. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

XI. OLD BUSINESS — Old Business

A. Ordinances - Second Reading

1. Ordinance No. 19-93 - Proposed Abandonment of Easements and Rights-of-Way - Attorney Randolph read Ord. No. 19-93 by title: — Ord. 19-93

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, PRESCRIBING REGULATIONS GOVERNING THE VACATION AND ABANDONMENT OF RIGHTS-OF-WAY AND EASEMENTS WITHIN THE TOWN; PROVIDING FOR PURPOSES AND METHODS; PROVIDING FOR AN APPLICATION; PROVIDING FOR AN APPLICATION FEE, PROVIDING FOR A PRIVILEGE FEE; PROVIDING FOR APPLICATION PROCEDURE; PROVIDING FOR REVIEW PROCEDURES; PROVIDING FOR PUBLIC HEARING; PROVIDING FOR RECORDATION OF RESOLUTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Motion was made by Mrs. Wiener to approve Ordinance No. 19-93 on second reading. Seconded by Mrs. Royal. On roll call, the motion carried 3-1 with Mrs. Douthit voting against the motion and Mrs. Smith out of the room at the time of the roll call.

2. Ordinance No. 28-93 - Authorization to Sign Telecommunications License Agreement with AT&T to Install Underground Fiber Optic Cable Equipment in Public Rights-of-Way Within the Town of Palm Beach - Deferred from November Meeting - Mr. Randolph explained this initially was adopted on first reading for the benefit of AT&T, who now have chosen to not move forward under the conditions as stated in the Ordinance. Motion was made by Mrs. Douthit that the Town Council disapprove the Ordinance No. 28-93 on second reading. Seconded by Mrs. Royal. On roll call, the motion carried 4-0 with Mrs. Smith out of the room at the time of the roll call. — Ord. 28-93

3. Ordinance No. 29-93 - Amendment to Building Code Based Upon Hurricane Andrew Report by Building Code Advisory Board of Palm Beach County - Mr. Randolph read Ordinance No. 29-93 on second reading: — Ord. 29-93

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER V, ARTICLE 1 A, BUILDING CODE OF THE TOWN OF PALM BEACH CODE OF ORDINANCES, SECTION 5-22 AMENDMENTS TO THE ADOPTED 1991 STANDARD BUILDING CODE; PROVIDING FOR ADDITIONS, CHANGES AND DELETIONS TO ADOPTED AMENDMENTS AND PUTTING A NEW SECTION ON STORM SHUTTERS; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Mrs. Douthit moved for approval of Ordinance No. 29-93 on second reading. Seconded by Mrs. Royal. On roll call, the motion carried 4-0 with Mrs. Smith being out of the room at the time of the roll call.

4. Ordinance No. 30-93 - Amendment to Plumbing Code - Mr. Randolph read Ordinance No. 30-93 by title: — Ord. 30-93

AN ORDINANCE OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER V, ARTICLE IV, PLUMBING OF THE TOWN OF PALM BEACH CODE OF ORDINANCES, SECTION 5-165 AMENDMENTS TO THE 1991 STANDARD PLUMBING CODE; PROVIDING FOR ADDITIONS, CHANGES AND DELETIONS TO THE ADOPTED AMENDMENTS; INCLUDING THE REQUIREMENTS TO SIGHTSCREEN BACK FLOW PREVENTION DEVICES; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Mrs. Royal moved for adoption of Ordinance No. 30-93. Seconded by Mrs. Wiener. On roll call, the motion carried 4-1 with Mrs. Douthit voting against the motion.

5. Ordinance No. 31-93 - Tax Abatement for Historic Properties - Mr. Randolph read Ordinance No. 31-93 by title: — Ord. 31-93

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER XVI OF THE TOWN CODE OF ORDINANCES AT ARTICLE 3, RELATING TO LANDMARKS PRESERVATION SO AS TO PROVIDE A NEW SECTION 16-49, ENTITLED "TAX EXEMPTION FOR HISTORIC PROPERTIES"; AUTHORIZING AD VALOREM TAX EXEMPTIONS FOR HISTORIC PROPERTIES; ESTABLISHING REQUIREMENTS AND PROCEDURES DESIGNATING THE LANDMARKS PRESERVATION COMMISSION TO REVIEW AND REPORT ON APPLICATIONS; ESTABLISHING PENALTIES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

Mrs. Wiener moved for adoption of Ordinance No. 31-93. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

6. Ordinance No. 32-93 - Amendments to Ordinance Regarding Newsracks - Attorney Randolph read Ordinance No. 32-93 by title: — Ord. 32-93

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES AT CHAPTER X, ARTICLE 7, DIVISION 2, RELATING TO NEWSRACKS SO AS TO PROVIDE A NEW SECTION 10-171 PROVIDING THAT NEWSRACKS LOCATED WITHIN AREAS OF TOWN, DESIGNATED AS HISTORIC DISTRICTS, SHALL BE ENCASED WITHIN STRUCTURES PROVIDED BY AND APPROVED BY THE TOWN; PROVIDING THAT FORMER SECTION 10-171 BE RENUMBERED TO SECTION 10-172; PROVIDING FOR SEVERABILITY;

PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Mrs. Douthit moved for approval of Ordinance No. 32-93. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Ord. 33-93

7. Ordinance No. 33-93 - Amendments to Ordinance Regarding Historic and Specimen Trees - Mr. Randolph read Ordinance No. 33-93 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA AMENDING THE CODE OF ORDINANCES OF THE TOWN AT CHAPTER XXIII, ARTICLE 2, RELATING TO PRESERVATION OF HISTORIC AND SPECIMEN TREES, SO AS TO AMEND SECTION 23-15 THEREOF, RELATING TO PROCEDURE FOR DESIGNATION AT SUB ITEM D; SO AS TO PROVIDE FOR THE RECORDING IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA

Motion was made by Mrs. Smith to approve Ord. No. 33-93. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously for approval.

Redesignate Historic/Specimen Trees

a. Consideration of Date for Public Hearing to Redesignate Historic/Specimen Trees and Related Matters - Mrs. Smith suggested they hold the public hearing in March, as she imagined there was some work that needed to be done by the staff and this would give them some time to work on what has to be done. Mr. Dusey suggested the list be updated. Mrs. Wiener recalled it was discovered that the historic and specimen trees which were designated years ago were not recorded in the public records and she thought this was to be a very short situation and the list of trees that have been designated as historic and specimen trees is all together and the idea is to record that list and if it is all together, she had no problem with holding this public hearing at the January Town Council meeting. Mr. Dusey agreed. Mrs. Wiener recommended the public hearing be held in January.

Mr. Adrian Winterfield wanted to know if the owners of each property on which the specimen or historic trees are located will be notified of the hearing, to offer their input. Mrs. Smith responded affirmatively. Mr. Winterfield thought there should be a notice of the time of hearing and the time for all the property owners. Mr. Randolph reported there will be a public notice of the hearing and each property owner will be notified of the hearing personally.

Mrs. Wiener moved that the Public Hearing for the recordation of the historic and specimen trees be held during the January Town Council Meeting. Seconded by Mrs. Smith. On roll call, the motion carried unanimously. Mrs. Douthit hoped that by speeding up this process, the opportunity is not lost to find additional trees.

Mrs. Wiener noted the designations made previously are not being undone, but we simply wish to make sure that those property owners who have historic trees on their property are aware of the fact there is an historic or specimen tree located on their property, when they purchase the property.

Appointments

B. Appointments

Seaview Park Commission

1. Seaview Park Commission - Balance of One (1) Term to Expire February 1995 (Deferred from July Meeting) - Consideration of Three Alternate Members - President Weinberg turned over the gavel to Mrs. Wiener to chair the meeting stating it was his belief that no one should be appointed to any Commission unless they had attended two meetings of the Commission or Committee to which they wish to be appointed so they are aware of the responsibilities. He thought after they had attended the meetings, the person have an opportunity to meet with members of the Council who should make a determination as to whether or not they are qualified to handle the job. He knows there are other members of the Council who did not agree with this, but he has a concern that the Town has for every job the best person to serve, as the mere fact that someone volunteers does not make them the best person for a specific group.

Mr. Weinberg moved that the Council defer the appointments in order that the best person for each job can be found, going through the procedure he has just outlined. Mrs. Royal seconded the motion.

Mayor Ilyinsky believed that some of the people who have expressed a wish to serve are highly qualified people and he suggested the Council should make some kind of a constructive decision as to whether or not these people are qualified as some of these letters were received last summer. He felt if they continued to postpone the appointments they make a little bit of a farce out of this, and he suggested this be set over to the January meeting and action be taken at that particular time.

