MINUTES OF THE TOWN COUNCIL MEETING HELD ON DECEMBER 12, 2000

I. CALL TO ORDER AND ROLL CALL

The Town Council meeting of December 12, 2000, was called to order by President Jack McDonald at 9:30 a.m. On roll call, the following elected officials were found to be in attendance:

Mayor Lesly Smith
President Jack McDonald
President Pro-Tem Samuel McLendon
Councilman William Brooks
Councilman Norman Goldblum
Councilman Allen Wyett

Others in attendance for all or a portion of the meeting were:
Acting Town Manager Thomas Bradford
Town Attorney John Randolph
Finance Director Jane Skittone
Fire-Rescue Chief Vincent Elmore
Fire Marshal Craig Olson
Assistant Fire-Rescue Chief Kent Koelz
Human Resources Director William Crouse
Information Systems Manager Spencer Wilson
Police Chief Frank Croft
Assistant Police Chief Michael Reiter
Police Detective Secretary Linda Greene
Public Works Director Al Dusey
Risk Coordinator Karen Temme
Planning, Zoning & Building Director Robert Moore
Assistant Planning, Zoning & Building Director Veronica Close
Zoning Administrator Paul Castro
Chief Code Compliance Officer Brian House
Recreation Director Russell Bitzer
Planner/Projects Coordinator Timothy Frank
Town Engineer James Bowser
Town Clerk Mary Pollitt

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Town Clerk Pollitt gave the invocation. President McDonald led the Pledge of Allegiance.

III. PRESENTATIONS

A. Recognition of Vincent K. Elmore Upon His Retirement From the Town of Palm Beach After Nineteen Years of Service From November 30, 1981 Through December 22, 2000.

Mayor Smith presented Chief Elmore with a ring and recognized his years of service to the Town.

IV. COMMENTS OF MAYOR LESLY S. SMITH

Mayor Smith recognized Linda Greene as the Employee of the Year.

Mayor Smith's comments were as follows:

As the holidays approach, this is a time for reflection, for thanksgiving and for looking forward to the good things we can accomplish next year. I want to express personal thanks to my colleagues on the Town Council for a year of hard work, diligent consideration on the issues, deliberation with good humor and dedication to serving the needs of all our residents.

I also thank those of you who are here today who regularly take the time to give us your ideas and comments - you are a rare breed, and one hope I have for next year is that there will be more of you. We have a great deal to look forward to - not only as a country that today will finally choose a president, but as a town that reveres its past and welcomes its future.

On a less philosophical note, just a few comments on issues before us.

I am very pleased to report that as a result of my luncheon meeting with mayors and managers of coastal towns, we have generated a cooperative effort to introduce legislation for burying the power lines along our coastal roadways. Kristin Garrison, town manager of Gulf Stream, has drafted a letter asking the Palm Beach County League of Cities to add this to its legislative priority list. We also will be meeting with State Representative Bill Andrews, who has offered to spearhead this project. I hope that one of the good things in our future is eliminating dangerous, unsightly overhead lines and the power failures that result from high winds and corrosion.

Speaking of power failures, FPL has responded to my inquiries about reporting problems and getting prompt restoration of power. One think residents need to remember is that calling Town Hall - while we welcome all your calls - does nothing to get your lights back on! Residents and business owners should call FPL's automated hotline at 1-800-4 OUTAGE - which is 1-800-468-8243. This number is posted on your FPL bills and the Town will try to make this information readily available. We also join FPL in its proactive approach to help resolve tree and power line conflicts.

Since we're talking about the ravages of Mother Nature, we have received some letters and phone calls about street flooding and our director of public works, Mr. Dusey, has shed some light on the problem. Basically, our storm water pump stations are designed to handle 2.3 inches of rainfall an hour, and when a downpour dramatically exceeds that, some flooding does occur. We have budgeted proposals to correct the portions of the collection system that are undersized, beginning in 2002. However, I believe now is the time to change our priorities on the Capital Improvement Program and deal immediately with the crisis areas: specifically Miraflores, Atlantic Avenue, Jamaica and Bahama Lanes. I'm asking the Town Council to take action today to deal with this very serious issue.

There is one factor that contributes to flooding that residents can help with, and that's by making sure that yard trash is gathered up and removed in a timely manner. Vegetation debris clogs the inlets and prevents storm water from getting into the pipe system. During heavy rainstorms, Town field crews patrol our neighborhoods and remove debris from areas that are known to have problems. So while we recognize that flooding is a problem, we are doing everything we can to anticipate and minimize it.

Also within the province of Mother Nature, we have an update from the U.S. Army Corps of Engineers related to our shore protection project. We are told that although the Corps continues to pursue a schedule for engineering and design of the sand transfer plant at the Lake Worth Inlet, it is not likely to enter into any cost-sharing agreement for shore protection projects without a Congressional mandate. As you know, I have met several times with Congressman Clay Shaw in this regard, and my intent - now that he has been re-elected - is to press this issue for Congressional action.

A quick update on the Intracoastal Health Systems issue: While the Community Advisory Board on which I serve has been disbanded, many of us continue to work to keep abreast of progress and have input into proposed solutions. I note that recent reports say that monthly losses have decreased dramatically, from a reported $2.5 million to about half a million dollars a month. Although I find this sudden turnaround a bit mysterious, it is certainly good news and bodes well for the future of both hospitals and assurance of quality health care.

One new issue – the Garden Club has passed a resolution asking the Council to assure protection of historic and specimen tree. While we have always supported this protection, the Garden Club feels – and I share that feeling – that we need to put some teeth in our ordinance. We are asking the Council to approve strict recourse when these trees are endangered, including withholding permitting and, if work has already begun, red tagging the project and halting it until the trees are adequately protected. The Garden Club passed the following resolution:

The Garden Club of Palm Beach continues its firm support of the Specimen tree Ordinance and is very disturbed about the fate of the Strangler Fig on Via Tortuga. It urges the Mayor and the Town Council to introduce some measures to ensure compliance with the ordinance. Before a building permit can be issued, Building and Zoning should receive a site plan showing where the tree is in relation to the house prior to issuing a building permit. Have the tree staked off prior to any construction takes place. It should be monitored weekly. If there are signs of encroachment, red tag the job, and call Public Works.

Finally, I want to add my personal best wishes to Ken Elmore, our Fire Chief, who is retiring after 19 years with the Town. Thank you, Chief Elmore, for your years of service and dedication - we will miss you. We have had several department heads retire after lengthy careers devoted to Palm Beach, but in the sadness of these losses we are buoyed by the return of our own Peter Elwell as Town Manager. We can be highly optimistic about the New knowing that Peter will be in charge. I want to thank Tom Bradford once again for so ably fulfilling this job in the interim, and to express our confidence that he and Peter will make a great management team.

V. APPROVAL OF THE AGENDA

WITHDRAW item XIV.C., Variance No. 6-2000, Edwin L. Ecclestone, Jr., 190 South Ocean Boulevard;

Motion made by Councilman Wyett, seconded by Councilman Brooks, to withdraw item XIV.C., Variance No. 6-2000, from the Agenda. On roll call the motion carried unanimously.

WITHDRAW item XIV.F., Special Exception No. 17-2000 with Site Plan Review & Variance, Echo Restaurant, 230 Sunrise Avenue;

Motion made by Councilman Wyett, seconded by Councilman Brooks, to withdraw item XIV. F., Special Exception No. 17-2000 with Site Plan Review & Variance, Echo Restaurant, 230 Sunrise Avenue, from the Agenda. On roll call the motion carried unanimously.

POSTPONE (DEFER) item XII.C., Ordinance No. 27-00 to the January 9, 2001, Town Council meeting;

Motion made by Councilman Brooks, seconded by Councilman Wyett, to postpone (defer) item XII.C., Ordinance No. 27-00, to the January 9, 2001, Town Council meeting agenda. On roll call the motion carried unanimously.

ADD item X.N., Consideration of the Issue of Computer Terminals for Town Council Members in the Town Council Chambers to be discussed at the January 9th Town Council meeting;

Motion made by Councilman Wyett, seconded by Councilman Goldblum, to add item X.N., Consideration of the Issue of Computer Terminals for Town Council members in the Town council Chambers to the January 9, 2001, Town Council meeting agenda. On roll call the motion carried unanimously.

ADD item X.O., Consideration of Looking at Reverse-Osmosis Options During Periods of Drought to be discussed at the January 9th Town Council meeting;

Motion made Councilman Wyett, seconded by President Pro-Tem Wyett, to add item X.O., Consideration of Reverse-Osmosis Options During Periods of Drought, to the January 9, 2001, Town Council meeting agenda. On roll call the motion carried unanimously.

ADD item X.P., Discussion of the Issue of the Council Authorizing an Ordinance to Regulate Boat Dockage.

Motion made by Councilman Wyett, seconded by Councilman Goldblum, to add item X. P., Discussion of the Issue of an ordinance to regulate boat dockage to the agenda. On roll call the motion carried unanimously. *(At the time of discussion, the Town Council determined that the issue would be added to the January 9, 2001, Town Council agenda.)*

Councilman Brooks moved approval of the Agenda, as amended. The motion was seconded by Councilman Goldblum, and on roll call carried unanimously.

VI. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

The following citizens were heard:

Dr. Sten Lilja requested that he be heard when the issue of the beach restoration was discussed.

