

TOWN COUNCIL MINUTES OF MEETING HELD ON DECEMBER 10, 1991

Roll Call

I. CALL TO ORDER AND ROLL CALL - Meeting called to order by President Heeke at 9:30 AM on December 10, 1991 in the Town Hall Council Chambers. On roll call, the following elected officials were found to be in attendance: Mayor Marix, President Heeke, President Pro Tem Weinberg, Councilwomen Douthit and Weinberg and Councilman Ilyinsky. Also attending for all or part of the meeting were: Town Manager Doney, Town Attorney Randolph, Town Clerk Peters, Mr. Dusey, Mr. Bowser, Chief Terlizese, Chief Elmore, David Jakubiak, Peter Elwell, Mr. Frank, Mr. Moore, and Mr. Zimmerman.

Invocation

II. INVOCATION AND PLEDGE OF ALLEGIANCE - Invocation was given by Mrs. Peters. Pledge of Allegiance was led by President Pro Tem Weinberg.

Presentations

III. PRESENTATIONS

- A. Retirement of Ken Wake, Fire Mechanic - Fire-Rescue Department - Mr. Wake was not able to be at the meeting and the presentation was put over to the January Town Council meeting.
- B. Retirement of Roy Calvin, Equipment Operator I - Trash - Public Works Department. Mr. Calvin was presented a plaque in recognition of his ten years of service to the Town of Palm Beach.

Comments of
the Mayor

IV. COMMENTS OF THE MAYOR - Mayor Marix read her comments: "At this time when most of our taxpaying residents are still stunned by their tax bills, I think it is important to turn our attention to a matter that while at present it is in somewhat of an embryonic state, could well if not vehemently opposed now, make our property taxes look like the good old days. I have been following for some time the little comments here and there in the press concerning a possible State Income Tax. Now we are starting to see articles, studies, etc., and other items in this regard and as far as I am concerned, is a start of a propaganda scheme. While this is not a municipal matter, I feel we must, as elected officials, take the lead in exposing the disastrous aspects of this tax. Very simply put, the inference that it would enable the sales tax to be lowered is as I see it, a way to deceive the future voters on the subject. In a state like ours, where an incredible percentage of people live, use the roads, are protected by police and fire departments, etc., but are only part time residents, i. e. under six months of the year, and not voters, really only help through the sales tax, and I say only help to pay for their services, to lower the sales tax in favor of an income tax would place an additional burden on the real resident, whether retired or working. What about the visitors, tourists and transients - they will not help pay the income tax, but would get the benefit of the lower sales tax. I truly believe an attempt will be made to lead the voters down the garden path in this matter. It must be made clear that the State Income Tax would not only be far worse, but completely unfair in this State. I've also noticed that almost every time I read an item on this matter, it is placed very close, or is a part of a story about lack of funds for education or prisons, etc. The time is now to find out where our elected officials stand on this matter and to make it quite clear where we stand. I think you'll probably all agree with me."

Approval of
Agenda

V. APPROVAL OF AGENDA

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

Mrs. Peters requested Item VII. 10, Center for Family Services be removed from the approved agenda as well as No. 17, America 3 Foundation. Mr. Heeke suggested this be heard as Item IX A, after the Approved Agenda.

Mr. Doney requested under New Business (Other) an item be added XII. C. 6 concerning the 12-6-91 Hearing on Port of Palm Beach Expansion.

Mr. Moore requested under XIII. B. 1 Old Business, Var. No. 38-91 Donald J. Trump be removed from the agenda; as well as No. 2, Spec. Exc. No. 12-91 Hals Realty Associates Limited Partnership; and 3, Special Exception No. 13-91 with Variance, Power-Love Associates, 256 Worth Avenue; and Item 4 Special Exception No. 15-91 with Variance, 214-218 Worth Avenue be withdrawn.

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

Motion was made by Mrs. Wiener, seconded by Mr. Weinberg to approve the "Approved Agenda" with the two charitable solicitations removed. On roll call, the motion carried unanimously.

APPROVED AGENDA (ITEMS VI THROUGH IX)

VI. APPROVAL OF MINUTES - None

VII. LICENSES AND PERMITS

A. Charitable Solicitations

1. Albert Einstein College of Medicine of Yeshiva University; No. 10-92
2. JFK Medical Center; No. 16-92
3. The Jewish Theological Seminary of America; No. 27-92
4. Anti Defamation League of B'nai B'rith; No. 83-92
5. The Eye Research Institute; No. 107-92
6. Greater Palm Beach Symphony Inc.; No. 124-92
7. Rehabilitation Center for Children and Adults, Inc.; No. 126-92
8. Bascom Palmer Eye Institute; No. 213-92
9. Yeshiva University Cordozo School of Law; No. 238-92

Approval of
MinutesLicenses &
PermitsCharitable
Solicitations

11. Food Relief International; No. 272-92
12. Friends of Akim U.S.A./Palm Beach Chapter; No. 280-92
13. The Historical Society of Palm Beach County; No. 289-92
14. Polish Cultural Society of the Palm Beaches; No. 311-92
15. Palm Beach Day School; No. 313-92
16. Colonial Dames of America; No. 316-92
18. WXEL Foundation, Inc.; No. 330-92
19. Town of Palm Beach Bicentennial Eagle Restoration Commission; No. 331-92
- B. Beverage Licenses
1. Application for Transfer of Ownership of a 4COP Alcoholic Beverage License by Richard Andrew Spigler/Albergo Cuore Ltd. t/a The Heart of Palm Beach at 160 Royal Palm Way
- VIII. NEW BUSINESS
- A. Bid Awards
1. Sealed Bid No. 001-91/92 - 1250 GPM Pumper Truck for the Fire-Rescue Department
2. Sealed Bid No. 003-91/92 - One Diesel Truck Chassis With 20-Cubic Yard Packer Body
- B. Other
1. Appointment of Town Council Member as Additional Alternate Voting Delegate to the Palm Beach County Municipal League

Charitable
Solicitations
(cont'd)

Beverage
Licenses

Bid Awards

IX. APPROVAL OF WARRANT LIST AND FUND EXPENDITURES FOR November 1991

Approval of
Warrant List

All of the above items on the "Approved Agenda" were approved.