Mr. Weinberg indicated he would be happy to set aside several days in January to interview people who feel they have the necessary qualifications and suggested other members of the Council conduct interviews also. Mrs. Douthit pointed out some of the openings on the Commissions have been open for over nine months and asked Mr. Weinberg why he didn't interview them already and she didn't know why this is put off over and over again. Mr. Weinberg asked if she had anyone in mind at this point in time to which Mrs. Douthit responded she had several people in mind. Mr. Weinberg suggested she submit the names so the Council can interview and act upon them.

Mr. Alexander Beal addressed the Council, recalling there are several members who are currently serving and doing an excellent job and they could be reappointed, and he believes on the Zoning Commission, there were three members who are well qualified and they are willing to serve and they should be reappointed.

Mrs. Smith recalled she made a motion earlier in the year that the appointments for the Seaview Park Commission be put over to September, but it never came back on the agenda as she forgot and she would like to act on making some of these appointments today.

Mrs. Wiener called for the roll call to be taken and on roll call, the motion did not carry 3-2 with Mrs. Douthit, Mrs. Smith and Mrs. Wiener voting against the motion.

Mrs. Royal reported the City of Orlando has a Nominating Board set up to suggest names of people who should serve on their Boards and Commissions and she suggested this be done in the Town of Palm Beach. Mrs. Smith asked the Town Attorney if this would have to go to Ordinance, Rules & Standards Committee for an Ordinance to set up this Nominating Board. Attorney Randolph stated this should probably be looked at by ORS to see if an Ordinance needed to be drawn up. Mrs. Wiener did not agree as she thought the method by which people are appointed has served the Town well. She recalled Orlando is a huge city with many times the residents the Town has and she thought this suggestion would be too unwieldy for the Town.

Seaview Park Commission (cont'd)

Mrs. Smith asked Mrs. Royal if she wanted to present the names of people she wanted to serve on the Seaview Park Commission to which Mrs. Royal responded she would like them all to think about the process by which people are put onto Commissions, as she didn't think the way it was done now served the Town well. Mrs. Douthit thought it may become very political if they were to appoint a Nominating Board to which Mrs. Royal did not agree.

Mrs. Smith asked if they could get on with the appointments. Mrs. Wiener nominated Sara Mullens to the Seaview Park Commission as a member to fill the balance of the term of Mr. Myers. Seconded by Mrs. Royal. Mr. Weinberg commented he has interviewed Mrs. Mullens and found her qualified. On roll call, the motion carried unanimously.

Mrs. Royal nominated Jamie Gavigan as an alternate on the Seaview Park Commission, explaining that he coaches one of the Little League teams and does not play tennis. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Mrs. Royal nominated for an alternate position the name of Francine Bernard. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Mrs. Smith nominated for the third alternate position the name of Mr. Allan Shore. Mr. Bitzer addressed the Council noting that Mr. Shore requested his letter be withdrawn.

2. Golf Commission - Three Alternate Members - Deferred from June Meeting. Mrs. Douthit placed in nomination for an alternate on the Golf Commission the name of Col. I. Henry Stern. Seconded by Mrs. Smith. On roll call, the motion carried 4-0 with Mr. Weinberg abstaining indicating he will file a Conflict of Interest form.

Golf Commission

Mrs. Smith placed in nomination the name of Miss Robin Weiss for an alternate on the Golf Commission. Mrs. Douthit seconded the nomination. Mrs. Smith explained Miss Weiss works with the children in West Palm Beach in their golf program and is a personal friend. On roll call, the motion did not carry. The vote was 2-3 with Mrs. Royal, Mrs. Wiener and Mr. Weinberg voting against the motion stating their reason was they did not know Miss Weiss.

3. Code Enforcement Board - Two Alternate Members for Balance of Two-Year Terms to Expire April 1994 - Mrs. Wiener moved that the nominations for the two alternate members for the Code Enforcement Board be deferred until the January Town Council meeting. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously. (Note - this matter was reconsidered later in the meeting).

Code Enforcement Board

4. Building Board of Adjustments and Appeals - One Citizen-at-Large Alternate Member - Deferred from September Meeting - Motion was made by Mrs. Smith to defer the appointments to the Building Board of Adjustments and Appeals to the January Town Council meeting. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Building Board of Adjustments and Appeals

C. Bid Award

1. Sealed Bid No. 94-002 - Contract Collection of Compacted Garbage - Mr. Dusey recommended the Sealed Bid No. 94-002 be awarded to County Sanitation in the amount of $229,093.68 and the intent is that this contract will kick in as the existing contracts expire. Mrs. Wiener moved that Sealed Bid No. 94-002 be awarded to County Sanitation in the amount of $229,093.68. Seconded by Mrs. Smith.

Bid Award

Mrs. Royal asked Mr. Dusey if he had ever heard of a firm called "Bidtrax" who enroll municipalities at no cost in a service paid for by the providers and has details on bids that have been awarded to other municipalities, so there is a way of comparing what has been paid for similar equipment and services by others. Mr. Dusey stated they do that to a certain extent and also are involved with the State Contracting and also they are in a coalition with other municipalities whereby their bids can be used. He didn't believe there would be any comparisons available for this particular bid as this is a service and it is how many tons are being picked up. Mrs. Royal noted she has sent some literature on this service to Mr. Dusey and asked him to look it over and let her know if he thought this would be of any use to him.

On roll call, the motion carried unanimously.

D. Other

1. Status Report on Proposed Interlocal Agreement Regarding Potable Water Supply with the City of West Palm Beach - Attorney Randolph explained he has met with the City Attorney and staff members of the City of West Palm Beach regarding the pending water agreement and it was found that the attorney and the staff members were cooperative and willing to take the document which was presented to them as a Council and work with it and they will come back to us with a proposed agreement. He commented the City of West Palm Beach continues to have concerns with regards to some matters which the Town felt were quite substantive. He believed that some of those matters need to be resolved eventually by the City of West Palm Beach City Commission and by the Town Council of the Town of Palm Beach. He anticipates receiving a document from the City and he will present it to them at the January Town Council Meeting after he has had an opportunity to review the document.

Status Report: Interlocal Agreement re: Water Supply

Mrs. Wiener wondered if the document comes back and it appears to the Town Manager and to the Attorney and Mr. Dusey to be satisfactory, she would recommend they have a Special Town Council Meeting to have it ratified and get it completed.

Town Council Workshop

2. Consideration of Request to Schedule a Town Council Workshop Meeting Regarding Legal and Procedural Town Matters - Mr. Randolph noted staff recommends this meeting be held subsequent to the February Town Council meeting. Mrs. Smith asked if there could be discussed also the Storm Preparedness meeting. Mr. Doney hoped that by the end of January, there will be further information available for research and it is his suggestion that this be an independent workshop type meeting because of the issues involved and he will put this on the agenda for the March meeting. Mrs. Smith suggested it be put on the agenda for discussion and a determination made as to whether or not it needs to be an independent workshop.

XII. NEW BUSINESS

New Business

A. Appointments

Appointments

Landmakrs Pres.Comm.

1. Landmarks Preservation Commission - Alternate Member for Balance of Term to Expire March 1994 - Mrs. Smith advised she did not think the Landmarks Ordinance was up to the State Standards and she suggested this Ordinance be returned to the Ordinance, Rules & Standards Committee to make sure that it covers the standards for certified local government. She recalled it stipulates that there should be a majority of professionals in the historic field which is not in the Town's ordinance and she thought this needed to be studied before any appointments are made to the Landmarks Preservation Commission and she so moved. Seconded by Mrs. Royal.

Mrs. Wiener wanted to know if this was a concern because of the tax abatement ordinance? Mrs. Smith stated that was not her concern at this time. Mrs. Polly Earl addressed the Council noting the State has criteria for certified local government and Palm Beach received its certification years ago when the Ordinance was first adopted and at that time the State standards were not quite developed and now they are tightening things up and in general, the whole preservation field is developing and its importance being recognized and it is her understanding that the State criteria now calls for professional qualifications in the field of preservation for a majority of Commission members. She thought that as a matter of normal procedure, the Council needs to be aware of this and she doesn't know if the Town's certified status is in jeopardy, but it is something of which the Council needs to be aware. Mrs. Wiener felt the Town Attorney should look at it and see if we are in compliance. Mrs. Smith wished her motion to stand that this be considered by the Ordinance, Rules & Standards Committee and Mr. Randolph look at it under the umbrella of that Committee.