Eileen Berman, Vice President of Lehman Brothers, commented on the committee formed to enhance and support the Palm Beach Public School and its students.

Gilda Beane presented photographs and petitions in opposition to feeding feral cats.

Carol Hicks spoke in support of Gilda Beane.

Eric Gilbertson complimented the Mayor and Town Council on the Town Manager selection process.

VII. APPROVED AGENDA

A. APPROVAL OF TOWN COUNCIL MEETING MINUTES OF NOVEMBER 14, 2000

B. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL COMMISSION AT ITS MEETING ON NOVEMBER 17, 2000

C. APPROVAL OF SPECIAL TOWN COUNCIL MEETING MINUTES OF NOVEMBER 29, 2000

D. APPROVAL OF CHECK REGISTERS FOR NOVEMBER 2000

E. OTHER

1. Request for Waiver of Recourse/Fiduciary Liability for the Board of Trustees Public Safety Retirement Plan and General Employees Retirement Plan. Karen Temme, Risk Coordinator.

2. Approval of Extraordinary Longevity Pay Payments to Employees Having in Excess of Twenty (20) Years of Service to the Town of Palm Beach. Thomas G. Bradford, Assistant Town Manager.

3. Approval of Chief Law Enforcement Officer(Frank A. Croft, Chief of Police) Request for Appropriation of Funds from the Special Law Enforcement Trust Fund in the amount of $ 22,500 pursuant to Florida Statute 932.7055. Frank A.Croft, Chief of Police.

4. Approval of Allocation of $8,770.10 From General Fund Contingency for Documentary Stamps to Affix to Deed to 400 South County Road Property (Boynton Landscape Property). John C. Randolph, Town Attorney.

5. Consideration of Staff Recommendation to Add One (1) Holiday (Floating) and One (1) Personal Day to the Schedule of Benefits of the Town of Palm Beach for all Full-Time Personnel Effective January 1, 2001. William C. Crouse, Director of Human Resources.

6. Resolution No. 60-00 - A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Urging Use of Electronic Voting Machines. **(Request to be withdrawn, per Town Councilman Allen Wyett, in as much as this is now being discussed at state and national levels)**

Councilman Wyett moved approval of the Approved Agenda. The motion was seconded by President Pro-Tem Wyett. On roll call the motion carried unanimously.

VIII. COMMITTEE REPORTS

A. Ordinance, Rules, and Standards Committee.

1. December 4, 2000 Committee Report.

REPORT OF THE ORDINANCES, RULES AND STANDARDS COMMITTEE MEETING HELD ON DECEMBER 4, 2000

I. CALL TO ORDER AND ROLL CALL

The meeting was called to order by Chairman William J. Brooks at 9:30 a.m. On roll call, Chairman Brooks and Committee Member Norman P. Goldblum were found to be in attendance. Other Elected Officials in attendance were: Town Council President Pro-Tem Samuel C. McLendon and Councilman Allen S. Wyett. Also attending for all or part of the meeting were: Acting Town Manager Thomas G. Bradford; Town Attorney John C. Randolph; Director of Planning, Zoning & Building Robert Moore; Public Works Director Albert Dusey; Finance Director Jane Skittone; Recreation Director Russell Bitzer; Assistant Police Chief Michael Reiter; Captain Elmer Gudger; Captain Gary Sallenbach; and Town Clerk Mary Pollitt.

II. APPROVAL OF AGENDA

The Committee approved the agenda as presented.

III. AMENDMENT OF NUMBER OF TERMS FOR BOARD AND COMMISSION MEMBERS

After discussion, **THE COMMITTEE RECOMMENDED AMENDING THE NUMBER OF TERMS FOR BOARD AND COMMISSION MEMBERS TO TWO FOR ALTERNATE MEMBERS AND TWO FOR FULL BOARD/COMMISSION MEMBERS FOR A POSSIBLE TOTAL OF FOUR TERMS PER MEMBER WITH THE CONDITION ANY CURRENT MEMBER(S) UP FOR REAPPOINTMENT IN FEBRUARY OF 2001 BE EXEMPTED FROM THIS REQUIREMENT.**

IV. DISCUSSION RELATIVE TO FERAL CAT CONCERNS

The Committee heard comments from the following persons regarding the feral cat issue:

Constance Lang, 313 Chilian Avenue

David Kamenstein, 306 Chilian Avenue

Attorney Diane Sands, representing Palm Beach Cat Rescue/Catherine Bradley

Catherine Bradley, Palm Beach Cat Rescue

Pearl Weinstein, 150 Bradley Place

Susan Lee, 287 Pendleton Avenue

Cecelia Leaf, 150 Bradley Place

Sam McLendon, President Pro-Tem, Palm Beach Town Council

Allen Wyett, Town of Palm Beach Councilman

Dr. Brad Ochstein, Island Animal Hospital

After hearing from the aforementioned individuals, the **COMMITTEE RECOMMENDED THAT CATHERINE BRADLEY, DR. BRAD OCHSTEIN, AND ATTORNEY DIANE SANDS SUBMIT A PROPOSAL TO THE TOWN COUNCIL AT THE JANUARY 9, 2001 MEETING WHICH WOULD ADDRESS THE CONCERNS DISCUSSED AT THIS MEETING TO INCLUDE PUBLIC HEALTH ISSUES, AS WELL AS A LONG TERM SOLUTION TO THE NUMBER OF FERAL CATS, WITH THE UNDERSTANDING THAT IT WILL THEN GO BACK TO THE ORDINANCES, RULES AND STANDARDS COMMITTEE FOR FURTHER CONSIDERATION.**

V. POSTING OF SIGNS AT PUBLIC BEACH AREAS ADVISING OF LITTERING FINES AND PLACEMENT OF WASTE BASKETS AT PUBLIC BEACH ACCESS AREAS

After hearing comments from Public Works Director Dusey and Assistant Police Chief Reiter, **THE COMMITTEE RECOMMENDED SIGNS BE PLACED ON EXISTING TRASH RECEPTACLES ONLY: NO NEW SIGNS.**

VI. LICENSURE AND REGULATORY CONTROL OF VALET PARKING OPERATIONS

After discussion of this issue and hearing comments from Councilman Wyett, Assistant Police Chief Reiter, and Town Attorney Randolph, **THE COMMITTEE STATED THEY COULD NOT RULE ON THIS ISSUE AT THE PRESENT TIME.**

Acting Town Manager Bradford said he would obtain a copy of the West Palm Beach valet regulations used in the Clematis Street area.

Town Attorney Randolph said he would investigate the possibility of valet permitting by the Town.

VII. ANY OTHER MATTERS

There were none.

VIII. ADJOURNMENT

The meeting was adjourned at 10:55 p.m.

William J. Brooks, Chairman

Norman P. Goldblum, Committee Member

Chairman of the Ordinances, Rules, and Standards (ORS) Committee Brooks, reported that the Committee had recommended that the number of terms for board and commission members be amended to two for alternate members and two for full board/commission members.

Mr. Brooks reported that the Committee recommended that Attorney Diane Sands, and Mrs. Catherine Bradley submit proposals in writing for the Town Council to aid in a solution to the feral cat problem. He noted that it was not the intention to have them speak at the January 9, 2000, Town Council meeting, but that they simply submit proposals in writing to help in the creation of a suitable ordinance; it was the full expectation that the ORS Committee would then meet to discuss such an ordinance.

Mr. Brooks referred to the item considered by the Committee concerning the posting of signs in public beach areas regarding littering fines and the placement of waste baskets at public beach access points, and reported that the Committee had learned that there were already waste baskets at the public beach access points, and thus had recommended that there be no additional signs posted, but rather that a sign/notice be posted on the waste basket itself to alert the public.

Mr. Brooks reported that the Committee could not rule on the issue concerning regulatory control of valet parking operations, as there was the distinct possibility that there could be disparate treatment for dining establishments located on a State road, as distinct from a public road.

Councilman Wyett noted that the re-appointment for boards and commissions would occur in March, instead of February, as there were several upcoming appointments in March already.

Mr. Brooks clarified that the feral cat issue would not be addressed at the January 9, 2000, Town Council meeting, as the ORS Committee would first discuss the issue before returning to the Town Council for consideration of a resolution. He explained that Acting Town Manager would notify all interested parties of the recommendations of the ORS Committee.

President McDonald clarified that Mrs. Beane would be able to attend the ORS Committee meeting which would be scheduled to discuss the feral cat issue.

Mayor Smith commented that perhaps additional trash receptacles could be installed on the bike trail.

President McDonald clarified that Public Works Director Dusey would review the situation.

Mr. Brooks moved adoption/approval of the report of the ORS Committee. The motion as seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

IX. PUBLIC HEARINGS

A. Landmark Designation of 163 Seminole Avenue, Resolution No. 59-00.

Town Clerk Pollitt verified proof of publication, and administered the oath to all those who would be addressing the issue.

Planner/Projects Coordinator Timothy Frank reported the Landmarks Preservation Commission had studied the subject property at 163 Seminole Avenue, finding that the property met the criteria for designation as a landmark in the Town of Palm Beach.

Historic Preservation Consultant Jane Day reported that the property at 163 Seminole was designed by Addison Mizner in 1921; the house had been added on to in 1928 by Maurice Fatio, and in 1932 by Howard Major. The house was a good example of the Mediterranean Revival style, and although there was unanimous approval for landmarking by the Landmarks Preservation Commission, there was owner objection. Ms. Day stated that she believed that this property would be an important landmark example to indicate how Mizner designed a property which was then added on to by other important architects in the history of the Town of Palm Beach.