IX (A)

10. The Center for Family Services; No. 252-92

The Center
For Family
Services
No. 252-92

Mrs. Peters advised this has not been recommended for approval due to the fact their audit is not current and Mr. Ed Reed of the Center addressed the Council, indicating the audit will be made available to the Town Clerk before their event and the reason there is no current audit is their was a problem with their computer during the summer months and all information was lost and had to be re-entered. Mrs. Wiener moved approval for the Charitable Solicitation Permit be granted to the Center for Family Services, with the proviso the audit be furnished to Mrs. Peters prior to the date of their event. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

17. America 3 Foundation; No; 329-92

America 3
Foundation
No. 329-92

Mrs. Peters informed the Mayor and Town Council that there was no audit available on this organization, however, prior to the meeting this morning their representative indicated he now had an audit. Mr. Callahan addressed the Council for the America 3 Foundation, stating in the past this audit was considered confidential, however, he will make it available to the Town Clerk. Mrs. Douthit moved the permit be approved for the America 3 Foundation, with the proviso that the audit is found to be in order. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

REGULAR AGENDA

X. PUBLIC HEARING

Public Hearing

- A. Landmark Designation for 403 Seabreeze Avenue - Consideration of Resolution No. 55-91 - Deferred from December 11, 1990 Meeting

Mr. Randolph read the Resolution No. 55-91:

Res. 55-91

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARK PRESERVATION COMMISSION THAT THE PROPERTY HEREINAFTER DESCRIBED MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER XVI, ARTICLE 3 OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH AND DOES HEREBY DESIGNATE THAT PROPERTY AS A TOWN OF PALM BEACH LANDMARK PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER XVI, ARTICLE 3 OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Mrs. Peters advised the hearing has been properly advertised. Mrs. Peters gave the oath to those who would be testifying in this matter.

Mr. Frank advised this matter was heard last year and deferred for one year. He gave the criteria it meets: A - that it exemplifies and reflects the broad cultural, political, economical and social history of the nation, state, county or Town. Also meeting Criterion C, that it embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period style, method of construction, or use of indigenous materials or craftsmanship.

Mr. James Sved, Architectural Consultant for Landmarks Preservation Commission addressed the Council, noting that 403 Seabreeze Avenue was built in 1910 and the architect is not known. He indicated the building is interesting as it precedes Palm Beach being known as the American Riviera which was in 1918 and 1919. He pointed out the notable features of the building: it is a bungalow style building and is a two story building which penetrates the roof line in a dormer fashion. He recalled this type of building is known in the architectural circles as an American derivation of several different styles of architecture. He pointed out the notable features are the simple but detailed uses of wood treatment, with the porch supported by elephantine or battered piers. He advised this bungalow has been virtually unchanged from the original as the screened-in porch

Res. 55-91
(cont'd)

remains and the entry to the house is through the porch. He noted that the windows are cut into four over four pattern. He stated each of the windows has some sort of a covering on it and this house is in very good condition. He advised this house has been sold during the time it was considered by the Landmarks Commission and today, but it is a very interesting structure and worthy of consideration.

Mr. Weinberg asked if the new owners had any problem with being landmarked? Mr. Frank advised the new owners are proud to have their home landmarked and they have no interest in making any changes or revisions to the house.

Mr. Ilyinsky moved the designation report be a part of the record. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Motion was made by Mrs. Douthit that 403 Seabreeze Avenue be approved as a landmark meeting Criteria A and C and the Resolution No. 55-91 be adopted. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

XI. OLD BUSINESS

A. Other

1. High Tides and Wave Damage of October 31, 1991 - Progress Report on Restoration Work and Related Issues

Mr. Dusey reported a lot of work has been accomplished in the one month period and he has prepared a written status report for the Mayor and Council.

Mr. Heeke recalled the stairs at Gulfstream were not to be reinstalled until a determination was made that there was sufficient sand there and he understood people were jumping off the seawall onto the sand, so he thought the stairs should be reinstalled. Mr. Dusey indicated the cost to replace the stairs would be approximately \$6,000.

Motion was made to replace the stairs and platform at Gulfstream Road by Mr. Ilyinsky. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Mr. Dusey reported a seawall at El Pueblo needs to be replaced as well as a parapet wall and he estimated it would cost approximately \$1500 to restore. Mr. Ilyinsky moved the work be authorized to replace the parapet wall at El Pueblo. Seconded by Mr. Weinberg. On roll call, the motion carried.

Mr. Dusey advised there should also be replaced at Palmo Way steps for approximately \$2000.00. Mrs. Douthit moved the steps at Palmo Way be replaced. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Mr. Dusey indicated he has been approached by the Civic Association's Beautification Committee who has had a meeting with the Garden Club to re-landscape the Center Town area and he believed they had a plan. Mr. Heeke recalled the Town Council acted on this at the last Council Meeting and elected to replace exactly what was there previously and throughout the week he was in contact with the Town Manager on this subject and if anyone has anything else to offer on this subject, they can be heard under Any Other Matters at the end of the agenda.

Mayor Marix believed that if the Garden Club and the Civic Association were working on the landscape plans, was that to include the financing of this project also? Mr. Dusey did not know. Mrs. Wiener reminded all that the Council did make a determination at the last meeting that what was there at the Mid-Town Beach would be restored.

Mr. Ilyinsky advised the Rotary Club of Palm Beach does wish to donate seven benches along that strip, which is one-half of the total needed and they would like to have a small plaque placed on the back of the benches indicating the Rotary Club is the donor, which would not contain the Rotary Logo.