Mrs. Wiener did not agree as she thought the Town Attorney should look at it and if it needs to be changed, then he make the changes and bring it to the Council. Mrs. Royal thought it was important that this issue be looked at as now they will be offering tax abatements and it will be a terrible thing to have that taken away from any resident because there were not the proper credentials for the Commission and she felt the Council had the obligation to see that this is done properly. Mrs. Smith did not wish to imply there was any problem with the Commission but the reason this is coming up is because they are talking about new appointments.

On roll call, the motion carried 4-1 with a negative vote cast by Mr. Weinberg. Mrs. Wiener suggested this matter be put on next month's agenda and Mr. Randolph report to the Council on whether he finds anything that is not in compliance with the State Statutes and she so moved. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Mrs. Jane Volk addressed the Council noting they have always had people to serve on the Commission with the necessary qualifications and she didn't know why there was a delay. Mrs. Wiener noted they have already voted to defer this.

Zoning Commission

2. Zoning Commission - Three Alternate Members - Mrs. Douthit placed in nomination the name of Gene Lawrence, as she thought this Commission would be benefitted by an architect. Seconded by Mrs. Smith. Mrs. Wiener asked if she had spoken with Mr. Lawrence to which Mrs. Douthit responded she has not, recalling his attorney had advised him that on the Architectural Commission, he had conflicts of interest. Mrs. Smith recalled that the problem was the filing of the Financial Disclosure forms. Mrs. Douthit asked if they could vote and she will check with Mr. Lawrence and if he declines, this will be put back onto the agenda. Motion carried unanimously on roll call.

Code Enforcement Board Appointment

CODE ENFORCEMENT BOARD APPOINTMENT:

Mrs. Wiener moved that the appointment to the Code Enforcement Board be reconsidered. Seconded by Mrs. Smith. On roll call, the motion carried unanimously. Mrs. Royal nominated Irving Wolfe to the Code Enforcement Board. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

B. Other

FY94 Capital Improvement Program

1. Consideration of Proposed Modification to FY94 Capital Improvement Program - Request for Change in Scope of Work and Construction Scheduling for Replacement of Tees and Greens at Par 3 Golf Course for FY94 - Mr. Rick Dytrych addressed the Council noting they need to do a green and tee renovation, as the tees were built in the sixties and have become domed. He indicated last summer they repaired six of them and now they wish to redo the greens along with the tee renovation. He advised they have enlisted the services of Joe Lee, a world famous designer of golf courses and he apprenticed under Dick Wilson, who was the original designer of the Par 3 Golf Course. He recommended the work be started in June and the course would then reopen in September at an approximate cost of $200,000 to $220,000 which would come out of the Golf Course Fund.

Mr. Dytrych advised the construction work will be bid and the estimated figure of $175,000 was given by Joe Lee, the designer, however, he has added the additional amount to take care of some drainage work that needs to be done and for contingencies. Mrs. Douthit asked if there was any way the work could be done without completely shutting down the course? Mr. Dytrych responded it would not be practical as there will be heavy equipment needed. He advised the driving range will be kept open as well as the chipping and putting areas, but the rest would have to be closed. He

Par 3 FY94 Capital Imrpovement Program (cont)

estimated it would take approximately 8 weeks to complete the project. Mrs. Smith noted the fee for the designer is $7500 to which Mr. Dytrych responded his usual fee is usually $42,000 to $50,000. Mrs. Wiener stated her concern is that this whole matter was to be a part of the Capital Improvement Program for 1995 and 1996 and she wondered why they didn't discuss this when the Capital Improvement Program was considered in the budget earlier this year? Mr. Dytrych responded he had a conversation with Mr. Lee and found he was about to retire and he agreed to do this redesign in October and the reason it wasn't mentioned during the budget hearings is they didn't know that Mr. Lee was about to retire. Mrs. Wiener asked if they were going to have other capital improvement projects for 1995 and 1996 to which Mr. Dytrych responded negatively. Mrs. Wiener wondered if it could wait until the next fiscal year to which Mr. Dytrych responded if they did, they would have to spend more money for the design as Mr. Lee will retire and another architect would not use Mr. Lee's plan. Mr. Doney reported Mr. Lee will supervise the project. Mrs. Smith asked if the Golf Commission approved this as an emergency measure? Mr. Dytrych responded the greens will have to be renovated and they elected to go through with it now because of Mr. Lee's availability. Mrs. Wiener stated she didn't understand as they have a capital improvement budget and to go contrary to that budget, gives her some concern unless there was an emergency. Mrs. Douthit pointed out this will be paid out of the Golf Fund monies.

Mr. Bitzer addressed the Council stating the reason they felt it should be done now is there will be a cost savings as it will cost significantly more to have someone else come in and do the design and the supervision. Mrs. Wiener recalled there was no conversation about this during the budget hearings and that does disturb her. Mr. Bitzer explained that after the budget season, it was discovered that Mr. Lee was about to retire and he would not be interested in doing the work, but then he had a change in his thinking. Mr. Bitzer advised if the Council wishes them to put this over to 1995-6, they can do so, but it will cost them significantly more to do it later.

Mrs. Wiener did not believe this was a good management situation but she didn't want to turn her back to saving approximately $35,000, however she didn't like the Council to be caught unaware. She requested other Department Heads let them know three or four months ahead of time, if they find themselves in a situation such as this.

Mrs. Wiener moved that a modification be made to the FY94 Capital Improvement Program so that a replacement of tees and greens at the Par 3 Golf Course can be accomplished in FY93-4, with the promise that there will be no capital improvements in FY95-96.

Mrs. Douthit asked if she could make the amendment to the motion that the cost of this be paid out of the Golf Fund to which Mrs. Wiener agreed.

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

Cooperation of Law Enforcement Agencies

2. Consideration of Mutual Aid Agreement Between Palm Beach County and Town of Palm Beach for Combined Operational Assistance and Voluntary Cooperation of Law Enforcement Agencies - Recommend Authorization for Execution of Agreement - Motion was made by Mrs. Wiener that the Council recommend authorization for the execution of the Mutual Aid Agreement between Palm Beach County and the Town of Palm Beach for Combined Operational Assistance and Voluntary Cooperation of Law Enforcement Agencies. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Luncheon break was taken.

Meeting reconvened by President Weinberg.

Longevity Pay

3. Consideration of Extraordinary Longevity Pay for December 1993 - Motion was made by Mrs. Douthit, seconded by Mrs. Wiener to approve the extraordinary longevity pay for thirteen employees with over twenty years of service with the Town, as outlined in Mr. Doney's memorandum of Dec. 9, 1993 with the total amount being $15,624.40. Mr. Doney explained there is a funding shortfall as this is not the amount budgeted and requested the funding come from the Undesignated General Fund Balance. On roll call, the motion carried unanimously.

IBM Disk Storage Replacement

4. Consideration of Request for Funding from Undesignated General Fund Balance for IBM AS/400 Disk Storage Replacement - Mr. Doney advised he has sent a memorandum dated Dec. 6, 1993 along with a memorandum from the Acting Data Processing Manager Spencer Wilson dated Dec. 3, 1993. He explained they were hopeful that this disc storage replacement could occur in FY95, however, that is not the case. Mr. Weinberg asked if there were any alternative measures that could be taken to which Mr. Doney responded the mirroring alternative as set out in Mr. Wilson's memorandum of Dec. 3, 1993 seems to be the most cost effective and the most operational efficient way to proceed.

Mrs. Wiener commented that this is similar to the PAR 3 request made earlier, as she doesn't understand how these things suddenly turn bad, as a lot of money has been spent on this system and there was discussion at budget time as to what is needed long-range and now they are here today making this request. Mr. Doney responded it was not anticipated that they were going to have two disc crashes and were hopeful to budget for this in FY1995. Mrs. Wiener stated her discomfort in having two items come before them just a few months after the budget has been adopted. Mr. Doney responded they do have preventive maintenance and analyze the useful life of all of the equipment, however, everyone once in a while something does break down unexpectedly and that is what happened to this. Mrs. Wiener thought perhaps there needed to be a contingency figure for these items as part of the budget.