President Pro-Tem McLendon moved acceptance of the report as part of the record. The motion was seconded by Councilman Wyett. On roll call the motion carried unanimously.

Dr. Steven Rose, owner of the house at 163 Seminole Avenue, commented that the house had been in his family since 1947, and that he did not think it was a very good architectural example, because there was a gate and 10' wall in front of the house blocking any other view of it. He noted that there had been large architectural changes made to the house, many by unknown builders/architects, and he objected to the landmarking of the house; he indicated that it was intended that the house would be kept in the family and that he would like the house to remain as is.

Director of Planning, Zoning & Building Robert Moore commented that the Town Council could recommend ratification, denial, or amendment to the landmarking of the home, and that the door only could be landmarked, as discussed at the Landmarks Preservation Committee meeting.

Historic Preservation Consultant Jane Day explained that the house had been proposed by Mr. Jeff Smith, Chairman of the Landmarks Preservation Commission, and that many of the architects who had worked on the many changes made to the house were well known architects. She explained that it would be valuable to study how a well known architect would alter the work of another, which was particularly important for architectural historians.

Mayor Smith commented that there was a precedent for landmarking only the door, and that it would be difficult to override the owner's objection on the entire landmarking of particular house.

President Pro-Tem McLendon moved approval of the report of the Landmark Preservation Commission on 163 Seminole Ave. The motion was seconded by Councilman Wyett, and on roll call carried unanimously.

Councilman Brooks moved deferral of Resolution No. 59-00 to the January 9, 2001, Town Council meeting, so that the resolution could be amended so as to include only the door of the building. The motion was seconded by Councilman Wyett, and on roll call carried unanimously.

X. REGULAR AGENDA

Old Business

A. Update on the Proposed Florida Department of Transportation Project on Royal Poinciana Way Phasing Plan. James M. Bowser, Town Engineer.

Town Engineer James Bowser reported that an agreement was in progress with the Royal Poinciana Association regarding the improvements over and above the Florida Department of Transportation (FDOT) plan.

Mr. Leslie Shaw, of the Royal Poinciana Association reported that the estimate for the replacement of the metal galvanized sign poles was approximately $15,000; that figure would not take the potential credit from the FDOT into consideration. He noted that there was a meeting held with various civic associations in the Town of Palm Beach, and there had been unanimous agreement for a uniform, standardized sign pole program. He proposed that the proposed 41 metal galvanized sign posts be reduced to 32 poles. He requested that the Town Council give some assistance in obtaining a commitment stating that the south side of Royal Poinciana Way would not be started in the summer of 2001, if the north side of Royal Poinciana Way was not completed by a specific date.

Ms. Perla Medina-Kinney of FDOT, commented that she could not speak to the issue of a commitment regarding the south side of Royal Poinciana Way, however, she did not believe that it would be possible to suspend the job and re-start it the following year without incurring some major costs. She explained that an official estimate had been made of 200 days for construction; the FDOT was encountering a problem in that there was no definitive direction being given today, and the project would be further delayed as a result. She emphasized that a drop-dead date must be established, and details must be furnished so that the project could move along; all changes must be finalized by the next Town Council meeting if they were to be incorporated.

Mr. Shaw responded that the sidewalk issue had been resolved, and in essence the pole signage was the remaining issue.

Ms. Medina-Kinney replied that the contract would be effected by the pole sign issue, as the FDOT was not in the business of doing decorative sidewalks, and Mr. Miller, the architect, would need to provide all details, which had not as yet been supplied; in addition, the contact could not provide for the standard poles to be later replaced by decorative poles – everything would need to be in the package initially.

Mr. Shaw stated that he would take the responsibility to ensure that the details would be provided to FDOT at an appropriate date.

Ms. Medina-Kinney commented that the start date for the project had been April 30. 2000; she proposed that all costs and details be available at the next meeting date, and if it was not received the FDOT would have to proceed with the contract. She mentioned that the bulk of the work would be completed in the summer months.

Mayor Smith suggested that the cut-off date for submitting material to the FDOT be December 22, 2000.

Mr. Shaw responded that he would get the material to the FDOT as soon as possible.

B. Status Report Regarding the Town Beach Restoration Project. Albert P. Dusey, Director of Public Works.

Public Works Director Al Dusey reported that the consultant had responded to the Florida Department of Environmental Protection (FDEP) request for additional information regarding the mid-town project. The draft permit was issued for Phipps Ocean Park on December 1, 2000. There was no change in the erosion control line status since last month; notification had been received from the State that the Town of Palm Beach was in the mix for funding at a 50% level to help with the feasibility studies on Reaches, 2, 5, and 8. Draft proposals had been received from the consultant on Reaches 2 and 5. Notification had been received regarding funding from the State that the Town of Palm Beach appeared to be in the priority list for the monitoring of mid-town and Phipps Ocean Park, which would be required after construction.

In response to Councilman Wyett regarding an emergency effort on Reach 8, Mr. Dusey replied that if it was possible he would like to concentrate on the very bad spots and get it done very quickly, which was his goal.

Mr. Dusey indicated that he would report back to the Town Council regarding this issue at the January 9, 2001, Town Council meeting.

C. Status Report Regarding Progress of Florida Department of Transportation South County Road Project. James M. Bowser, Town Engineer.

Town Engineer James Bowser reported that Mr. Eric Pedrone, of the Florida Department of Transportation (FDOT) was present, as well as Mr. Bob Schaffer of Ranger Construction in order to respond to any questions concerning the South County Road project.

Mr. Eric Pedrone, Project Engineer, FDOT, reported that some difficulties had been encountered in construction – a gas conflict during the Barton construction; conflict with The Breakers sanitary sewer; continued problems with ground saturation due to lake elevations by The Breakers. He estimated a completion date of early February.

Mr. Bob Schaffer, Ranger Construction, reported that the majority of the sidewalk would be in place in late December; minor lane closures afterwards would take approximately five days; landscaping and lighting fixtures would then need to be completed. He noted that he had never been involved in a project that had seen this magnitude of unexpected conflicts.

Councilman Brooks suggested that some consideration be given to the Bethesda-by-the-Sea area to enable use of the sidewalks.

Mr. Schaffer responded that all efforts would be made to install the sidewalks, or at the least install base material so that the sidewalks could be used by pedestrians.

Mayor Smith commented that The Breakers golf course renovation had caused delays in the project, and she suggested that The Breakers' main entrance be put on the bottom of the priority list with more attention given to the residential and business areas of the Town.

In response to the concerns of President Pro-Tem McLendon regarding the flooding of South County Road near The Breakers, Town Engineer Bowser replied that he would write the FDOT to request that their engineers explain the design criteria used for the roadway; he commented that it sounded as if there may be a problem with the South Florida Water Management District (SFWMD) and the FDOT design, which must be resolved.

D. Status Report on U.S. Army Corps of Engineers Activities Toward Upgrade of Lake Worth Inlet Sand Transfer Plant and Other Activities Providing for Accretion of Sand on Town Beaches. Albert P. Dusey, Director of Public Works.

Public Works Director Al Dusey reported that the Corps of Engineers maintained that they were on schedule for completion of the feasibility study regarding the Sand Transfer Plant; they were continuing to permit and design the expansion of the settling basin, which was a critical element, and a plan to place that sand someplace on Town beaches after it was dredged.

Mr. Dusey reported that the Peanut Island sand was intended to be placed on the Town beaches, most likely at Phipps Ocean Park. The sand from the Intracoastal Waterway was planned to be placed in the Lake Worth Municipal Golf

Course, with any extra beach quality sand to be placed on Town beaches.

Mr. Dusey reported that a meeting would be scheduled with the re-elected Congressman Clay Shaw to discuss how to further pursue federal participation in Town projects.

E. Status Report BellSouth Issues:

1. Response to BellSouth's Proposal for Settlement Offer on Public Service Tax and Franchise Fee Audit in BellSouth Telecommunications, Inc., vs. Town of Palm Beach. John C. Randolph, Town Attorney.

Town Attorney Randolph reported that he had received communication from Attorney Tom Dye, representing BellSouth Telecommunications, Inc., proposing a $70,000 settlement, rather than the previous offer of judgment of $60,000. He indicated that staff had provided an analysis of the anticipated sum due the Town under ideal circumstances, in the amount of $300,000 - $500,000, if that analysis was correct. He noted had not yet spoken with Attorney Dye regarding the most recent settlement offer – he suggested that the Town Council could direct him to address the most recent settlement offer with Attorney Dye, or could hold a closed door session regarding the matter.

Councilman Wyett commented that he preferred a closed door session, as he had a number of comments that he would like to make; Councilman Goldblum and Councilman Brooks agreed, as did President Pro-Tem McLendon.

****

At this time, the issue regarding the Sea Lord property was discussed. Chief Code Compliance Officer Brian House reported that the money owed to the Town had been collected, and the lien had been replaced. He had visited the area recently, and there had been only one small code violation, which he had been assured would be taken of within the next day.

Councilman Brooks commented that the residents in the area continued to complain, alleging that the owner was not making an effort to suitably renovate the property.

Mr. House responded that he had heard of discussions regarding a sale of the property; in addition he had communicated with the contractor, who had indicated that he was in the process of forming a letter asking to be removed from the project.