Mrs. Douthit made a motion that the Council accepts with thanks the benches which will be donated by the Rotary Club of the Palm Beaches. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

XII. NEW BUSINESS

A. Ordinances - First Reading

1. Ordinance No. 7-91 - 1991 Standard Building Code with Amendments. Mr. Randolph read the Ordinance No. 7-91 by title:

AN ORDINANCE OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER FIVE, ARTICLE IA., "BUILDING CODE", OF THE TOWN OF PALM BEACH CODE OF ORDINANCES SECTION 5-21 ADOPTING BY REFERENCE THE 1991 EDITION OF THE STANDARD BUILDING CODE EXCLUSIVE OF CHAPTER ONE, ADMINISTRATION, AND AMENDING SECTION 5.22 AMENDMENTS; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Motion was made by Mrs. Douthit to approve on first reading Ordinance No. 7-91. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

2. Ordinance No. 8-91 - 1990 National Electric Code with Amendments. Mr. Randolph read the title of Ordinance No. 8-81:

AN ORDINANCE OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 5, ARTICLE III, "ELECTRICITY" OF THE TOWN OF PALM BEACH CODE OF ORDINANCES SECTION 5-101 ADOPTING BY REFERENCE THE 1990 EDITION OF THE NATIONAL ELECTRICAL CODE; PROVIDING FOR ADDITIONS AND DELETIONS TO SECTION 5-102 "AMENDMENTS"; AND BY CORRECTING OTHER SECTIONS AS SET FORTH HEREIN; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Motion was made by Mrs. Wiener to approve Ord. 8-91 on first reading. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

ORD.8-91 (cont'd)

3. Ordinance No. 9-91 - 1991 Standard Plumbing Code with Amendments. Mr. Randolph read the Ordinance No. 9-91 by title:

ORD 9-91

AN ORDINANCE OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 5, ARTICLE IV., "PLUMBING", OF THE TOWN OF PALM BEACH CODE OF ORDINANCES SECTION 5-164 ADOPTING BY REFERENCE THE 1991 EDITION OF THE STANDARD PLUMBING CODE EXCLUSIVE OF CHAPTER 1 ADMINISTRATION; AND AMENDING SECTION 5-165 AMENDMENTS; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Motion was made by Mrs. Douthit to approve Ordinance No. 9-91 on first reading, seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

4. Ordinance No. 10-91 - 1991 Standard Mechanical Code with Amendments. Mr. Randolph read Ordinance No. 10-91 by title:

ORD 10-91

AN ORDINANCE OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 5, ARTICLE V., "MECHANICAL REGULATIONS", OF THE TOWN OF PALM BEACH CODE OF ORDINANCES SECTION 5-175 ADOPTING BY REFERENCE THE 1991 EDITION OF THE STANDARD MECHANICAL CODE EXCLUSIVE OF CHAPTER 1 ADMINISTRATION; AND AMENDING SECTION 5-176 AMENDMENTS; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Motion was made by Mr. Weinberg to approve Ordinance No. 10-91 on first reading. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

5. Ordinance No. 11-91 - 1991 Standard Gas Code. Mr. Randolph read the Ordinance No. 11-91 by title:

ORD 11-91

AN ORDINANCE OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 5, ARTICLE IV.5., "GAS CODE", OF THE TOWN OF PALM BEACH CODE OF ORDINANCES SECTION 5-171 ADOPTING BY REFERENCE THE 1991 EDITION OF THE STANDARD GAS CODE EXCLUSIVE OF CHAPTER 1 ADMINISTRATION; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Motion was made by Mr. Weinberg to approve Ordinance No. 11-91 on first reading. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

6. Ordinance No. 12-91 - 1991 Fire Prevention Code. Mr. Randolph read the Ordinance No. 12-91 by title:

ORD 12-91

AN ORDINANCE OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 7, ARTICLE II., "FIRE PREVENTION", OF THE TOWN OF PALM BEACH CODE OF ORDINANCES SECTION 7-17 ADOPTING BY REFERENCE THE 1991 EDITION OF THE STANDARD FIRE PREVENTION CODE AND THE 1991 EDITION OF THE NATIONAL FIRE PROTECTION ASSOCIATION LIFE SAFETY CODE; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

A motion was made by Mr. Weinberg, seconded by Mr. Ilyinsky to approve Ordinance No. 12-91 on first reading. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

B. Resolutions

1. Resolution No. 56-91 - Supporting the Abolishment of the Palm Beach Countywide Planning Council by Voting to Repeal Article 7 of the Charter of Palm Beach County. Mr. Frank advised this Council was established to do a composite of all of the land use plans in the County and also to be an agency which would mitigate inter-jurisdictional disputes. He advised that throughout the course of the years many steps have been taken by the County Commission and the Planning Council itself through their attorneys and a Comprehensive Plan was prepared which was more of a composite as they created their own goals and objectives and set up a procedure whereby municipalities would have to adhere to their rules rather than the rules that have been created. He advised the Municipal League has been coordinating an effort on behalf of the municipalities to allow the agency itself to be sunsetted and this Resolution would achieve that if 17 other municipalities would pass a similar resolution in the month of December.

Res. 56-91

Mayor Marix believed this Council has taken the lead in the airport expansion matter and she thought if this group was sunsetted, they will all be at the mercy of the County Commission to expand the airport. Mrs. Douthit believed the Municipal League was leading the battle against this. Mayor Marix thought perhaps they might be left without this group who has taken a positive stand on the airport expansion. Mr. Heeke felt this Planning Commission was trying to wrest powers from the individual municipalities and that was his concern. Mrs. Douthit viewed it as a bureaucracy costing the taxpayer more and more. Mrs. Wiener agreed feeling that they have accomplished nothing in the time they have been haggling with each other and the taxpayers are the ones who are paying for it.

Mr. Randolph read the Resolution No. 56-91 by caption.

Res. 56-91

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, PURSUANT TO SECTION 7.19 OF THE CHARTER OF PALM BEACH COUNTY, FLORIDA, VOTING TO REPEAL ARTICLE VII (COUNTYWIDE PLANNING COUNCIL) OF THE CHARTER OF PALM BEACH COUNTY, FLORIDA, URGING SUPPORT FROM OTHER LOCAL GOVERNMENTS; PROVIDING FOR DISTRIBUTION; AND PROVIDING AN EFFECTIVE DATE.

Mr. Weinberg moved the Resolution No. 56-91 be adopted. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously. Mr. Heeke requested the Mayors of Palm Beach County municipalities also be furnished a copy of this Resolution.

C. Other

Request by Ibis
Isle Condo.
to light trees
abutting Ibis
Way

1. Request by Ibis Isle Central Condominium Association, Inc. to Light the Trees Abutting Ibis Way from SR 1A to the Bridge.

Mr. A. L. Joseph Pusateri on behalf of the Ibis Isle Central Condominium Association addressed the Council requesting that the Town permit lighting to be installed within the Town's Ibis Way right-of-way. He advised his organization is willing to maintain the lights in perpetuity and will provide the Certificate of Insurance as requested. He believed also there was to be a new certificate regarding the pillars and he is willing to provide that also.