Mrs. Smith recalled a back-up was approved for the AS400 system and she knows that technology changes on a daily basis, and IBM has been converting their AS400's to the RS6000 as it is more compatible with their software. She understood discs were only good for 30,000 hours, so they will constantly have to be replaced. Mr. Wilson explained they use the computer on a 24 hour basis and there is an additional load on the system than if it were only being used for 8 to 10 hours per day. Mrs. Smith asked if they have had IBM look over the entire system to make a determination as to whether or not what is being proposed is the best solution? Mr. Wilson responded the AS400 is a completely different type of machinery that the RS6000 as that works in a different environment. He knows IBM is introducing that machinery to try and take over some of the PC's, but the AS400 is still the top-of-the-line mid-range computer and it is being supported with new software and hardware. He advised he is in constant contact with IBM and knows that the AS400 is the best for

IBM Disk Storage Replacement (cont'd)

the Town as far as the memory upgrades and disc upgrades, etc and it is all compatible. He assured them they would not be facing a situation where they would be outdated in the near future and that is the primary purpose for requesting the disc replacement.

Mr. Weinberg recalled seeing recently the "Wish List" for the various Departments of the Town of Palm Beach and he asked why the various departments were making these requests. Mr. Doney responded the "Wish List" is a list of potential donated items as every year when they go through the budget cycle, each department prioritizes their requests and they have to be justified. He knows one of the items in the Police Department is to have mobile computers in all of the units and that is something he felt they could live without, but the reason they put this on their Wish List is that when they are approached by different residents who wish to show appreciation toward the Town and make a donation, these lists are available. He stated if these items were absolute much needed necessities, they would be in the budget. He stated many of these items will be requests in future budgets, but it will have to be justified why this replacement or new equipment is needed. Mr. Weinberg explained his concept is if these items were really needed, they should have it.

Mr. Doney reported donations to come in throughout the year where an individual wishes to give to the Town, which may help the resident from a tax perspective. He recalled many items have been able to be acquired, such as the MICU's, and thereby eliminates the funding from out of the ad valorem budget. Mr. Weinberg explained his concept is if these things are needed, the Town of Palm Beach should be able to afford them in the regular budget, although it is wonderful to receive donations.

Mrs. Royal noted she had a number of questions which she submitted to Mr. Wilson, who addressed the Council recalling one of the questions was why they only back-up the communication center on a weekly basis, and he stated this was just the dispatching data and not the enhanced 911 information or the other reporting that the Communication Center does.

Mr. Wilson stated in order to do the back-up the computer operators must sign off the system and it just seemed to be more practical to do it on a weekly basis. He advised if they do the mirroring which he had suggested in his memorandum, it would actually keep two copies of the data, so if there is a disc failure in the future, the disc that fails can be replaced immediately and they don't have to worry about back-ups or restores at that point, so in that respect the mirroring will be a help in keeping a copy of the data for the Police Department. He recalled another question of Mrs. Royal was if the discs were not replaced, could the Police Department perform their own back-up and that can be done but the Communication Manager and himself needed to work it out.

Mrs. Royal asked if the dispatchers could not dispatch if they were backing up? Mr. Wilson responded they can dispatch but they would not be able to use the computer to dispatch but can do it manually, and it is a timely process as they would have to put the data into the system after they are signed back on to the computer.

Mrs. Wiener moved that authorization be given to permit the funding from the Undesignated General Fund Balance for the IBM AS400 Disc Storage Replacement as requested and this would be the recommended alternative of mirroring. Motion seconded by Mrs. Royal. On roll call, the motion carried unanimously.

Mid-Town PEP Reef Project

5. Mid-Town PEP Reef Project - Consideration of Request for Appropriation to Perform Structures Inventory - Mr. Dusey advised the Department of Environmental Protection as requested that a survey be done of the existing structures in the vicinity of the PEP Reef to assist in the monitoring of the Reef. He recalled this was requested earlier in the project, but was waived and it would be the Town's financial responsibility and his request is that the Council authorize them to do the additional survey work for a figure of no more than $10,000 with the University of Florida and the money would come from the Capital Improvement Program Beach Protection Funds.

Mrs. Douthit asked if they would require the Town to remove these structures inventoried? Mr. Dusey responded at this point of time, there is no intention of removal of the structures. Mrs. Douthit moved that the authorization be granted. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Lake Worth Inlet Sand Transfer Plant Lawsuit

6. Consideration of Proposed Settlement of Lake Worth Inlet Sand Transfer Plant Lawsuit - Attorney Randolph recapped his memorandum noting the Town has met with representatives of the County in regard to this Council's directive to get things resolved at the Inlet. He advised a meeting was held which they felt was fruitful at least to the extent the Town's staff did see an intent by the County to cooperate in looking for a solution. He stated the proposal made by the County was ratified by the County Commission that the current appeal relating to the Sand Transfer Plant be dismissed upon the payment by the County of $75,000 to the Town, which was the amount awarded to the Town by the Circuit Court and was on appeal. He stated because there has been no specific agreement with the County and the Town with regards to the details on the County's participation, it is the staff's recommendation that the Council make the offer subject to an agreement being reached with the County which will set forth the specifics of the County and the Town's participation. He felt to accept the $75,000 at this point without knowing further what the County's intent is with regards to cooperating at the Inlet, would not be to the benefit of the Town.

Mrs. Douthit moved the offer of payment of the $75,000 awarded by the Circuit Court be accepted and the specifics be worked out at the Staff level in entering into an Agreement with the Town Council and these specifics be brought back to the Town Council for final approval, as outlined in the letter to the Town Manager from Mr. Randolph dated December 8, 1993. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Roger SMith vs. Town of Palm Beach Lawsuit

7. Consideration of Proposed Settlement of Roger Smith vs. Town of Palm Beach Lawsuit - Attorney Randolph explained this is a proposed settlement of a case relating to a boat captain who was terminated from his employment allegedly as a result of a letter which was written by the Town's dockmaster. He advised the lawsuit has two counts, one for the libel and one for tortious interference of contract and it is recommended this matter be resolved without any admission of liability on the part

of the Town by the payment of $27,500 and the case would be dismissed with prejudice. Mrs. Douthit moved that the staff's recommendation be authorized. Seconded by Mrs. Royal. On roll call, the motion carried unanimously.

Roger Smith vs. Town of Palm Beach Lawsuit (cont'd)

XIII. APPROVAL OF WARRANT LIST AND FUND EXPENDITURES FOR NOVEMBER 1993 - On motion of Wiener/Douthit, the Warrant List and Fund Expenditures for November, 1993 was approved. On roll call, the motion carried unanimously.

XIV. COMMUNICATIONS FROM CITIZENS - Adrian Winterfield addressed the Council pointing out that in approving the Warrant List, a payment of $166,000 was made to the City of West Palm Beach and he was sure that they were aware of the components of this payment. He suggested the public should be made aware of these items. He recalled also when the Agenda was approved, there was a routine approval of equipment, which he thought the Council should have let the public know the amount of the lowest bid. He thought they were flirting with danger with regards to the Fellowship of Christians and Jews as there were no statements made as to the purpose, and he asked them to think if it would be practical for the Council to invite every meritorious organization to make a presentation to the Council. He thought if the Council accepted the invitation to join the organization, should that organization have to come before the Council, there may be no-one to hear the request as if they are members, they might be obligated to recuse themselves for conflict of interest.

Communications from citizens

XV. DEVELOPMENT REVIEWS

Development Reviews

A. Major Matters Previously Considered by the Architectural Commission at Their Meeting of November 17, 1993 - Motion was made by Mrs. Wiener, seconded by Mrs. Smith to approve the major matters considered by ARCOM on November 17, 1993. On roll call, the motion carried unanimously.