****

New Business

F. Authorization for Town Attorney to File Amicus Curiae Relative to the Religious Land Use and Institutionalized Person Act (RLULPA). John C. Randolph, Town Attorney.

Town Attorney Randolph referred to an article in the Nation's Cities Weekly concerning the Religious Land Use and Institutionalized Persons Act (RLUIPA), which was opposed by the National League of Cities, but which had now become law. Litigation was expected, and the Florida League of Cities had adopted a resolution opposing the RLUIPA, however, they did not anticipate joining in any litigation. He indicated that he did know of any litigation at this time to which the Town could join as an amicus, and he suggested that the issue be followed closely to determine if the Town of Palm Beach would join in any lawsuit.

Councilman Brooks moved approval of the recommendations of Town Attorney Randolph, and when/if something tangible presented itself the Town of Palm Beach could join the lawsuit as a friend of the court, and not file anything under its own name; the item would be placed back on the Agenda for discussion at a later date. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

G. Publix Request for Lifting Restrictions on Sale of Alcoholic Beverages on Sunday, December, 24 and December 31, 2000.

Mr. Mark Morabito, Store Manager, Publix Store #161 - 265 Sunset Avenue, Palm Beach, addressed the town Council, requested that the restrictions limiting the sale of alcoholic beverages between 7:00 a.m. to 1:00 p.m. on December 24th and December 31st be lifted in order to accommodate customers.

Town Attorney Randolph pointed out that an amendment to the Town ordinance in this regard would be required.

The Town Council took no action in this regard.

H. Discussion on Establishment of Evaluation Process for Town Manager, with Goals and Objectives.

President McDonald suggested that a form be created so that the Town Council could review the form, and then be in a position to evaluate Acting Town Manager Bradford, whose anniversary date was May 1, 2001, as the newly appointed Town Manager Peter Elwell would not be in the position long enough to evaluate Mr. Bradford. A form had been provided by Mr. Bradford, and President McDonald suggested that each Town Council member review the form and be in a position by February 2001 to make some recommendations as to which form would be used to informally, on an individual basis, to evaluate Mr. Bradford by his anniversary date. He explained that, although the manager would usually be evaluated in a public forum, Mr. Bradford would not be evaluated next year, and there would be no reason at this time to put Mr. Bradford through a public review.

Mayor Smith commented that Mr. Bradford had provided a very comprehensive form for evaluating, and suggested that it could be used for evaluating the Town Manager with very little modification.

President McDonald suggested that Mr. Elwell should also have some input into the standard form used for evaluating the Town Manager, which was the reason he had not recommended it be adopted in its present state.

Acting Town Manager Bradford commented that the formal goals and objectives included in the evaluation process would take some time, and requested Town Council direction in this regard.

President Pro-Tem McLendon commented that Mr. Bradford could begin work on the goals and objectives to be included, subject to modification by Mr. Elwell.

Councilman Brooks commented that he preferred that the goals and objectives be considered by Mr. Elwell after he had been in the position for several months. He suggested that the evaluation of Mr. Bradford could be accomplished by the Town Manager.

Councilman Goldblum commented that he preferred to see Mr. Bradford and Mr. Elwell work in concert to set up the evaluation goals/objectives/procedure; he did not believe that Mr. Bradford would need to have an evaluation as Assistant Town Manager.

Councilman Wyett commented that the Assistant Town Manager was part of the staff of the Town Manager, and that he did not believe Mr. Bradford would need an evaluation until the arrival of Mr. Elwell.

Mayor Smith commented that she concurred with the remarks of the Town Council; the Town Manager could do the evaluation of Mr. Bradford when appointments were made in September; Mr. Bradford and Mr. Elwell could then work on the goals/objectives together. She noted that Mr. Bradford was now in command, and if he wished to write goals and objectives that was his decision.

I. Consideration of Approval of Proposed Employment Agreement with Peter Elwell as Town Manager. John C. Randolph, Town Attorney.

Town Attorney Randolph referred to the professional employment agreement negotiated with Peter Elwell as Town Manager, and offered to respond to any questions.

Councilman Wyett noted that the agreement included awarding Mr. Elwell all of the rights and privileges of his previously employment because of the short hiatus, and he asked if Mr. Elwell had taken any monies from the retirement fund when he left employment with the Town of Palm Beach?

Town Attorney Randolph responded that he understood that Mr. Elwell had left his money in the pension plan.

President McDonald questioned the first review date, which was February 12, 2002, suggesting that the performance evaluation be tied closer to the budget period.

Town Attorney Randolph responded that had been discussed with Mr. Elwell, who understood that there may be a performance evaluation prior to an annual anniversary date; the language in the agreement stated – "on intervals at least annually from the starting date, the Town Council shall consider the employee's performance," which would not preclude an earlier performance evaluation.

President McDonald replied that would not work for the first-time evaluation because of the budget timing; he suggested that there be a correction for the first-time evaluation – an understanding that instead of giving the review in February 2002, it may be several months later.

After discussion, Mr. William Guttman commented that he believed it was very important for a performance evaluation system to have clear cut goals/objectives – six months from now those goals/objectives would not be in place and a performance evaluation of Mr. Elwell would not be appropriate at that juncture; he suggested that a 15-month period for the first formal evaluation would be appropriate, as suggested by President McDonald.

President McDonald commented that the salary review would be another matter.

Town Attorney Randolph advised that it was his understanding that Mr. Elwell understood that there would be a salary review prior to a year's period of time. He suggested that this issue could be discussed, and a follow up letter could be written to Mr. Elwell in this regard. He advised that he would like the opportunity to discuss the issue with Mr. Elwell, along with President McDonald.

Councilman Wyett moved approval of the proposed Employment Agreement with Peter Elwell subject to the clarification that the first-time performance evaluation would not take place for approximately 15-18 months. The motion was seconded by Councilman Brooks. On roll call the motion carried unanimously.

President McDonald called for a motion regarding the proposed $30,000 expense allocation to Mr. Elwell, designated to come from the General Fund Contingency.

Councilman Brooks moved approval of the allocation of up to $30,000 for expenses incurred by Mr. Elwell, designated to come from the General Fund Contingency. The motion was seconded by Councilman Wyett. On roll call the motion carried unanimously.

J. Consideration of Request to Have a Fireworks Display on December 17, 2000 at The Breakers Hotel Pursuant to Section 46-79(c) of the Code of Ordinances. Steve Freedman, Sparktacular.

Mr. Steve Freedman, from Sparktacular, addressed the Town Council, requesting the use of a pyrosign for a wedding at The Breakers Hotel, with the name of the bridge and groom.

Councilman Brooks moved denial of the request to have a fireworks display on December 17, 2000 at The Breakers Hotel. The motion was seconded by Councilman Wyett. On roll call the motion carried unanimously.

K. Request for Approval for the Beach Club, Inc., Proposed Declaration of Restrictive Covenants and Proposed Acceptance of Declaration of Restrictive Covenants. John C. Randolph, Town Attorney.

Attorney Wade Byrd, representing the Beach Club, Inc., requested acceptance by the Town of a voluntary Declaration of Restrictive Covenants from the Beach Club.

Councilman Goldblum moved approval of the Declaration of Restrictive Covenants from the Beach Club. The motion was seconded by Councilman Brooks. On roll call the motion carried 4/0, as President Pro-Tem McLendon abstained from voting, as he was a member of the Beach Club.

L. Selection Committee Report on Recommendations for Landscape Architect(s) for Design of Park at Boynton Landscape Parcel. Mayor Lesly Smith and Allen Wyett, Town Councilman.

Councilman Allen Wyett reported that there had been a CCNA selection process, with five candidates, each of which presented an excellent report, and preliminary plans. Three firms were selected to give presentations to the Town Council and to the public (Murakami Landscape Architects, Inc., Sanchez and Maddux, Inc., and W.K. Dixon). It was proposed that each firm would set their proposals up in the Town Council Chambers, and the public would be invited to review them and give input.

The Town Council determined that a workshop would be set for January 4, 2001 at 2:30 p.m. in the Town Council Chambers.

****

At this time, the previously referred to closed door session was scheduled for discussion of BellSouth

Telecommunications, Inc. vs Town of Palm Beach, Case No. 98-9010 AI.

Date: January 4, 2001 @ 1:00 p.m. at Town of Palm Beach Town Hall, 360 S. County Road, Palm Beach, FL 33480

Subject: BellSouth Telecommunications, Inc., vs. Town of Palm Beach, Case No. 98-9010AI, for advise for the Town Attorney in regard to settlement.

Names of persons in attendance: Town Attorney John Randolph
Acting Town Manager Thomas Bradford
Court Reporter
Mayor Smith
Town Council President Jack McDonald
Town Council President Pro-Tem Samuel McLendon
Town Councilman William Brooks
Town Councilman Allen Wyett
Town Councilman Norman Goldblum

****

M. Discussion of Drainage Concerns Resulting From November 25, 2000 Rainfall Event.

Director of Public Works Al Dusey reported that the rain event that occurred on November 25, 2000 was extraordinary, equivalent to a 50-year storm event; the drainage system could not tolerate that quantity of rainfall. He explained that in heavy rains, yard trash could wash off of properties and clog the system. In addition, flooding occurred in areas where there, undersized or non-existing drainage systems, and proposed budgeting was in place to start correcting these deficiencies in FY2002. He suggested that consideration be given to jump starting the program by appropriating monies from the undesignated fund balance, however, that would not take care of the flooding that occurred in the November 25th storm, as the system was overwhelmed by the extraordinary amount of rainfall. He explained that during that storm there were two pump stations that were short one pump, which contributed to increased flooding, however, the property would have flooded anyway.