Mr. Doney advised as long as the Ibis Isle Central Condominium Association is agreeable to all of the conditions, he would recommend the Council conditionally approve it based upon the conditions as outlined in his memorandum of December 5, 1991, and Mr. Pusateri's letter of November 6, 1991. Mr. Doney asked if all of the property owners have been notified to which Mr. Pusateri responded affirmatively, noting the conditions have been laid out and they have abided by all of them. Mr. Weinberg moved they be granted the right to light up the way. Mrs. Douthit asked if they would be paying for the electricity used to which Mr. Pusateri responded they would be responsible for the electricity.

Mrs. Wiener asked if staff and the applicant have an understanding of what "maintenance" means? Mr. Doney advised the Town would have no responsibility relative to the lighting and the Ibis Isle Association would pay all the monthly bills. He advised additionally in the future, if there was some reason that this would have to be removed, the Town Council would have sole discretion to make that determination and that is one of the conditions.

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

Extraordinary
longevity pay

2. Consideration of Extraordinary Longevity Pay for Eligible and Recommended Town Employees with 21 to 30 years of Service with the Town

President Heeke noted the total for all extraordinary longevity pay is \$10,372.49, and \$15,000 was budgeted. Mr. Doney reported there were twelve individuals recommended by their Department Heads and these employees had outstanding performance. Mrs. Wiener moved the extraordinary longevity pay be approved for Ronald Tillotson, Henry Marchman, Steve Jones, Gary Hargraves, Craig Olson, Edward Jennings, Doyle Frazier, Hazel Huggins, Robert Williams, Willie Simmons, George Prince and Frank Passavanti. Seconded by Mr. Weinberg.

Mayor Marix pointed out this is in addition to the \$570,000 given for regular longevity and additionally, there is budgeted merit increases and she thought this was incredibly generous of the residents and wonderful for the employees as other municipalities are having great difficulties and this Town has given over a million dollars in special awards.

3. Consideration of Proposal to Implement Recycling Program for Commercial Properties

Mr. Dusey addressed the Council stating he was approached by the Solid Waste Authority (SWA) about picking up the cost of the commercial recycling program now underway. He stated he has written a memorandum under date of Nov. 26, 1991 with alternatives and his recommendation would be that SWA continue with the program until the Fiscal Year '93 when the Town's recycling program was tentatively scheduled to expand to the commercial areas.

Motion was made by Mrs. Douthit that this recommendation of Mr. Dusey be followed through as that is what the Town's long range plan was for this commercial recycling. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Implementation
of Recycling
Program for
Commercial
Properties

4. Consideration of Kelly Tractor's Request to Palm Beach County for Abandonment of Right-of-Way Adjacent to Town's Okeechobee Boulevard Property.

Attorney Randolph advised several months ago, Kelly Tractor, through their law firm and their representative, Greg Martini is here today, asked the Town to give consideration to giving consent to the abandonment of a forty foot right-of-way between their property and the Town's property on Okeechobee Blvd. He explained the Town Council has received a packet which shows in graphic scale what they are requesting. He stated Kelly Tractor has structures on the forty foot right-of-way and has been using it for several years. He recalled Kelly Tractor has made a request to Palm Beach County that this right-of-way which has not been used by the public be abandoned and the County has agreed to give them consideration of their request if the Town consents to it. He stated the hiatus ownership is not known although there has been a lot of title work done. He reported Kelly Tractor will quit claim to the Town of Palm Beach any interest they may have in the ten foot hiatus if the Town would consent to the abandonment of the right-of-way. He stated one of the provisions in the Deed is if the right-of-way is not used, it will revert to Kelly Tractor and he believes their attorney will speak to that. He stated the staff recommendation of Mr. Bowser is there may indeed be a use for this right-of-way in the future to get from Okeechobee Blvd. to the yard trash site in the rear of the property without having to jeopardize the value of the commercial property which fronts on Okeechobee Blvd.

Attorney Greg Martini of the law firm of Walton, Lantoff, Schroeder & Carson addressed the Council stating he represents Kelly Tractor Co. in this problem which was discovered when they had a survey prepared of the property. He exhibited a drawing which showed there was fencing and some improvements put there and his drawing showed no right-of-way there. Mr. Heeke stated that means they have built on the right-of-way, and it still exists as a matter of title. Mr. Martini stated according to the deed, it states if it was discontinued or abandoned it would revert to Kelly and it is obvious that no one is using the right-of-way. Mr. Heeke believed it would take a judicial determination to make that decision or a legislative action. Mr. Martini advised they were hoping to resolve this amicably.

Mrs. Wiener asked who was paying the taxes on the property? Mr. Martini did not know. Mr. Heeke noted the right-of-way is forty feet. Mrs. Wiener felt they needed to know who was paying the property taxes on this before they took any action. Mr. Martini stated he will provide that information and stated he had a copy of the survey of the hiatus parcel which is not included in the legal description nor on the deed. He stated it is a ten foot strip and it runs the entire length of the right-of-way. He advised if this can be worked out in an amicable way, Kelly

Kelly Tractor
Abandonment of
Right-of-way
adjacent to
Okeechobee
Blvd.

Tractor would be willing to quit claim their interest in that ten feet, thereby making the Town's property more salable.

Mr. Heeke asked if their research has determined that Kelly Tractor had title to the ten feet? Mr. Martini responded their research has not revealed that it is Kelly's or it is the Town's.

Attorney Randolph pointed out it could well be that Kelly Tractor may be successful in the interpretation of the deed in abandoning that forty foot right-of-way or they may go to the County and despite the Town's objection, and may be successful there and he didn't believe the Town Council should look at this as a situation if the Kelly people do not consent, that the Town would in the future have the use of that right-of-way as it is not known if that will be the outcome. He stated his thought was why should the Town give up any potential right they may have to use the right-of-way, when they really can't see what they are getting for it other than a quit claim, which is quit claiming any interest they have in a ten foot hiatus and it is not definitely known if Kelly has an interest in that ten feet.

Mrs. Douthit asked if the Town has an interest in the ten foot hiatus? Mr. Randolph responded they would get a better interest than they have now, if Kelly would give a quit claim as they could stand in the way in the future if the Town would try and assert any interest, which they haven't done to this time.