Major Matters - Architectural Commission

The major matters were:

B60-93 - New residence for Dr. & Mrs. Michael Longo, 210 Colonial Lane - Approved.
B69-93 - Construct multi-level residence for Solcon, 3000, 1332 N. Ocean Blvd. - Approved conditionally.
B72-93 - Two Story residence for James H. Kimberly and First National Bank in Palm Beach as Trustees, 1330 N. Lake Way. Approved conditionally.
B74-93 - New Residence for Mr. & Mrs. Irwin H. Kramer, 1295 South Ocean Blvd. Removed from the agenda.
B75-93 - New Residence for Renate and Thomas McKnight, 310 Clarke Avenue - Deferred to December meeting.
B49-73 - Front Wall for Mr. & Mrs. Robert DeMario, 275 N. County Rd., - Deferred to the December meeting.
B77-93 - Two Story Residence for Mr. & Mrs. Engelstein, 101 Banyan Rd. - Approved conditionally.
B80-93 - New residence for Mr. & Mrs. Harding Willinger - removed from the agenda.
B84-93 - Addition, remodeling and site changes for Carol Martino, 144 Seminole Ave. - Deferred.
B85-93 - Carport Awning of Joyce and John Alban, 422 Australian Avenue. - Deferred
B86-93 - Two Story Residence for Sidney Kimmel, 1236 S. Ocean Blvd. - Deferred.
B66-92 - Driveway Revision for Sandy Palm Beach Property, 248 Bahama Lane - Deferred.
B98-92 - Hardscape Plan for Mr. & Mrs. Augustine Falcione, 970 N. Lake Way - Deferred.
B68-93 - New South Fire Rescue Station - Deferred.
B87-93 - New Guest House for Dr. Salomon Dayan, 980 S. Ocean Blvd. - Approved.
B88-93 - Townhouse for Seminole Development Co., 247 Seminole Avenue - Approved.
B89-93 - New residence for Mr. & Mrs. Robb Allan, 300 Tangier Avenue - Approved conditionally.
B91-93 - Addition to residence of Patricia Schmidlapp, 695 S. County Rd., - Approved conditionally.
B93-93 - Demolition of all structures on the property of George G. and Betsy Matthews at 334 N. Woods Road - Approved conditionally.

B. Appeal

1. Appeal of Planning, Zoning and Building Department's Decision to Deny a Request for a Fund Raising Event in December 1994 at Bethesda-by-the-Sea - This matter was deferred to the January Town Council meeting.

Appeal of Bldg. Dept. Decision - Fund Raising @ Bethesda-by-the-sea

C. Variances, Special Exceptions and Site Plan Reviews

<u>Old Business</u>

1. Variance No. 58-93 - Mr. & Mrs. Bernard L. Friedman, 616 Island Drive; to allow construction of a pool cabana providing a 13' north side yard setback in lieu of 15' required. R-B District. Deferred from November Meeting - Letter dated November 29, 1993 from Louis L. Hamby III, requesting withdrawal. This matter was withdrawn earlier in the meeting.

Var. 58-93

<u>New Business</u>

2. Variance No. 60-93 - Leonard & Lillian Schneider, 1089 South Ocean Boulevard; to allow installation of two windows in the second story, thereby modifying previously approved Variance No. 22-90. R-A District. Attorney John Jorgansen addressed the Council on behalf of Mr. & Mrs. Schneider requested the privilege of withdrawing the application without prejudice allowing them to come back at a later date to have this matter heard. Motion was made by Mrs. Wiener to grant the request to withdraw the application without prejudice and with the opportunity to come back to the Council at a later date. Seconded by Mrs. Royal. On roll call, the motion carried unanimously.

Var. 60-93

3. Variance No. 61-93 - The Preservation Foundation of Palm Beach, 382-386 Hibiscus Avenue; to allow construction of improvements and landscaping at the southwest corner of Hibiscus and Chilean within the required sight triangle. R-C and C-TS Zoning Districts. - Ms. Jackie Miller addressed the Council on behalf of the Preservation Foundation seeks a variance with respect to intersection vision setbacks as they wish to install a wall and it doesn't interfere with any vision at

Var. 61-93

that intersection. Mrs. Douthit moved the application be approved provided that should there ever be any change in the traffic patterns, that this be brought into conformity. Seconded by Mrs. Wiener.

Mr. Moore advised the Traffic Control Division of the Police Department would like to have this sight triangle observed to make sure there are no problems, and the Building Department has no objection; but the condition that Mrs. Douthit mentioned is a good one as long as there is one way traffic to the west there would be no problem, but in the event the traffic pattern is changed, the Council may want to revisit this matter.

On roll call, the motion carried unanimously.

Var. 62-93

4. Variance No. 62-93 - Edgar Blanch, Jr., 686 Island Drive; to allow installation of gates at two driveway entrances providing a 6' setback in lieu of 15' required. R-B District. - Michael Johnson representing Mr. Blanch addressed the Council requested the variance. He advised presently there is a eight to nine foot hedge which encircles the property and as you enter the driveway, the property slopes upward and the only place to put the gates without going through removal of landscaping is at the six foot distance. He advised Mrs. Blanch was recently robbed at gunpoint and they are also installing an underground surveillance system with a security system. He believed the gates would be a deterrant also for people walking onto the property.

Mrs. Douthit expressed her concern about six feet not being enough room to get an automobile out of the traffic lane and suggested they put the gates at 12' rather than 6' so the length of a car can be off of the street. Mr. Johnson responded they would still have to do a lot of modifications on the driveway and the landscaping even for the 12'.

Mr. Moore gave the staff comments, noting that the purpose of the setback when it was put into the Ordinance was to look at each case on an individual basis. He noted Island Drive is the only north-south street on Everglades Island. He stated the staff has found it difficult to consider gates at the property line as it would become a potential traffic hazard and no-one finds a hardship for this request and even though it was tragic that Mrs. Blanch was robbed at gunpoint, that cannot be considered as a hardship as it must run with the land.

Mrs. Smith did not know how they figured two gates would offer security when there is no wall along the ficus hedges. Mr. Johnson responded the idea was to have an underground alarm system which would be set off by certain amount of pounds of pressure and this would be around the entire property. He stated if someone enters the property, the alarm will go off.

Mrs. Royal indicated she has visited the site and it is 14 to 16 feet to the curve of the driveway and she believed the gates could be installed without too much harm to the landscaping and the driveway if they would put them at 14 to 16 feet. Mr. Johnson pointed out the gate would have to swing out and they would like to have the gates slide out of the way so they would not be an obstacle.

Mrs. Smith moved to deny the application for Variance No. 62-93 on the basis that no hardship has been demonstrated. Seconded by Mrs. Royal. On roll call, the motion carried unanimously for denial.

Var. 63-93

5. Variance No. 63-93 - Ronald Fraser, 205 Colonial Lane; to allow construction of an addition providing a side yard setback of 9.9' in lieu of 12.5' required. R-B District. - Mr. Fraser was not in the room and this was put off to the end of the agenda.

Var. 64-93

6. Variance No. 64-93 - Palm Beach Development Group, 1530 South Ocean Boulevard; to allow construction of a residence on a lot 112.5' x 140' containing 15,750 square feet in lieu of the required minimums of 125' x 150' and 20,000 square feet. R-A District. - Eugene Fagan, Architect, addressed the Council on behalf of the applicant requested a variance as the lot is 112.4 x 140 with 15,750 square feet in lieu of the required minimum in the R-A District of 125 x 150 with 20,000 square feet. He advised there is no land available in any other direction of this property.

Mr. Moore gave the staff comments, noting this is an unusual request as there is an existing single family dwelling located on the property at the moment, but the lot is deficient in the setbacks and the square footage.

He believed the variance could be granted conditionally and that would be the size of the residence be limited to meet the deficiencies of the lot.

Mrs. Wiener recalled the Council has considered this type of a variance request many times in the past and have granted the variances. She asked Mr. Moore to explain what makes this variance so very different. Mr. Moore responded this is a lot with an existing residence on the property and it means removing that home and placing a different one in that location. Mr. Moore stated the home that is being requested has been redesigned as the original plans were violating the height requirement.

Mrs. Douthit noted that even though the lot is non-conforming, everything else is in appropriate proportion and she moved that the Variance No. 64-93 be approved, as no variances of any kind are being requested to build the replacement building. Seconded by Mrs. Wiener. who commented that usually when someone comes to build on a lot which is smaller than what has been requested, the Council doesn't discuss the house or anything about it and she doesn't understand why they have taken so much time to discuss this.

Mrs. Smith asked if the condition with the approval be that the building be restricted to the footprint which has been submitted and it will be running with the property to which Mr. Fagan agreed. On roll call, the motion carried unanimously.