Ms. Mary Weiss, 340 Brazilian Avenue, commented that she had been flooded two times in three years. She maintained that water was draining from adjoining properties and from across the street from her property. She urged that some preventative action be taken.

Mayor Smith commented that the water had flowed south from the 340 Brazilian Avenue area into the alley to the Casa DeCarlos area, where three garages were flooded. She suggested that more pipes were needed in that area.

President McDonald suggested that Town Engineer Bowser review the area and determine what may be causing the problem in that area.

Mr. Michael McCloskey, 202 Coral Lane, addressed the Town Council, stating that he believed Mr. Dusey was wrong about the recent rainfall being a 50-year event — he had lived at 202 Coral Lane for two years, and the house had been flooded five times. He also stated that the storm drainage system in the Town of Palm Beach was completely inadequate to handle the impervious surface versus what was pervious 20 years ago.

Mr. Dusey responded that the pipes in the area were too small, and a replacement pipe program had been planned.

Mr. William Cooley, 233 Tradewind Drive, commented that he had experienced water in the garage and up to the front steps of the house. He noted that he also had a house on Ridgeview Drive which had six inches of rain and had experienced poor drainage. He suggested that area also be considered as an area in need of drainage improvement.

Mr. David Barton, 216 Jamaica Lane, commented that unwanted water was the biggest single threat to any barrier island, Palm Beach in particular, which originally had a major swamp in what was now the northend neighborhood. Major flood zones in Palm Beach neighborhoods called from major differences in land use restrictions, which were not reflected today. Major flood problems are worsened by allowing two large houses with huge roof watersheds to throw water on existing lower level properties. The Town did not even require the huge new houses to install rain gutters and down spouts to be tied directly into Town drainage. He noted that the storm in November was the third storm in 18 months, and he maintained that the pump on his street did not kick in until noon; there were no clogged drains on the street. He asserted that the building moratorium should be in the watershed areas, not just in the flood zones. He noted that the house next door to him had no drainage, no water spouts, no down spouts, and threw water directly onto the house behind it. He urged that something be done about the new huge houses; he stated that he was calling for a moratorium on all new building in any water shed area, which was the swale area of the northend.

Mr. McCloskey stated that he had water in front of his house up to his hips, nine hours after it had stopped raining.

****

The Town Council meeting of December 12, 2000, was adjourned
for the luncheon break at 12:30 p.m.

The Town Council meeting of December 12, 2000 was reconvened at 2:08 p.m.

****

Discussion of drainage concerns resulting from the November 25, 2000, rainfall event continued.

Director of Public Works Dusey presented a "Rainfall Intensity Duration Curves" graph, wherein he had plotted the November storm rainfall, based on evidence from the Everglades Club, and Palm Beach Country Club, which indicated a 50-year storm. He noted that similar drainage problems had occurred during Hurricane Irene, however, the system would take a lot of rain spread out over time without significant flooding. He explained that there were many pipes in the system that were undersized, which could be remedied – the process could be accelerated by the allocation of funding right now, and attempts would be made to do the project this summer, if possible. He noted that would still not improve some of the areas that had been discussed, however. In addition, he suggested that a solution to the trash problem would be helpful to the drainage problems. He pointed out that there would always be rainfall events that would cause flooding.

In response to Councilman Goldblum, Mr. Dusey replied that additional pumping capacity could be requested from the South Florida Water Management District (SFWMD), which would be denied, and the Town would then go to a 120 Hearing. He explained that the pump stations were doing exactly what they were intended to do, and there were many pipes that were too small – the pumps could handle the water, but the water could not get into the pipes fast enough.

Councilman Goldblum suggested that the Town get some kind of special exception when heavy storms occurred, so that there would be the capacity and pumps to discharge the water.

Mr. Dusey replied that perhaps Town Attorney Randolph could give assistance with the legal issues involved.

Town Attorney Randolph advised that application to SFWMD would have to be made, and if it was denied, the public hearing process would take place.

Councilman Goldblum recommended that the application be submitted to SFWMD, and that an engineering study be obtained indicating what must be done.

Councilman McLendon clarified that it was illegal to have an emergency overflow of water into the sanitary sewer system.

Mr. Dusey agreed, and stated that it was against the Federal laws.

Councilman Wyett suggested that mid-Town building regulations be reviewed in an effort to reduce the amount of building on small lots, and offer more space to absorb the run-off.

Mr. Dusey responded that type of regulation would have to be done everywhere in the Town, as there had been flooding from mid-Town to the northern part of the Town. He noted that the Town Engineer had been requiring proper retention requirements on all site plans.

Councilman Wyett suggested that a switch in trash pick up days in the northend/southend trash pick up days may be helpful in order to avoid the trash interfering with the drains – have the northend picked up on Friday; the southend picked up on Monday.

Mr. Dusey replied that there was no objection to making that switch, as long as the residents in the southend were happy with that schedule. He stated that he would review the ordinance governing trash pick up, to determine if any amendments were required, and discussion could take place at the next Town Council meeting.

Motion made by President Pro-Tem McLendon to approve the allocation of $1 million from the undesignated fund balance for the purpose of an accelerated drainage pipe replacement program. The motion was seconded by Councilman Wyett. On roll call the motion carried unanimously

add to public works meeting scheduled for December 14, 2000

President McDonald suggested that the issue of green space, as brought up earlier by Mr. Barton, could be discussed with the Zoning Commission on January 3, 2000.

Mayor Smith suggested that the Building Department convey to builders/designers that paver blocks, brick and the like would not be acceptable surface coverings because of the drainage problems. After discussion, it was determined that the issue of a moratorium would be discussed at the Zoning Commission on January 3, 2000, and/or at the January 9, 2001 Town Council meeting.

President McDonald clarified that the issue of yard trash would be discussed at the upcoming Public Works Committee meeting to be held on December 14, 2000; he indicated that Public Works Director Dusey would contact Mrs. Weiss to discuss her concerns.

Councilman Brooks noted that there would be a budget workshop in February, and he encouraged Mr. Dusey to be prepared to address the funding for drainage issues at that time.

N. Consideration of the Issue of Computer Terminals for Town Council Members in the Town Council Chambers

Councilman Wyett commented that there was a massive amount of paperwork in preparation for the Town Council meetings; Mr. Bradford had estimated that three girls worked sixteen hours in one week to prepare the notebooks for the Council members. He suggested that computer terminals be installed in the Town Council Chambers and at the desks of the Council members to avoid the paperwork and also have the availability of information at their homes.

Councilman Wyett moved approval of placing the consideration of the issue of computer terminals for Town Council members on the agenda for the Town Council meeting to be held on January 9, 2001. The motion was seconded by President Pro-Tem McLendon.

Councilman Brooks commented that he preferred to read the material, rather than sit at a computer station; he stated that he liked to read and make notes.

On roll cal the motion carried 3/2, with Councilman Brooks and President McDonald casting dissenting votes.

O. Consideration of Looking at Reverse-Osmosis Options During Periods of Drought

Councilman Wyett suggested that a reverse-osmosis program for use during periods of drought should be prepared so that additional water could be used in a long term drought. He made a motion to add discussion of this item to the January 9, 2001, Town Council Agenda. The motion was seconded by President Pro-Tem McLendon.

Mayor Smith commented that the Palm Beach County was currently under a water shortage emergency, which was imposed by the South Florida Water Management District, and watering was allowed only on certain days and at certain times; information regarding same would be available in the Building Department.

Public Works Director Al Dusey commented that there was a completed study in this regard that had been prepared approximately one year ago.

On roll call the motion carried unanimously.

P. Discussion of an Ordinance to Regulate Boat Dockage

Councilman Wyett noted that some boats were docking for the entire season, and he recommended that some restrictions be implemented in order to control boat dockage in the Town of Palm Beach. He made a motion to add discussion of regulation of boat dockage in the Town of Palm Beach to the January 9, 2001, Town Council Meeting Agenda. Councilman Goldblum seconded the motion. On roll call the motion carried unanimously.

XI. RESOLUTIONS

A. Resolution No. 56-00 - A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Mayor to Execute the Statewide Mutual Aid Agreement Between the State of Florida, Palm Beach County, Town of Palm Beach, and Other Political Subdivisions of the State. V.K. Elmore, Fire-Rescue Chief.

Town Attorney Randolph read Resolution No. 56-00 by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH

COUNTY, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE THE STATEWIDE MUTUAL AID AGREEMENT BETWEEN THE STATE OF FLORIDA, PALM BEACH COUNTY, TOWN OF PALM BEACH, AND OTHER POLITICAL SUBDIVISIONS OF THE STATE.

Councilman Brooks moved approval of Resolution No. 56-00. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

B. Resolution No. 57-00 - A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Vacating and Abandoning a Three Foot Utility Easement on Property Commonly Known as 101 Seaspray Avenue, Palm Beach, Florida. James M. Bowser, Town Engineer.

Town Attorney Randolph read Resolution No. 57-00 by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, VACATING AND ABANDONING A THREE FOOT UTILITY EASEMENT ON PROPERTY COMMONLY KNOWN AS 101 SEASPRAY AVENUE, PALM BEACH, FLORIDA.