Mayor Marix believed the concern was to have some access to the rear part of the property in the event the front part is sold and a ten foot entrance to that property may be very small, depending on what they use it for and wondered if they should possibly make some sort of an arrangement where they would get a little more than ten feet, but not wanting to hold the forty feet to stay in the situation it is now. She asked if Kelly Tractor would be interested in some sort of a compromise so there would be adequate access to our property. Mr. Heeke stated the problem is there is a structure sitting on it on the north boundary. Mayor Marix realized that but thought they could remove it or move it so the Town would have a respectable access to be mutually beneficial. Mr. Randolph wondered if something could be worked out whereby the Town could in perpetuity use twenty feet of the most westerly portion of the forty foot access. Mr. Heeke asked if Mr. Martini could explore this avenue with his client to which Mr. Martini agreed, as well as make a determination if Kelly has paid any of the taxes on this property. Mr. Randolph pointed out the hiatus is not included in the property legal description on the tax rolls and he didn't believe anyone was paying taxes on that. Mrs. Wiener stated she wanted to know if Kelly was paying taxes on the forty foot right-of-way. Mr. Martini will check the Palm Beach County tax records to determine the square footage and then compare it to Kelly's tax bill.

Mr. Heeke announced this matter will be deferred and after they have the information necessary, it will be scheduled on a future agenda of a Council Meeting.

Mr. Doney asked if written information can be provided for review about the hiatus strips which the Town Attorney will review before it comes back to the Council. Mr. Randolph indicated he does have some title work and he will get together with Mr. Martini on what has been developed to this time.

Mrs. Wiener asked if she could hear from Mr. Bowser or Mr. Dusey as to what the staff has done up to this time. Mr. Bowser believed that the Town Attorney has outlined it well for the Mayor and Council and his only effort was to try and protect the Town's property so there would be access to the property in the rear if the Town wished to sell the front parcel along Okeechobee Blvd. Mr. Heeke asked what the standard required width would be for a right-of-way access? Mr. Bowser stated he would have to research what the County would require but he felt a two lane road with curbing would be approximately 28' but the County has the 40' right-of-way which they requested and that would be adequate to provide the access. Mr. Heeke asked if pictures could be taken of the structures which are presently in the right-of-way.

A short break was taken.

Meeting called back to order by President Heeke.

5. National Flood Insurance Program - Application for Town to Receive Credits Through the Community Rating System.

Mr. Doney reported this program would require additional certifications through the Planning, Zoning and Building Department as to floor elevation and other technical requirements, but then, based upon the National Flood Insurance Program and the Federal Emergency Management Agency, it would entitle the Town's ratings for the various zones to be better ratings so that the amount paid for flood insurance would be lessened. He believed that according to FEMA and information received from B. T. Kennedy, Palm Beach County's Director of Emergency Management and the administrator of this program for the County, the action recommended by staff is that if the Town Council is inclined to approve this, a letter will be sent over the Mayor's signature with the application to FEMA with follow up actions by staff. Mrs. Wiener so moved. Seconded by Mr. Ilyinsky.

Mayor Marix wondered if there was any idea of how much this would be costing the Town, as she noted there will have to be temporary personnel employed to follow up on this. Mr. Doney advised there will be no additional personnel necessary although initially Mr. Moore believed there might be but a determination has now been made that it is not as involved as they would it would be and it can be handled within the present personnel. Mr. Moore stated he does not actually know at this point of time what will be involved as the application for certificate of finished floor elevation will be an extra piece of work that will need to be done and he would not wish to state unequivocally that this will not cause an additional cost at some future date. He believed Chief Kennedy indicated they would be participating at a minimum level at this point in time although there are options to participate on a more in depth basis, and at the level proposed, they will not need extra personnel but he would not want to make the statement that it would not be necessary at the next level. Mr. Heeke asked if the Town could opt out at that point? Mr. Moore responded affirmatively indicating they would examine the experience they were having and what the savings would be.

Mayor Marix asked if the cost could be worked into the building permit fee for new construction? Mr. Moore stated the building permits already take into consideration the costs and there is no anticipation of raising fees in relation to this. He stated the cost of the

Kelly Tractor
Abandonment
of Right-of-
way adjacent
to Okeechobee
Blvd.
(cont'd)

National Flood
Insurance
Program

National Flood
Insurance
Program (cont'd)

finished floor certificate is already an obligation of the property owner. He believed there would be a potential for additional costs. He noted the FEMA people do come to Town about every three years and demand a great bit of their time and it would be another way of auditing.

Mrs. Wiener noted Mr. Moore has stated the level we are at now will not cost a great deal of money, but the next level may and she wanted to know what he was specifically talking about for this next level? Mr. Moore responded it was his understanding there were different levels of participation in this program and he didn't have any further details.

Mrs. Douthit believed they should simply stay within the absolute minimum. Mr. Moore agreed and that is why he agreed to participate in this program at this particular level, as no additional costs at this point were anticipated.

Mr. Peter Elwell stated this is an application process and it has to be renewed annually, so right now, they are documenting only what they are presently doing, and the form and file keeping may be a little different, but in terms of the activities the Town staff will need to undertake, they are only putting in the application what they are presently doing and the other levels of participation would be if additional activities were undertaken relating to flood insurance, such as drainage improvements, etc., and then that would be documented, but that would have to come back before the Council for authorization.

Mr. Ilyinsky moved the Mayor be authorized to transmit a letter and application to the Federal Emergency Management Agency on the National Flood Insurance Program for the Town of Palm Beach and staff be authorized to proceed with follow-up actions, as necessary, to comply with the requirements of the program's regulations and the Town's application. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Discussion of
Hearing on Port
of PB expansion
program by
Corps of Eng.

6. Discussion on December 6th, 1991 Hearing on Port of Palm Beach's expansion program by the Corps of Engineers. Mr. Weinberg informed the Mayor and Council he attended this hearing with Mr. Doney and Mr. Elwell and he advised the Corps the Town of Palm Beach Town Council was opposed to any additional slips to be constructed at the Port of Palm Beach. He believed the Corps is still disposed in that direction, although they have not made any final remarks. He urged the Council to recommend to the Corps that a more comprehensive environmental study be completed before the final decision is made.