Var. 63-93

5. Variance No. 63-93 - Ronald Fraser, 205 Colonial Lane Mr. Parandis representing Mr. Fraser addressed the Council indicating they wish to add an addition of 14.5 square feet to the kitchen. Mrs. Douthit noted it matches up with the existing. Mr. Moore noted it is a small infill and they have no objection. Mrs. Wiener moved that

variance No. 63-93 be granted. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

7. Site Plan Review No. 1-93 - William Koch, 153 Woodbridge Road; to allow placement of two statutes over 6' and less than 12' in height, as per Section 5.50(b) and 9.60 of the Town Code. R-A District. - Attorney Doyle Rogers addressed the Council on behalf of Mr. Koch, seeking site plan approval for the location of two Botero statues on his lot. He advised the Roman Soldier will be put in the driveway area and it could not be viewed from the street. He advised the second statue would be in the garden and shielded by landscaping so it too would not be viewed from the street. Mrs. Royal moved for approval of the placing of the statues on the property. Mrs. Wiener asked if it could be with the proviso that the hedging would remain. Mr. Rogers advised the statues will be moved to Massachusetts for the summertime. Motion was seconded by Mrs. Wiener with the proviso that the shrubbery would remain at all times and if anything happened to the shrubbery that new shrubbery will be immediately planted. Mr. Moore pointed out this is a Site Plan Review and not a variance. Mrs. Wiener stated she then had no problem with it. On roll call, the motion carried unanimously. Site Plan Review No. 1-93

8. Special Exception No. 26-93 - Rehabilitation Center for Children and Adults, Inc., 300 Royal Palm Way; to allow a modification to the existing special exception use by adding a day care facility. C-OPI District. - Pam Henderson, Executive Director of the Rehabilitation Center addressed the Council, noting that for over fifty years, there has been a pre-school and they serve three and four year olds who are physically challenged. She advised they have been getting accreditations from the Palm Beach County Health Unit, Child Care Licensure Offices, and the School Board and this has made them exempt from HRS licensure because of their special population, however, recent Federal Legislation requires special children to be enrolled in regular classes or that regular children be enrolled in the special classes, and in order to meet that criteria, they have two regular children in the classroom and eleven special children. She stated they have applied to the Palm Beach County Health Unit, Child Care Licensure Offices and the next step is to have an inspection by the Town's Building Department. She reported they are not adding a day care center, but continuing the same program with two regular children. She advised the maximum number is 20 children for the size of the classroom. Spec.Excep. 26-93

Mr. Moore gave the staff comments, noting this will legitimize the day care center which has been there for years and this is a Special Exception permitted in this zoning district for schools and they are Town-serving and they will keep accurate records of that and have them submit that on an annual basis.

Mrs. Smith recalled this Center has a reputation of great credence in this Town and she would like to move approval of Special Exception No. 26-93 and commend them for all they have done and wish them the best of luck in their further efforts. Mrs. Wiener seconded the motion. On roll call, the motion carried unanimously.

9. Special Exception No. 27-93 - Paramount Church, Inc., 139 North County Road; to allow the 1,818 square feet of gross leasable area to be used as a church. C-TS District. - Attorney Doyle Rogers addressed the Council on behalf of the Paramount Church, Inc., requested the grant of a Special Exception for this activity. He advised the name has been chosen because it will be located in the Paramount building. Spec. Excep. 27-93

Mr. Moore advised churches are a Special Exception Use in the C-TS District and staff has no objection, however, the Town-serving issue should be addressed whereby 50% of the people attending will be Townspeople. Mr. Rogers indicated that was covered in their application for Special Exception and they have declared that over 50% of the members of the church are residents of the Town. Mr. Moore advised the parking is available and the church membership is limited to 63 parishioners.

Mrs. Wiener moved to grant the Special Exception 27-93, the Paramount Church. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

10. Special Exception No. 28-93 - Victor de Marinis 264 Restaurant, 264 South County Road; to allow 16 outdoor restaurant seats per Section 6.61 of the Town Code. C-TS District. Letter dated November 30, 1993 from Victor A. de Marinis requesting deferral to March 8, 1994 meeting. - This matter was deferred to the March 8, 1994 Town Council meeting. Spec. Excep. 28-93

D. Other

1. Reconsideration of Special Exception No. 10-92 With Variance - Linda A. Gary Real Estate, 420 South County Road; to allow 2,200 square feet of gross leasable area for office and professional use on the first floor. C-WA District. Letter dated December 6, 1993 from Robert Diezel requesting deferral to February 10, 1994 meeting. - This matter was deferred to the January 11, 1994 Town Council Meeting. Spec. Excep. 10-92

2. Consideration of Townwide Comprehensive Preservation Plan - Mr. Moore explained the approval of this Preservation Plan is a requirement of the Town's Comprehensive Plan and they have put this together over the past several years, however, it needs to be received by the Town Council and filed in the records. Townwide Comprehensive Preservation Plan

Mrs. Smith noted there is an error as it states the Town is six miles long. Mr. Frank indicated he will correct the mistake and it is intended to be an ongoing document which will be changed. Mrs. Smith asked if there were other errors they could be brought to Mr. Frank's attention and it can be corrected.

Motion was made by Mrs. Wiener to receive and file the Townwide Comprehensive Preservation Plan with the errors corrected as soon as possible. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Waiver to Section 12-51

Stephen A. Yeckes, Architect for work at 238 Worth Ave.

3. Consideration of Request for Waiver to Section 12-51, "Hours for Construction Work", of Town Code by Stephen A. Yeckes, Architect, for Work at 238 Worth Avenue Mr. Stephen Andrew Yeckes, Architect, addressed the Council representing the Mondi Collection Group, who are presently building a store at 238 Worth Avenue and his request is to be allowed to continue with the work after December 1, 1993 to do inside construction.

Mayor Ilyinsky asked if there would be parking on Worth Avenue by the workmen to which Mr. Yeckes responded there would not.

Mr. Moore understood when the permits were originally issued, there were some modifications made to the plans and the project was stopped for approximately thirty days at the election of the owner. He issued the permit for the modification was issued prior to the December 1, 1993 deadline with a letter of understanding that they could go beyond the Dec. 1 deadline. He felt this was a self-imposed hardship as they elected to change designs in the middle of the project.

Mr. Yeckes explained there was a change in management which required a redraw of plans, however, they felt even at that time they would not be able to make the Dec. 1 deadline and made the changes requested by the tenant and dictated by the market conditions.

Mr. Yeckes advised he has prepared a strict work schedule which has no Saturday or Sunday or holiday work and they would abide by the hours allowed, 9 to 5:30 PM. He believed all the major needs are stocked in the store and they will abide by the schedule furnished from December 15 through January 20.

Mrs. Smith suggested they utilize full crews to get the work done expeditiously as she sees no point in having only one or two people working and the job dragging out to the end of January. Mr. Yeckes stated this was his analysis of the situation as he thought it was best to abide by the Town's rules and it would also mean no parking and no loading, etc., and he thought this schedule was the least imposing with the minimum number of workers each day, so the other tenants and customers in the area would not be bothered by larger crews, etc.

Mayor Ilyinsky noted it is mostly inside work with the exception of a few items. Mr. Yeckes stated they were not able to secure an awning permit, so that would be one of the items on the outside and the other is the metal for the aluminum trim. Mrs. Wiener thought the time was too dragged out and although they wish to cooperate, this is just halfway through the season and she didn't believe she could do it to the other people on the Avenue.

Mr. Yeckes explained the reason he has put down this time is because he tried to make it as if there was almost no-one there, and so there could be a minimum of deliveries in anticipation of not bothering anyone else. Mr. Weinberg asked why he didn't ask for any extended hours? Mr. Yeckes responded he was going by the Town Ordinance. Mr. Moore told Mr. Yeckes what the Council is asking is for him to revise his schedule and provide for working overtime to which Mr. Yeckes responded affirmatively. Mrs. Smith asked when he took over the job to which Mr. Yeckes responded it was probably about the beginning of November.

Mr. Yeckes advised he has not done any work since December 1st. Mrs. Smith pointed out if the Council turns this down, he would be closed down until after May 1st. She asked if he could complete the job working overtime and with full time crews from the 3rd to the 20th of January, without working on Sundays? Mr. Yeckes responded if that is what they are telling him is what time he has, he will make sure it gets done. Mr. Moore indicated that would be his recommendation.

Mr. Humani with the Mondi Co. addressed the Council pointing out they have a store in the Esplanade and their lease terminates in May. He advised there were some construction problems here so they couldn't complete the work by the deadline and he would appreciate anything that the Council could do to help them to resolve this matter. He doesn't wish to disturb anyone on Worth Avenue and knows how important it was to keep the inconvenience to a minimum.

Mrs. Wiener thought the second option to work from the 3rd to the 20th was the best solution and they use full crews during that time. Mrs. Smith asked what time frame would they be working under? Mrs. Wiener noted there will be no Sunday work. Mrs. Royal thought they should be allowed to work on Sundays as there are no shoppers on the street that day. Mr. Moore recommended the hours be 7 AM to 7 PM. Mrs. Smith did not agree with the 7 AM starting time as there are some people who live on Worth Avenue and suggested the starting time be 8 AM. Mrs. Smith advised there should be no parking on the street by the workers. Mrs. Wiener moved that the construction work be allowed from January 3 to 20, with the hours from 8 AM to 7 PM, and there will no parking on the street for the construction workers. Mr. Moore asked if they could park on the side streets? Mrs. Royal stated she would like them to park in the parking lot and not on the side streets.
Seconded by Mrs. Smith. On roll call, the motion carried 3-2 with Mrs. Douthit and Mrs. Royal voting against the motion.