Councilman Goldblum moved approval of Resolution No. 57-00. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

C. Resolution No. 58-00 - A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Vacating and Abandoning a Portion of the Right-of-way of Seaspray Avenue Adjacent to Lots 518, 520, 522, and 524, Poinciana Park Second Addition, as Dedicated and Described in Plat Book 6, Page 86, in the Public Records of Palm Beach County, Florida, on Property Commonly Known as 101 Seaspray Avenue, Town of Palm Beach, Florida. James M. Bowser, Town Engineer.

Town Attorney Randolph read Resolution No. 58-00 by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, VACATING AND ABANDONING A PORTION OF THE RIGHT-OF-WAY OF SEASPRAY AVENUE ADJACENT TO LOTS 518, 520, 522, AND 524, POINCIANA PARK SECOND ADDITION, AS DEDICATED AND DESCRIBED IN PLAT BOOK 6, PAGE 86, IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, ON PROPERTY COMMONLY KNOWN AS 101 SEASPRAY AVENUE, TOWN OF PALM BEACH, FLORIDA.

Councilman Goldblum moved approval of Resolution No. 58-00. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

XII. ORDINANCES

Second Reading

A. None

First Reading

B. Ordinance No. 26-00 - Amending Chapter 82 of the Code of Ordinances Relating to the Retirement System at Section 82-52 to Add a Definition; to Add Section 82-72 Providing for Payment of Supplemental Pension Distributions to Public Safety Retirants; to Amend Section 82-95(C) to Increase to Sixty Percent (60%) the Percentage of Assets Which May be Invested In Common Stock by the Public Safety Board of Trustees. William C. Crouse, Director of Human Resources.

Town Attorney Randolph read Ordinance No. 26-00 by title: (first reading)

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 82 OF THE CODE OF ORDINANCES RELATING TO THE RETIREMENT SYSTEM, AT SECTION 82-52, TO ADD A DEFINITION; TO ADD SECTION 82-72, PROVIDING FOR PAYMENT OF SUPPLEMENTAL PENSION DISTRIBUTIONS TO PUBIC SAFETY RETIRANTS; TO AMEND SECTION 82-95(C) TO INCREASE TO SIXTY PERCENT (60%) THE PERCENTAGE OF ASSETS WHICH MAY BE INVESTED IN COMMON STOCK BY THE PUBLIC SAFETY BOARD OF TRUSTEES; PROVIDING FOR SEVERABILITY; PROVIDING FOR

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

Councilman Goldblum moved approval of Ordinance No. 26-00. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

C. Ordinance No. 27-00 - Amending Section 1-14 of the Town's Code Relating to General Penalty, at Subsection (a), so as to Provide for a Fine Not to Exceed $500.00 and Eliminating a Term of Imprisonment. John C. Randolph. Town Attorney.

Deferred earlier in the agenda, under Item V. Approval of the Agenda.

XIII. COMMENTS OF THE TOWN COUNCIL MEMBERS

Councilman Brooks suggested that all additions to the Agenda be submitted in the two-week window provided for that purpose; he explained that he would like the opportunity to thoroughly examine each item.

President McDonald complimented the Finance Director, Jane Skittone, and Acting Town Manager Thomas Bradford on the budget book.

Councilman Goldblum wished all healthy and happy holidays.

XIV. DEVELOPMENT REVIEWS

Town Clerk Pollitt administered the oath to all those who would be testifying.

A. Time Extensions

1. Request by Hedrick Brothers Construction Co., for Extension of Time Through the First Part of February to Complete the Construction of the Boat House at 974 South Ocean Boulevard Which Town Council Granted Through Special Exception No. 2-2000 on February 8, 2000. Doyle Rogers, Esq.

Ex-parte communication was declared by Councilman Brooks with Attorney Doyle Rogers; by Councilman with Attorney Rogers, and by Councilman Wyett with Attorney Rogers.

Director of Planning, Zoning & Building Robert Moore summarized that Special Exception No. 2-2000 had previously been approved by the Town Council; construction of the boat house was to be finished by December 2000. He explained that there had then be a dispute concerning the property, which barred Hedrick Brothers Construction from continuing work; at the request of one of the property owner's a letter had been issued from the Building Department to the contractor reminding them of the obligation to complete work by December 2000. At that time Hedrick Brothers was allowed to resume construction, which was not now finished. He noted that the finish date of December 2000 had not been a condition of approval of the special exception; Attorney Rogers was present today at the request of the Building Department. Mr. Moore pointed out that the neighboring property owners had been advised as to the request today for continuance of construction, and there had been correspondence received objecting to the continuance.

Attorney Doyle Rogers, representing the owner of the property, Mr. Koch, addressed the Town Council, exhibiting photographs of the property in question indicating the status of the construction. He noted that if construction stopped now, the elements would be subject to damage by weather, and could be finished if an extension could be granted. He noted that he had received a letter form Zoning Administrator Castro when the special exception had been approved, and there had been no condition as to a time limitation for construction – he had then listened to the audio tapes of the meeting at the Office of the Town Clerk, and there had been no mention of a deadline for construction, however, because of objections from a neighbor, construction had been started late – approval had been received on February 8, 2000, and construction had not begun until June 15, 2000.

Mayor Smith clarified that construction had been barred from the property because of the marital discord between the Kochs, which had nothing to do with the objection from the neighboring property owner, Mrs. Supper.

President McDonald recalled that Attorney Rogers had originally been directed to work out any complaints from the neighboring property owners, which he had subsequently done; all issues had been resolved, and the issue had come back to the Town Council, at which time no conditions had been applied to approval, since all objections had been resolved.

Attorney Rogers agreed that had happened – the height of the roof had been reduced by 2 ½', and construction would not be started until Mrs. Supper had left for the summer.

Attorney Rogers addressed the letter of objection from Mrs. Supper, dated December 11, 2000, wherein it was stated that permission was granted to build on October 23, and he disputed that fact, stating that the Town Council approved the project on February 8, 2000, and construction was started on June 15, 2000.

Mayor Smith noted that Mrs. Supper had endured the construction project in its entirety for several years, and her concerns must be understood.

Councilman Wyett noted that the only thing usually limited in construction projects was pile driving, and a few other things, and other than that construction could take place 12 months of the year.

Mr. Moore clarified that the Town Council could make a decision on the request today, as it was for a time extension, rather than an appeal of the Building Department to stop the job, predicated upon an agreement that had been made for a time frame for completion. He explained that the Town Council had questioned the location of the boat house and the proximity to Mrs Supper; construction had been planned to be finished by the first of December.

Attorney Jonna Brown, representing the neighbor to the south, Francis Scafe, addressed the Town Council, stating that Mrs. Scafe also objected to the request for an extension of time. It had been her understanding that the project would be completed by December 1, 2000.

Attorney Rogers responded that it was the intention to be finished by December 1, 2000, however, he noted that Mrs. Scafe had objected to the barge that had been in front of the Koch property, and that was no longer there. He proposed that construction be continued with a later starter time in the morning and an earlier ending time in the afternoon; 10:00 a.m. until 4:00 p.m.

Councilman Wyett moved approval of the extension of construction, with the hours of 10:00 a.m. to 4:00 p.m., 5 days per week, no weekends, excluding the holiday period, until February 1, 2001. The motion was seconded by President Pro-Tem McLendon. On roll call the motion failed 2/3, with Councilman Wyett and President Pro-Tem McLendon casting affirmative votes; Councilman Brooks, Councilman Goldblum, and President McDonald casting dissenting votes.

Councilman Brooks suggested that a representative from Hedrick Brothers Construction attend the January 9, 2001 Town Council meeting to address the construction schedule.

President McDonald suggested that work be allowed until Friday, December 22, 2000, to finish the project – close it off from the elements/secure the building.

Councilman Goldblum moved approval of continuance of construction until December 22, 2000, from 8:00 a.m. to 5:00 p.m., in order to close the building off from the elements, secure the building, and then continue construction in the spring, sometime in April, 2001. The motion was seconded by Councilman Wyett. On roll call the motion carried 4/1, with Councilman Brooks casting a dissenting vote.

B. Variances, Special Exceptions, and Site Plan Reviews

Old Business

C. VARIANCE NO. 6-2000 - Edwin L. Ecclestone, Jr., 190 S. Ocean Blvd.; located in the R-B Zoning District. To allow construction of an awning providing no side yard setbacks on the north or south in lieu of 10' required and providing a 3' rear yard setback in lieu of 10' required *(Deferred from October 10, 2000 Town Council Meeting)*

This item was withdrawn earlier in the meeting, under Item V. Approval of the Agenda.

D. VARIANCE NO. 36-2000 The application of Weldon Yeager relative to property described as Lots 47-56, Royal Park Block 3; commonly known as Unit 5, Casas DeCarlos Condominium, 347 Australian Ave.; located in the R-C Zoning District. To allow installation of a patio awning which would increase lot coverage from 40% to 40.0078% in lieu of 35% maximum allowed *(Deferred from October 10, 2000 Town Council Meeting)*

As there was no one present to represent the applicant, Councilman Brooks moved denial of Variance No. 36-2000. The motion was seconded by Councilman Wyett. On roll call the motion carried unanimously.