Mr. Doney further expounded on this indicating he has prepared a memorandum dated Dec. 9, 1991, noting there were approximately 40 in attendance at the hearing which was conducted by the Corps of Engineers, and specific criteria was used and there was no opportunity to be able to ask questions or receive additional information and basically, they received the Port's application verbally, then allowed interested individuals who wished to speak pro and con to speak on the issue. He recalled there were a number of opposition speakers and he and Mr. Weinberg reiterated the objection of the Mayor and Town Council to this proposed project, which would be an additional slip. He recalled the Palm Beach Civic Association, the Preservation Foundation of Palm Beach and the Coral Reef Society all were opposed. He advised there is a pending issue in that the Palm Beach Co. Dept. of Environmental Resources Management is insisting that a permit should be required for environmental reasons and to date, the Port of Palm Beach has refused to apply for that permit. He stated the City of Riviera Beach spoke in favor of the new slip for economic reasons. He highlighted the environmental concerns in detail and negative environmental impacts, which would include further degradation of the water quality of Lake Worth; concerns with the manatee; and the shore line concerns and quality of life concerns and other negative impacts identified in prior letters sent by Mr. Heeke in July.

Mr. Doney advised that from this point forward, the Corps has advised Mr. Elwell that they intend to make a determination on this application in January of 1992 and at that time they will contemplate issuing a Notice of Intent to Issue the Permit, and at that point, there may an opportunity for the Town to further object and request an additional hearing, but it remains what opportunities of appeal, (including legal appeal) would be available.

Mr. Heeke asked if the staff would undertake preparing the necessary request for the additional studies as stated by Mr. Weinberg for the environmental impact question. Mr. Doney advised he verbally entered that into the record but will reconfirm it in writing.

Mayor Marix noted that written comments will be received until Dec. 20, and encouraged staff to be in touch with those people who objected to Peanut Island some time ago. She read in the paper they are eagerly awaiting doing a large trade with Cuba and she didn't believe this was going to help these freighters stay off the reef which is being ruined. She believed there were many environmental problems but also to be taken into consideration is a busy port does make a lot of noise and some of these other concerns should be made known.

Mrs. Wiener believed it was an overall policy situation where they are attempting to ram down their throats a major Port, which was never contemplated originally and by creeping slowly in that direction, they are large boats anchored in the intracoastal and she thought it was vitally important that aid be enlisted from the Ports in Miami and Everglades, as they don't want to lose business.

Mrs. Douthit pointed out if there is a 990 foot slip, which could house an aircraft carrier, the next step would be to go to bigger ships and more of them and then they will want to deepen the channel further and the U S Corps of Engineers has already owned up to being 80% at fault for the erosion of the beaches in Palm Beach and they have not offered any financial aid for the correction of the problems they have already created.

Mrs. Wiener believed another problem would be the passengers of these cruise ships who will be creating travel problems on the roads and it would actually be the development of another city right at the Port. Mr. Heeke agreed this would require more community services which the local taxpayers would have to pay for.

Mayor Marix believed that many of the jobs which would be added at the Port would alleviate jobs of the small boater and another thing is the ships that are anchored near the Port are belching black smoke and some of the other things that will need to be addressed.

Mr. Doney indicated he will prepare the letters for Mr. Heeke's signature.

XIII. DEVELOPMENT REVIEWS

- A. Major Matters Previously Considered by the Architectural Commission at Their Meeting of November 20, 1991 - Excerpt Available in Town Manager's Office

Major Matters
Architectural
Commission

Mr. Ilyinsky moved the report be received on the major matters considered by the Architectural Commission's meeting of November 20, 1991. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

The major matters were:

- B28-91 - Courtyard revisions for Love Realty, 238-40 Worth Avenue. Deferred.
- B65-91 - Site Wall and landscape plan for C. Claude Nimun, 1144 N. Ocean Blvd. Deferred.
- B39-91 - Landscape Plan for Dr. & Mrs. Marvin M. Rosenberg, 694 N. Lake Way. Approved with conditions.
- B73-91 - Facade Modifications to residence of D. Mead Johnson, 1550 S. Ocean Blvd. Approved with conditions.
- B74-91 - New residence for Neal Rauch, 248 LaPuerta Way. Approved with conditions.
- B75-91 - Demolition of residence and new residence for Mr. & Mrs. Allan Ryan, 230 Miraflores. Approved with conditions.
- B75-91 - New residence for Mr. & Mrs. Mark Klaine, 157 Dolphin Rd. - Approved with conditions.
- B77-91 - Carport Awning for Jeanne Ray, 226 Chilean Ave. - Approved with conditions.
- B78-91 - Addition to residence of Richard Brams, 120 Via Vizcaya - Approved.

- B. Variances, Special Exceptions and Site Plan Reviews

Old Business

1. Variance No. 38-91 - Donald J. Trump, Mar-A-Lago, 1100 South Ocean Boulevard; to consider expansion of nonconformities as per Section 8.23 of the Town Zoning Ordinance and allow the existing property manager's cottage to front a new street at a setback of 18' in lieu of 35' as required, and allow the garage to the property manager's cottage to setback 8' when 35' is required, and allow the garage, staff and service quarters to the main structure to be setback 12' from the means of ingress and egress when 35' is required. R-AA District. Deferred from November meeting. (This item was removed from the agenda).

Var. 38-91
Mar-a-lago

2. Special Exception No. 12-91 With Variance - Hals Realty Associates Limited Partnership, 401 South County Road; to allow applicant to expand existing use from 6,500 sq.ft. to 8,500 sq.ft. and to permit off-street parking within 500 ft. To allow construction of a partial second story per Section 5.48 and to request a variance from Section 8.21 allowing expansion to a nonconforming structure (deficient setbacks). C-TS District. Deferred from November meeting. (This item was removed from the agenda).

Spec. Excep.
12-91 with
variance

3. Special Exception No. 13-91 With Variance - Power-Love Associates, 256 Worth Avenue; to allow applicant to change the use from retail to restaurant and to allow applicant to occupy 7,000 sq.ft. in lieu of 2,000 maximum allowed. Additionally, allow off-street parking within 500 ft. but with a variance because parking is in a different zoning district. C-WA District. Deferred from November meeting. (This item was removed from the agenda).