XVI. ANY OTHER MATTERS

Citizens Against Airport Noise

A. CITIZENS AGAINST AIRPORT NOISE (CCAN) COMMITTEE - Mr. Weinberg explained he serves on this committee representing the Town of Palm Beach and 37 other municipalities and he wears two hats, which he donned.

Mrs. Wiener recalled he was going to resign from this Committee. Mr. Weinberg indicated he has not as yet resigned, however, he would like to ask the Council since the Town of Palm Beach is one of the most affected communities with regards to airport noise and if he resigned, the Town would be left without any coverage and he hoped with the Council's permission, to approach the members of the County Commission and ask that a separate representative be appointed to CCAN who would represent the Town of Palm Beach exclusively, rather than having him sit there and take care of the needs of the 37 other municipalities. The Mayor and the Town Council thought it was a great idea and asked Mr. Weinberg to pursue this representation.

South Fire-Rescue Station - donation of clock

B. SOUTH FIRE-RESCUE STATION - DONATION OF CLOCK FOR TOWER - Mr. Weinberg reported to the Mayor and Town Council that the Citizens Association South of Sloan's Curve has donated a clock for the tower of the South Fire-Rescue Station.

C. SOUTH FIRE-RESCUE STATION COMMUNITY ROOM - Mr. Weinberg recalled there will be a community room in the South Station which will be used for the firemen and for voting by the two southern precincts and he would like to suggest that it also be used as a Branch Library of the Society of Four Arts. He advised he has talked with Mr. Saffron and Mr. Dixon of the Four Arts, and consideration of the exploration of this idea is now underway. Mrs. Douthit stated it is worth researching although she had some questions. Mayor Ilyinsky and Mrs. Smith thought it was a good idea to look into. South Fire-Rescue Station Community Room

C. CHANGE OF TOWN COUNCIL MEETING IN FEBRUARY. Mr. Weinberg noted this has been considered earlier and the date for the February Town Council meeting was changed from February 10, 1994, a Thursday to February 9, 1994 a Wednesday. Change Town Council Mtg. in Feb.

D. CLEAN-UP OF BEACHES. Mrs. Smith stated as she drives around the Town she is extremely proud of this Town with the one exception, and that is the beaches. She thought the time has come for the Town Council to take some action on this matter and she proposed the Town Council appoint a special commission on the beaches to explore the options and make recommendations to clean the beaches. She recalled commissions of this type have been appointed in the past to deal with extraordinary problems. She asked each member of the Council to be prepared at the January Town Council meeting to nominate a person to serve on this Commission. She believed some of the items which should be addressed are what kind of equipment is needed; what is the cost of the equipment; can it be a public or private partnership; how do they deal with private or public lands; should there be a public education campaign; and how should all of this be paid for? Clean-up of Beaches

Mrs. Wiener was sure other members of the Council and the Mayor have received telephone calls on this subject and her approach would be to have a prepared workshop on this subject and staff could prepare information and any of the Civic Associations or other groups in the Town who are interested could all sit down and spend some time talking about this subject and then make the decisions as to move forward, rather than to have it in the hands of an independent commission.

Mrs. Smith stated she thought about that idea but she had a problem with the amount of time it would take staff to prepare this information. She felt information should be procured from other coastal cities as to how this is handled in those cities. She believed the Commission could be asked to hold hearings and it could be more than just one day and come back to the Council with recommendations in April. She was sure there were citizens who would be interested in giving input as well as civic associations and other groups.

Mrs. Wiener felt there should first be a workshop and then they could go further with this. Mrs. Smith agreed there should be a workshop in January as these hearings should be held when a majority of the residents are in Town. Mrs. Wiener suggested the Workshop be held in February after the election. Mrs. Smith did not agree as she thought they needed to get moving on this when the majority of the residents are here.

Mrs. Royal advised she was in support of the appointment of a Commission. Mrs. Wiener felt the Council was the one who was going to have the final say on this and this problem has been around so long so that another few weeks should not matter, but if the majority want the Workshop in January, so be it.

Mr. Doney stated the staff will prepare the research and have it available. Mrs. Smith thought a lot of input was needed from other communities on how they clean up their beaches.

Mr. Weinberg suggested there be contact through the Municipal League of how the coastal cities in the County handle this problem. Mr. Doney responded they could do it through the Mayor who is on the Countywide Beaches and Shores Council, however, when this issue has come up before, a major concern has been the private properties. Mrs. Smith stated they know what the problems are and the beaches in the Town are filthy and she is trying to get something going that there will not be one group or another to find a solution and they have no-one to answer to and come up with a solution, and there are just too many groups working on this and it was her thought that the Town Council is the one to take the lead in this matter.

Mayor Ilyinsky suggested a letter be written to the other coastal communities asking them how they handle the cleaning of the beaches in their particular town. Mrs. Royal suggested they also write the Tourist Authority and request funding for the cleaning of the beaches to which the Mayor did not agree.

Mr. Weinberg suggested all the members of the Council and the Mayor check their books and let the Town Manager know when they will be available for a workshop on this subject. Mrs. Wiener thought the meeting should be set for February, after the election.

E. PALM BEACH COUNTY LEGISLATIVE DELEGATION: Mayor Ilyinsky reminded the Town Council the date for the Legislative Delegation meeting is January 6, 1994 at the School Board Office. Palm Beach County Legislative Dele.

F. PORT OF PALM BEACH - LETTER FROM CORPS OF ENGINEERS REGARDING NEW BULKHEAD: Mr. Doney advised a letter has been received by Mayor Ilyinsky on this subject, recalling the Town has written frequently to oppose the proposed expansion to no avail and the Corps has advised there will be no additional public hearings. Mrs. Wiener did not believe the Corps would be willing to do anything further. Mayor Ilyinsky indicated he would be happy to write another letter to the Corps. Mrs. Smith asked Mr. Randolph if he had any idea of what they could do to make the Port pay attention to the Town's wishes. Mr. Randolph indicated he had no recommendations at this time, as we have been trying to get their attention for quite some time and it has not been successful and he didn't believe there was any legal route he could pursue. Port of PB - New Bulkhead

Mrs. Smith wondered if there could be some sort of environmental impact study as that is done all the time and perhaps there might be a chance since the two Departments have been put together that they might be looking at the application differently, as the environmental impact has not been looked at since 1991. Mr. Randolph stated he will take another look at it. Mr. Doney recalled the Town had requested an environmental assessment and an environmental impact statement and it was denied. Mrs. Smith noted the last public hearings were in 1991 and since the two departments have now been put together, there might be people there who are more sympathetic.

Mrs. Smith suggested one more letter be sent to the new Department so that we can say we have written letters to everyone concerned and were ignored. Mrs. Wiener did not believe it would accomplish anything but she was willing to send another letter if that is what the rest of the Council wished to do.

Mrs. Royal suggested perhaps the Municipal League was on the Town's side and perhaps they could also write. Mayor Ilyinsky explained they are divided as not all the municipalities feel the way the Town does.

Demolition of Old Holiday INN

G. DEMOLITION OF OLD HOLIDAY INN IN DOWNTOWN WEST PALM BEACH ON NEW YEAR'S EVE: Mr. Doney explained this is an item of information as he wanted the Mayor and Town Council to be aware the City of West Palm Beach will be demolishing the Old Holiday Inn.

Robin Weiss

H. ROBIN WEISS: Mrs. Royal wondered if this appointment could be deferred until she has an opportunity to meet Robin Weiss as she voted against her being a part of the Seaview Park Commission, simply because she didn't know her.

National League of Cities Meeting

I. NATIONAL LEAGUE OF CITIES MEETING: Mrs. Royal reported on being a delegate at the National League of Cities Meeting. She stated the theme was Private/Public Partnership. She will be receiving information from a Councilman from Sunnyvale, California on how they got started on their zero-based budgeting. She reported the pay-for-performance only affects three per cent of their personnel as the others are covered by their unions. She advised Sedonia, Arizona has a budget of approximately thirty million and takes in only $700,000 in ad valorem taxes and get the remainder of their revenue through a sales tax. She attended a workshop on Noise Abatement Policies and has sent the information she collected on that issue to Mr. Jakubiak. She reported Women in Government is a growing group and has been asked to serve on the Planning Commission for the 1994 Meeting in Minneapolis and one of the topics will be Resort Cities and their problems.