E. VARIANCE NO. 51-2000 The application of Paul & Geraldine Emmett relative to property described as Lot 27 & W ½

Lot 28, Ocean Park Block 2; commonly known as 143 Seminole Ave.; located in the R-B Zoning District. To allow construction of an entrance portico providing a frontyard setback of 19.8' in lieu of 25' required. *(Deferred from November 14, 2000 Town Council Meeting)*

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

Attorney Jeff Shaffer, presenting the applicant, addressed the Town Council, recalled that the request had been before the Town Council previously, and it had been suggested that the encroachment be lessened. He explained that the encroachment now being sought was 2.2' – the size of the portico was 3', the height would be 13.4"; the hardship was the fact that the home had been built in the 1920's, and there would be no way to be able to put a portico on the home other than to encroach upon the setback.

Director of Planning, Zoning & Building Robert Moore gave the following staff comment: Comprehensive Plan: did not meet the criteria for granting of variance with regard to proportion and scale – architecturally unsuitable; Building Department: demonstrate hardship.

CouncilmanWyett moved approval of Variance No. 51-2000 as requested, with the hardship being the fact that the home had been built in the 1920's and the portico could not be added without the variance; he noted that he did not find the design itself acceptable. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried 3/2, with Councilman Wyett, President McLendon, and President McDonald casting affirmative votes; Councilmen Brooks and Goldblum casting dissenting votes.

President McDonald clarified that the design was not being approved, only the variance.

F. <u>SPECIAL EXCEPTION NO. 17-2000 WITH SITE PLAN REVIEW & VARIANCE</u> The application of Echo Restaurant relative to property described as Lots 75-78, Sunrise Ave. Addition 2; commonly known as 230 Sunrise Ave; located in the C-TS Zoning District. To allow elimination of one parking space thereby reducing the required off street parking from 45 to 44 spaces, and to allow an additional 110 sq.ft. occupancy thereby modifying Special Exception approval 28-99 from 4,585 sq.ft. allowed to 4,695 sq.ft. *(Deferred from November 14, 2000 Town Council Meeting)* **(Applicant has requested withdrawal of above-referenced Special Exception per letter dated December 4, 2000)**

This item was withdrawn earlier in the agenda, under Item V. Approval of the Agenda.

G. <u>VARIANCE NO. 53-2000</u> The application of Thomas J. and Patrice Carden relative to property described as Lot 32, Primavera Estates, as recorded in Plat Book 7, Page 39, Public Records of Palm Beach County, Florida; commonly known as 200 Barton Avenue; located in the R-B Zoning District. To allow construction of a proposed two-story addition with a 25 foot front yard setback in lieu of the required 30 feet. *(Deferred from November 14, 2000 Town Council Meeting)*

Ex-parte communication was declared by Councilman Wyett with Attorney Greg Kino.

Attorney Greg Kino, on behalf of Thomas and Patrice Carden, addressed the Town Council, presenting a site plan of the property in question. He explained that the reason for the request today was so that the addition would be architecturally appropriate with the house. He explained that the addition would be 780 sq. ft. He noted that the applicant had appeared at the last Town Council meeting, and had attempted to address the suggestion to re-design the project – the difficulty with the site was that due to setbacks and the building residence line established by the plat, there was only about 2700 sq. ft. of buildable area on the lot of 11, 700 sq. ft. Due to the lot configuration and the placement of the house, the proposed location was the only appropriate area for an addition.

Architect Mindy Schwab commented that the constraints with the project was the way the house was situated on the site; the only buildable area was the side area; the Cardins would like to have more square footage on the second floor to update the house and allow them to function as a growing family. She noted that she had attempted all types of design to get more livability from the house, and there was no other place to do an addition.

Director of Planning, Zoning & Building Robert Moore gave the following staff comments: Comprehensive Plan: does not appear to meet the granting of a variance; Building Department: demonstrate hardship - proposed second floor construction over a reduced first floor. He noted that an architectural adjustment could be made on the second floor setback to the plans presented – a re-designed master closet could be constructed with 5' taken out of that; if the property owners now wanted to re-design the entire second floor, as stated by the architect, that was their prerogative.

Councilman Wyett commented that nothing had changed since the last meeting, and moved denial of Variance No. 53-2000. The motion was seconded by Councilman Goldblum.

Attorney Kino commented that the applicant could not move the first floor back because it would interfere with the present dining room.

Mrs. Carden addressed the Town Council, stating that they were attempting to keep the downstairs the way it was; if the addition was made smaller it would break the flow from the dining room.

On roll call the motion carried 4/1, with President Pro-Tem McLendon casting a dissenting vote.

H. VARIANCE NO. 55-2000 The application of Lawrence B. Sorrel relative to property described as Lots 15 and 15A, Bello Lido, according to the Plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, recorded in Plat Book 11, Page 37; commonly known as 1284 North Lake Way, located in the R-B Zoning District. To allow construction of a wall six foot high as measured from Lake Trail in lieu of four feet maximum permitted by Code. *(Deferred from November 14, 2000 Town Council Meeting)*

President McDonald commented that a letter had been received from the property owner requesting that Variance No. 55-2000 be withdrawn.

Councilman Brooks moved approval of withdrawal of Variance No. 55-2000. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

I. SPECIAL EXCEPTION, SITE PLAN REVIEW AND VARIANCES NO. 19-2000 The application of The Palm Beach Day School Inc., relative to property described as Lots 664-752, Poinciana Park 3rd Addition, according to the Plat thereof as recorded in Plat Book 8, Page 72, Public Records of Palm Beach County, Florida; commonly known as 241 Seaview Avenue; located in the R-B Zoning District. To allow construction of a 187 square foot elevator addition on the back of a nonconforming building between the Administration Building and Mathers Auditorium; to allow construction of a 10' high fence within the front setback approximately 10' east of the west property line north of Seaview Avenue in lieu of the 6 foot maximum allowed; to allow construction of a 10' high fence 4' south of the north property line, a 10' high fence running 10' east of the west property line and a 9' high wall along the north property line north of Seaview Avenue in lieu of the 7 foot maximum allowed; to allow construction of a 9' high wall adjacent to the rear (north) property line commencing approximately 74' from the west property line and extending eastward approximately 150' in lieu of the required 2.5' setback from the rear property line; to allow placement of two additional Palm Beach Day School signs on the Auditorium and Library in lieu of one allowed by Code already existing on the building, and to allow each of said signs to be 6 square feet in area in lieu of the 6 square foot total maximum allowed, and to allow said signs to be placed on the east side elevations of the building in lieu of fronting the street as required by Code. *(Deferred from November 14, 2000 Town Council Meeting)*

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

Attorney James Brindell, on behalf of Palm Beach Day School, Inc., addressed the Town Council, exhibiting drawings and photographs of the property in question. He explained that the requested elevator would help meet ADA requirements and would be EMS accessible. The two additional signs being requested in lieu of one allowed by Code, were at the main entrance and at the lower school entrance. The purpose was to distinguish between the main entrance and the lower school entrance, which would aid in traffic management. The third portion of the request was for fencing along with the west playfield; part of the approval of the Special Exception had required the construction of a concrete wall along the west property boundary between the west playfield and the two houses to the west; the approval had required that a chain link fence be constructed 10' inside that wall line – normal heights would not be adequate since the field was used for soccer, etc., and the height would need to be 10'. On the north side, the requests were in an effort to satisfy some neighboring property owners – a 7-10' high wood fence along a portion of the west end of the property, with a continuation of the 10' high chain link fence all the way along the north; a 9' high concrete block wall next to the Donahue house.

Director of Planning, Zoning & Building Robert Moore gave the following staff comments: Comprehensive Plan: should not approve variance for signs; elevator is okay; Town Engineer: wall footer cannot encroach within the easement; Building Department: demonstrate hardship; Town Manager: walls on property problematic in height. He suggested that the issues of the elevator and signs be considered separately.

Councilman Brooks moved approval of the elevator and signs. The motion was seconded by Councilman Wyett. On roll call the motion carried unanimously.

Mr. Moore addressed the wall requests, recalling that additional parking on the south side had been created, however, the narrowness of the field created a problem with the school for soccer playing – it was also the function area for the gymnatorium to be used for valet parking when there were scheduled events. In order to have the day to day use as a soccer field, the applicant would need to address retention of the athletic equipment and containment of noise associated with athletics; the neighbors to the north had indicated a great deal of concern; the neighbors to the west were satisfied with the arrangements made. He explained that the issue of the height elevation between the field and the easement to the north was substantial; the Town had required that a retaining wall be built along the south line of the easement; a fence would then have to be built also to accomplish retention of the athletic equipment and noise.

Architect List explained that wood wall would absorb more sound than a masonry wall; the wood wall would last many years. He noted that Mr. Donohue had requested a higher height in the fence, since his home was a two-story home, and all of the other surrounding homes were one-story homes.

Mr. Gerry Goldsmith, on behalf of Mrs. Shavelard, requested that a concrete wall, and if not, then permission for some time in the future to have a new owner of the property have the opportunity to have a concrete wall in place of the wood wall. She had requested that the school put up a concrete wall. He also noted that she had requested a ficus hedge on the north side of the fence or the wall; in addition she questioned the sturdiness of a wood wall in the case of a hurricane.

Mr. List explained that Mr. Donahue was paying for the entire concrete wall that he had requested; the Day School had volunteered to pay for the wood wall extensions. He estimated that a concrete wall would cost approximately $100 per foot, with a wood wall being approximately $40 per foot.

Councilman Goldblum moved approval of the entire north wall being uniform and be constructed of concrete block. The motion was seconded by Councilman Brooks.