Spec. Excep.
13-91 with
variance

4. Special Exception No. 15-91 with Variance - 214-218 Worth Avenue, Inc., 214-218 Worth Avenue; to allow conversion of nonconforming second floor residential use to a permitted commercial use providing 10 required parking spaces to be located in a different zone per Section 6.21(d)(3). A variance is requested from Condition (d) of the above mentioned special exception which would require the parking to abut the commercial use. A variance from Section 8.23 is requested to enlarge/extend a nonconforming building allowing enclosure of alley way. C-WA District. Deferred from November meeting. (This item was withdrawn).

Spec. Excep.
15-91 with
variance

4.a. Special Exception No. 13-90 With Variance - Old Guard Society of Palm Beach Golfers, 223 Sunset Avenue; to allow a social club to locate in a C-TS Zoning District and further to allow occupancy of 3,500 square feet in lieu of 2,000 maximum allowed. A Variance is requested to Section 6.21 which would require 54 parking spaces; 14 parking spaces would be assigned this tenant. C-TS District. Request for one-year extension. Mr. Moore advised there is no objection from staff to the extension being granted as this is the first request. Mr. Weinberg moved the extension of one year be granted. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Spec. Excep.
13-90 with
variance

New Business

5. Variance No. 64-91 - Catherine Tankoos, 608 Island Drive; to allow construction of a covered terrace increasing the lot coverage to 30% in lieu of 25% maximum allowed. R-B District.

Var. 64-91

President Heeke called for comments from the representative for the applicant and there was no-one in the audience and this matter was deferred until later in the agenda.

6. Variance No. 65-91 - Herbert Pheeney, 101 Banyan Road; to allow construction of a swimming pool providing a rear yard setback of 3'8" in lieu of the 10' required. R-A District.

Var. 65-91

Attorney Robert Deziel addressed the Council requesting the variance for his client, Mr. Pheeney. He gave a history of the property noting that in 1921 Addison Mizner built this house for his residence at the property on the corner of Jungle Road and South Ocean Boulevard, which he named Concha Marina. He stated in 1925, Mr. & Mrs. Dodge Sloan acquired the property and in 1921, they acquired the adjacent property at the corner of Banyan Road and South Ocean Blvd., whereupon Maurice Fatio designed a patio, swimming pool, fountain and the garden walls which now exist. He

Var. 65-91
(cont'd)

reported approximately a year ago, the property at Jungle Road was designated a landmark and at that time, the property owner, Mr. Pheeney made it known to the Landmarks Preservation Commission that at some time in the future, he would like to separate the two parcels of property. He is requesting today a variance on the setback requirement where the pool exists, with respect to a line which is located 15' south of the south elevation of the house. He stated the original property line before the two properties were assembled together, was approximately ten feet off the south elevation of the property. He has moved the property line five feet to the south so that at least the residential structure as it exists today could comply with the current zoning requirements.

Mr. Deziel pointed out the structure on the Banyan Road property is to the east of the pool and this is a building designed by Maurice Fatio with the intention of having the pavilion area line up on axis with the pool. He noted there is a fountain there also and the whole idea at the time was that the improvements would be architecturally correct and when this property was voluntarily landmarked, Mr. Pheeney will, in order to save the pool, which he thinks is the most important structure on that site, will remove the north end of the pool pavilion so it will comply with the Town's regulations. Mr. Deziel stated Mr. Pheeney is willing to do this although it would prefer to keep it as it is but will remove the north end of the pavilion so it will comply with the 15' rear yard setback requirement.

Mr. Deziel felt the pool is as much of a landmark as the house is, even though it is not part of the application and they would like to retain that architecture, as there is not much of that particular architecture left in the Town. He pointed out this lot will have the Banyan Road address.

Mr. Moore gave the staff comments: Public Works: If construction does take place on the other lot, an utility easement needs to be provided. Town Manager's Office wishes to know the full plan and asked about the hardship. Building Department has no objection if the structure is demolished as indicated by Mr. Deziel. Mrs. Douthit reported she has visited the site and with the condition that the north end be removed from the pool house and any new construction would be conforming and no variances be requested in the future,, she would be in favor of the variance and she moved for approval of the Variance No. 65-91 with the conditions she stated.

Mr. Ilyinsky asked to be heard before a second is made as he had a few comments he wanted to make. He is very much aware of why setbacks are very important and he knows this house very well and the pool pavilion as it stands today as well as the fountain and the pool have been done by Maurice Fatio and is an architectural gem. He knows of no other property in the Town which can support the fact that two of the most famous architects in the world had a great deal to do with this property. He knows that Mr. Pheeney has done a great job on the restoration and he feels it would be a tragedy to destroy the beauty and symmetry of this pool house simply to satisfy the setback regulation. Mayor Marix agreed. He suggested they all go and take a look at it and perhaps another variance needs to be applied for, but he would strongly recommend that some sort of an exception needs to be considered in this particular case.

Mrs. Douthit agreed also as she didn't think they even needed a barrier and she felt they had all the privacy in the world was there, whether or not the north end was removed or not. Mr. Deziel advised that in renovating the home, Mr. Pheeney contemplated possibly retaining the north wing and he agreed there would be complete privacy if the structure remained as is.

Mr. Heeke believed this Council has always strived to protect the historic properties in the Town and just because the pool is not landmarked doesn't necessarily change that character. He encouraged the motion maker not to require the removal of that building.

Mrs. Douthit stated she would be delighted to delete that portion of the motion. Mrs. Wiener agreed that it should not be ruined just to adhere to the setbacks, which doesn't make any sense. Mrs. Douthit stated she would like to leave in the motion that no further variances would be applied for.

Mr. Moore reported the matter before the Council today is the request on the pool and the condition that was mentioned about the accessory structure may be left out of the motion, but from a technical and legal standpoint, he felt it would be required to be advertised for that structure. Mr. Heeke asked if it could be considered as part of the same application. Mr. Randolph stated it could be taken out as the condition and they can just act on the motion. He believed there was nothing to compel him to come for a variance and it could be suggested or include in the motion that the request is for them to come back for the variance to allow the structure to stand. Mrs. Wiener did not agree. Mr. Deziel asked if the intention of the notice requirement for the neighbors would have been sufficient notice in the notice which was sent out telling them of the setback requirement and if the motion was withdrawn and a new motion made that there be a variance to allow the north end of the structure to remain and the setback requirement to allow for the variance would be acceptable? Mr. Randolph responded it would not and they would have to readvertise.