Appeal of Administrative Decision - Southern Bell

J. APPEAL OF ADMINISTRATIVE DECISION. Mr. Dusey explained the request was from Southern Bell to work in a manhole at the northeast corner of Sunset Avenue and Bradley Place, near Publix, for five to eight days. Mrs. Douthit pointed out they have already been there for at least ten days. Mr. Dusey stated another day would be needed at Royal Palm Way and County Road in the left turn lane.

He advised the Public Works Department felt the work could have been done before December 1st and they have denied the permit requests.

Mrs. Smith noted it is difficult to get to Publix on those streets without the telephone company being there.

Attorney Wade Byrd addressed the Council for Southern Bell, noting during the past summer and fall, Southern Bell had made great inroads in the Town as far as improving the service, and these two items requested today are the items that remain, and the manhole is at the northeast corner of Bradley Place and Sunset and he suggested there be a slight narrowing of the turn lane as one goes south on Bradley Place. He noted the cable has to be spliced and if that is possible, it will take five days and if it cannot be spliced, it will take approximately eight days to put the new cable in. He advised the problem is if there is an interruption in service, there is no back-up. He advised on Royal Palm Way, they can do that work on a Saturday as they need to close off the eastbound turn lane at Royal Palm and County Road for one day to do splicing. He advised they will attempt to get out as quickly as possible. He requested the opportunity to be allowed to complete this work in the Town of Palm Beach.

Mrs. Smith thought it was an impossible time just before Christmas to narrow a lane of traffic at Publix as this is the busiest time of the year. Mr. Byrd stated they could start the work tomorrow and be out of there in five days if the cable is found to be in good order.

Mrs. Wiener felt these requests have to stop as the rules and regulations are being eroded. She recalled there was a mess around Town Hall at Thanksgiving time because of the City of West Palm Beach water situation. She thought the time has come when this Council had to get tough. She asked what horrible thing could happen if this work is not done at this time? Mr. Byrd responded unless the work is done, there is a likelihood that if something does happen, the residents of Palm Beach could be without telephone service.

Larry Marinik of Southern Bell addressed the Council explaining the old facilities are old and they are filled up and as time goes on, there is more and more trouble with the cables and that is why they installed the vault and the cabinet by the Fire Station to help alleviate this problem. He noted there was a great deal of work that needed to be done and it was a large undertaking. He advised that they are serving the entire Town and if something happens, they don't want to go ahead with the eight days of this construction before the telephone service can be restored. He thought it was quite essential to get this work done now and the manhole by Publix the problem there is they cannot get the fiber to splice and the manufacturer is sending a representative to this area to make the determination as to what the problem is. He advised the other one on Royal Palm Way they should have no problem with.

He advised there is a manhole near the cabinet near the curb at the Fire Station and they may have to do a little bit of work there as well as the one across the street from the Police Station, and he wanted them to know they put every effort into it when they put the cabinets in to try and get this done before the Season but they had a problem with the splicing of the cable or they would probably be a lot further along than they are now. He wishes to work within the confines of what the Town allows, and he wants to show responsibility and respect to the Town, but also has that responsibility and respect to the customers of Southern Bell.

Mayor Ilyinsky felt they shouldn't be doing this the week of Christmas. Mrs. Wiener suggested they do it starting January 3rd. Mr. Marinik suggested they be allowed to start now and they should have the job finished by the end of the week. Mrs. Wiener commented if the work needs to go beyond that five day period, then they would be into Christmas Week. Mrs. Smith pointed out this is the worse possible time frame in the entire year. Mrs. Wiener agreed.

Mr. Marinik asked if something does happen between now and January 3rd, what procedures does he have to follow? Mrs. Wiener pointed out there is a normal procedure for emergencies and he could call on Mr. Dusey or Mr. Doney. Mrs. Wiener advised people in this Town look to the Council to take care of them and if they can't do it, what good are we? Mr. Doney asked if this was in the parking lane at the northeast corner? Mr. Marinik advised the manhole lines up with the parking on the east side in front of Bradley's. He stated there would have to be cones put in front of the

Appeal of Administrative Decision - Southern Bell (cont'd)

manhole and they would have to cone the other two lanes, just to put the traffic over a little and it wouldn't stop the traffic but it will slow it down. Mrs. Wiener asked if they would have a flagman there? Mrs. Smith noted a lot of people wouldn't even see the cones. Mr. Marinik stated if need be, they will have a flagman. Mr. Doney recalled they have discussed whether or not they should be required to have an off-duty police officer.

Mrs. Douthit noted this is an extremely dangerous area especially at this time and an off-duty police officer would be vastly beneficial. Mr. Marinik stated he will cooperate and has no problem with that.

Mrs. Wiener made a motion that Southern Bell be permitted to do their work commencing on January 3, 1994 and they will work as expeditiously as possible with as large a crew as possible at each location and that an off-duty policeman will be provided during the course of the work. Mr. Dusey asked that the work be confined to exactly what they have requested today because there are other things lurking out there. Mrs. Royal noted this should be completed within the eight days after the starting date. The motion was seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Mrs. Wiener asked Mr. Randolph to look into the possibility of perhaps placing a fine against situations such as this as she thought it was much too simple to come and ask for this work to be done and there needed to be better planning on the part of those who come before the Council with these requests, be it Southern Bell or Mondi or whomever.

Mrs. Smith asked when they presented their original plan, did they have a timeframe within which the work was to be done to which Mr. Marinek responded they wanted to have it completed by December 1st.

Adjournment

XVII.ADJOURNMENT - Meeting adjourned at 4:15 PM.

Grace T. Peters
Town Clerk

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

LAST NAME—FIRST NAME—MIDDLE NAME: M. W. Weinberg	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE: Town Council
MAILING ADDRESS: S. Ocean Blvd	THE BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: [X] CITY [ ] COUNTY [ ] OTHER LOCAL AGENCY
CITY: Palm Beach, Fl COUNTY: PB	NAME OF POLITICAL SUBDIVISION: Town of Palm Beach
DATE ON WHICH VOTE OCCURRED: Dec. 14, 1993	MY POSITION IS: [X] ELECTIVE [ ] APPOINTIVE

WHO MUST FILE FORM 8B

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

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

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

ELECTED OFFICERS:

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

In either case, you should disclose the conflict:

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

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

APPOINTED OFFICERS:

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

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

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

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

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

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

DISCLOSURE OF STATE OFFICER'S INTEREST

I, M. William Weinberg hereby disclose that on Dec 14, 1993:

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

___ inured to my special private gain; or

___ inured to the special gain of ______________________________, by whom I am retained.

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

Item B-2 – Golf Commission appointment of I. Henry Stern.

Personal conflict – MWW

Dec 14, 1993
Date Filed

M William Weinberg
Signature

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

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MAILING ADDRESS S. Ocean Blvd	THE BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: [X] CITY [ ] COUNTY [ ] OTHER LOCAL AGENCY
CITY Palm Beach, Fl COUNTY PB	NAME OF POLITICAL SUBDIVISION: Town of Palm Beach
DATE ON WHICH VOTE OCCURRED Dec 14, 1993	MY POSITION IS: [X] ELECTIVE [ ] APPOINTIVE

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- You should complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes.
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LAST NAME—FIRST NAME—MIDDLE NAME M. W. Weinberg	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Town Council
MAILING ADDRESS S. Ocean Blvd	THE BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: [X] CITY [ ] COUNTY [ ] OTHER LOCAL AGENCY
CITY Palm Beach, Fl COUNTY PB	NAME OF POLITICAL SUBDIVISION: Town of Palm Beach
DATE ON WHICH VOTE OCCURRED Dec. 14, 1993	MY POSITION IS: [X] ELECTIVE [ ] APPOINTIVE

WHO MUST FILE FORM 8B

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

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

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

ELECTED OFFICERS:

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

In either case, you should disclose the conflict:

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

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

APPOINTED OFFICERS:

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

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

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

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

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

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

DISCLOSURE OF STATE OFFICER'S INTEREST

I, M. William Weinberg, hereby disclose that on Dec 14, 1993:

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

___ inured to my special private gain; or

___ inured to the special gain of ____________________, by whom I am retained.

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

Item B-2 - Golf Commission appointment of J. Henry Stern.

Personal conflict - MWW

Dec 14, 1993.
Date Filed

M. William Weinberg
Signature

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