Ms. Polly Earl, resident on Seaspray Avenue, commented that Seaspray Avenue was highly impacted by the expansion of the Day School, and questioned some dimensions of the wall. She explained that there were places along Seaspray where one could see that there was a big wall behind some of the homes. She suggested that some study be completed of the retaining wall, since the area was a very low area, and the retaining wall may keep water from spreading out in its natural pattern.

Mr. List stated that a low retaining wall would be installed the entire length of the school buildings all the way to the east end of the school buildings, to make sure that any water that came off the roof would be disposed of properly.

Mr. Moore stated that a wood fence would absorb noise better than a concrete block fence. Landscaping for Mrs. Shevelard was a problem, because planting could not be done in the easement, and any landscaping would need to be on her property to site screen. He explained that Mr. Donohue actually encroached into their easement with his house structure. He suggested the idea of keeping the wall uniform was a good idea aesthetically.

Councilman Goldblum withdrew his earlier motion.

Councilman Brooks moved approval of the variance request for a 10' high fence, with the qualifications enumerated by Mr. Moore, and that the Day School approach Mr. Donahue to explain the acoustics; consideration should be taken of the sound absorbency of wood. He noted that an appropriate fencing arrangement could be worked out with Mrs. Shevelard. The motion was seconded by Councilman Wyett.

Mr. Moore clarified that the fence would be green vinyl chain link. He explained that the wall would be 8' from the Day School side and 10' from the easement side.

Mayor Smith commented that it would be necessary to determine what the neighboring residents would find acceptable regarding the height of the wall.

Mr. Goldsmith agreed that Mrs. Shevelard would want the wooden fence, with permission to build a concrete wall sometime in the future if so desired.

On roll call the motion of Councilman Brooks carried unanimously.

New Business - Minor

J. None.

New Business - Major

K. VARIANCE No. 57-2000 The application of Davidson Hotel Partners, L.P. relative to property described as a parcel of land lying in Government Lot 2, Section 23, Township 44 South, Range 43 East, Palm Beach County, Florida; commonly known as 2842 South Ocean Boulevard, located in the R-D (2) Zoning District. To allow construction of a yard identification sign with a 5 feet front setback in lieu of the 10 feet minimum required. *(Staff recommends deferral to the January 9, 2001 Town Council Meeting)*

Councilman Brooks made a motion to defer Variance No. 57-2000 to the January 9, 2001, Town Council Meeting. The motion was seconded by Councilman Wyett. On roll call the motion carried unanimously.

L. VARIANCE No. 58-2000 The application of John Littlechild relative to property described as Lot 30, Sea Isle Estates, as recorded in Plat Book 25, Page 89; commonly known as 131 East Inlet Drive, located in the R-B Zoning District. To allow construction of a new two-story house with a point of measurement of 17.1 feet NGVD in lieu of the 10.17 feet NGVD maximum allowed.

Ex-parte communication was declared by Councilman Brooks with Attorney Maura Ziska; by Councilman Goldblum with Attorney Ziska; by President Pro-Tem McLendon with Attorney Ziska.

Attorney Robert Deziel, on behalf of the applicant, addressed the Town Council, amended the application to request a point of measurement of 16.6' in lieu of the 10.17' required. He explained that Florida Department of Environmental Protection (FDEP) approval was required to build a home on the ocean, seaward of the coastal control line. They had required that the bottom of the structural element be approximately 14.6'; in addition 2' was needed for the structure, and a 6" slab. Mitigation had been attempted in the fact that the tie beam was lower, and the roof was lower that what was allowed in the area.

Zoning Administrator Paul Castro stated that FDEP had required the grade to be raised, and in addition, the applicant had been able to lower that approximately 6"; the hardship was related to the property itself. The house would be taller than the house on the south by approximately 6', however, the grade of that property was approximately 4.9' lower than what was currently required by FDEP.

President Pro-Tem McLendon moved approval of Variance No. 58-2000, with the hardship laying with the land, and FDEP requirements. The motion was seconded by Councilman Goldblum.

Mayor Smith commented that house would tower over the neighbor to the south.

Attorney Deziel responded that the house to the south was 65' away, and if it was ever re-developed it would be required to have a higher elevation as well.

On roll call the motion carried 4/1, with President McDonald casting a dissenting vote.

M. <u>SPECIAL EXCEPTION No. 20-2000</u> The application of 2875 South Ocean Corporation relative to property described as the South 430 feet of the west 200 feet of Government Lot 2 lying east of A1A & West 200 feet of Government Lot 1, Section 26; commonly known as 2875 South Ocean Boulevard, located in the C-TS Zoning District. To allow a financial consulting and brokerage firm to occupy an additional 1176 square feet, for a total of 1996 square feet on the first floor of a building in the C-TS Zone without direct frontage on a sidewalk fronting a street.

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

Attorney Peter Broberg, on behalf of the applicant, addressed the Town Council, stating that the applicant had come before the Town Council in 1998 to request to move from the second floor to the first floor, which had been granted. Currently, they wished to expand an additional 1,176 sq. ft. for a total of 1,996 sq. ft., and had presented appropriate Town serving documentation.

Director of Planning, Zoning & Building Robert Moore commented that staff had no objections.

Councilman Brooks moved approval of Special Exception No. 20-2000. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

N. <u>SPECIAL EXCEPTION No. 21-2000</u> The application of Edward W Cook, Trustee relative to property described as Lots 188 and 189, Plat of Floral Park; commonly known as 223 Sunset Avenue; located in the C-TS Zoning District. To allow utilization of approximately 1,057 square feet (Suite #150) on the first floor, for use as a landscape architectural firm on the first floor of a building in the C-TS Zone without direct frontage on a sidewalk fronting a street.

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

Attorney James Brindell, on behalf of the applicant, addressed the Town Council, stating that the space in question could not be seen from the public street; it was a total of 1,057 sq. ft. for the location of a landscape architectural firm.

Director of Planning, Zoning & Building Robert Moore commented that the building had originally been built as an office building, and the Town serving documentation would be required at the time of renewal of occupational license next September.

Councilman Wyett moved approval of Special Exception No. 21-2000. The motion was seconded by Councilman Brooks. On roll call the motion carried unanimously.

Other

O. None.

XV. ANY OTHER MATTERS

Mayor Smith requested that the Ordinances, Rules & Standards (ORS) Committee review the ordinance governing historic and specimen trees, and that the issue be on the agenda for the next scheduled ORS meeting.

XVI. ADJOURNMENT

The meeting was adjourned at 4:38 p.m.

Mary A. Pollitt
Town Clerk

Prepared by:
Susan Eichhorn
Deputy Town Clerk

12/12/2000

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

LAST NAME—FIRST NAME—MIDDLE NAME McLendon, Samuel	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Palm Beach Town Council
MAILING ADDRESS	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY
CITY Palm Beach, COUNTY Palm Beach	NAME OF POLITICAL SUBDIVISION: Palm Beach
DATE ON WHICH VOTE OCCURRED 12/12/2000	MY POSITION IS: ☒ ELECTIVE ☐ APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on 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

A person holding elective or appointive county, municipal, or other local public office MUST ABSTAIN from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * * * * * * * * * * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must 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:

You must abstain from voting and disclose the conflict in the situations described above and in the manner described for elected officers. In order to participate in these matters, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

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

- You must 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 must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

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

- You must disclose orally the nature of your conflict in the measure before participating.
- You must 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 must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Sam McLendon, hereby disclose that on December 12, ~~19~~ 2000:

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

____ inured to my special private gain or loss;

____ inured to the special gain or loss of my business associate, ____;

____ inured to the special gain or loss of my relative, ____;

____ inured to the special gain or loss of ____, by whom I am retained; or

____ inured to the special gain or loss of ____, which is the parent organization or subsidiary of a principal which has retained me.

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

Request for approval for the Beach Club, Inc. proposed declaration of restrictive covenants and proposed acceptance of Declaration of Restrictive

12/12/2000
Date Filed

[signature]
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, 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 $10,000.

Variance No 56-2001

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

LAST NAME—FIRST NAME—MIDDLE NAME McDonald, Jack	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Palm Beach town Council
MAILING ADDRESS 2875 S. Ocean Blvd	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY
CITY Palm Beach COUNTY Palm Beach	NAME OF POLITICAL SUBDIVISION: Palm Beach
DATE ON WHICH VOTE OCCURRED 12-11-01	MY POSITION IS: ☒ ELECTIVE ☐ APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on 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

A person holding elective or appointive county, municipal, or other local public office MUST ABSTAIN from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * * * * * * * * * * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must 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:

You must abstain from voting and disclose the conflict in the situations described above and in the manner described for elected officers. In order to participate in these matters, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

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

- You must 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 must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

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

- You must disclose orally the nature of your conflict in the measure before participating.
- You must 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 must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, JACK McDONALD, hereby disclose that on 12-11, ~~19~~ 2001:

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

X inured to my special private gain or loss;

___ inured to the special gain or loss of my business associate, ________;

___ inured to the special gain or loss of my relative, ________;

X inured to the special gain or loss of ________, by whom I am retained; or

___ inured to the special gain or loss of ________, which is the parent organization or subsidiary of a principal which has retained me.

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

I represented the contract purchaser of this property during the negotiation of the contract to purchase. At the time this was done it was not known a variance would be required.

12-11-01

Date Filed

Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, 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 $10,000.