Mayor Marix asked if Mr. Deziel would like to defer this to next month so that it can be readvertised. Mrs. Douthit assumed if they came back it would just be for the north property line. Mr. Deziel stated he did receive a phone call from a neighbor who happened to be a client of his and he had no problem after Mr. Deziel explained the situation.

Mrs. Wiener seconded the motion. Mr. Deziel asked about the condition that there be no future variances? Mr. Heeke stated that is something that cannot be done. Mrs. Douthit recalled this has been done in the past. Mr. Moore agreed but the provisions that the structures as they are located on this property would put any future owner under a terrific hardship. Mr. Heeke agreed noting it may well force someone in the future to destroy the pool. Mrs. Douthit stated her motion would be then to move for approval of Variance No. 65-91. Seconded by Mrs. Wiener. Mr. Weinberg asked if this meant they would be removing the north end of the building? Mr. Heeke responded negatively. Motion carried unanimously.

Meeting adjourned for lunch.

Meeting called back to order.

7. Variance No. 67-91 - Palm V Associates, 238-240 Worth Avenue; to allow expansion of a nonconforming building. C-WA District.

Var. 67-91

Attorney Peter Broberg addressed the Council on behalf of Palm V Associates and they would like to add some space to make up some space that is being demolished. He advised in the Via, this Council granted permission to break through the wall between two separate vias, the one to the west and the one to the east and there would be a walkway between the new vias and it is a very pretty area. He reported this space would go right through the center of the shop now known as Pari Sorbert and that has been approved as that space which is roughly 200 square feet and the applicant wants to create at the other end of the via Men and Women's bathrooms, which would be 200 square feet.

Var. 67-91
(cont'd)

Mr. Heeke asked if each Council member had viewed the plans in the Building Department to which they responded affirmatively. Mrs. Douthit asked if Pari Sorbert was going out of business there to which Mr. Broberg responded negatively. Mr. Broberg stated this is designed specifically to enhance the beauty of the Town as the vias are protected and the walkway will allow them to walk through a couple of hundred square feet and the applicant wishes to take the 200 square feet which they already had and put in the bathrooms at the east end of the Via, underneath some stairs in an alcove. He stated the Code provision for which they are asking the variance from, states the nonconforming structure cannot be enlarged, increased or extended which they are not doing, but the Code goes on to say that no such nonconforming building or structure shall be relocated in whole or part of any portion of the property. He states they are not asking for any more commercial space but are asking to maintain what they already have and that is what is before them.

Mr. Moore advised this was before them as a request administratively to approve but they felt in a abundance of caution this matter should be brought to the Council for their attention and action. Mrs. Wiener pointed out there is a letter of objection from the neighbors and they ask for one particular thing and that is to defer this until architectural drawings are provided specifically showing the location and size and characteristics of the proposed bathroom and she asked exactly where would it be located? Mr. Broberg responded the drawing does show exactly where the bathrooms are to be located and the drawings have been on file for over thirty days. Mr. Zimmerman advised Mrs. Scher was in his office yesterday and saw the plans. Mayor Marix reported she saw Mrs. Scher today and she is still upset about the plans.

Mrs. Douthit asked if Pari Sorbert want to move their operation? Mrs. Wiener stated she did not know and she thought this was alright until she saw the letter. Mr. Broberg advised what hasn't been taken into account is nothing is going to change - there is simply an exchange of square foot for square foot. He advised if the neighbors are concerned about the controlling of the usage of the proposed bathroom, there should be no problem as there is a bathroom there which backs onto the alley and the one to be created is off the alley. Mr. Moore reported the bathrooms will be further away than the existing bathrooms. Mr. Broberg stated he doesn't understand their objection. Mayor Marix wondered why six people signed the letter who had the objection? Mr. Heeke asked if anyone of them were in the room and there was no response.

Mr. Ilyinsky did not believe the neighbors understood what the application was all about. Mr. Heeke stated he tended to agree with them as the relocation of Pari Sorbert is a landlord/tenant matter. Mrs. Douthit noted the existing plumbing backs onto the alley way and the new one will not so actually it is better for the neighbors and an improvement over what it is at present. Mr. Heeke agreed. Mayor Marix asked if they could delay the decision to the end of the meeting and have someone call up Mrs. Scher at least and explain this. Mrs. Douthit did not understand as Mr. Zimmerman advised she has seen the plans. Mr. Ilyinsky asked if the bathroom would be locked as the tenants leave the premises to which Mr. Broberg responded affirmatively. Mr. Heeke believed the question about access has been answered as there will be control there as it will be used only by the employees of the tenants and will be locked when the shops are not open.

Mr. Heeke believed the objectors could have been heard at this meeting and it is difficult to know what their complaints are as the bathrooms will now be further from Golfview Road than the present facility is. Mrs. Wiener felt very often there is a misunderstanding to which Mr. Heeke agreed. Motion was made by Mr. Ilyinsky that the Variance be granted. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

8. Variance No. 68-91 - C. Brooks Ricca, Jr., 267 Dunbar Road; to allow installation of a carport awning providing a street side yard setback of 10' in lieu of 30' required. R-B District.

Var. 68-91

Mrs. Sally Ricca addressed the Council on her behalf requesting an awning installation within 10' of the west property line while the Code requires 30'. She exhibited photographs of the area noting it won't be very visible from the west side because of the height of the hedges flanking the driveway. She stated this is a big home and there is not much storage space and they use the garage for storage.

Mr. Heeke noted there has been no hardship demonstrated as the property is not unusual in shape. Mr. Moore stated the only hardship would be the double frontage lot and the Council has in the past given consideration to these requests but he can see no other hardship.

Mayor Marix asked if the house occupied the maximum lot coverage? Mr. Moore stated it is less than maximum. Mayor Marix suggested they might be able to build a storage room somewhere on the lot. Mr. Moore noted the survey shows there would be a portion off the patio to the northwest which could be used in that fashion. Mrs. Ricca stated their long range plans do call for that type of construction, however, they wished it now for protection for their cars and it would not be visible from the street.

Mr. Heeke stated again there was no hardship. Mrs. Wiener stated it also is not a minimal variance and wondered if they could do with a lesser size. Mayor Marix stated another problem is turning the garage into a storage room, which is contrary to the Ordinance. Mrs. Ricca explained there could be room for one car if they rearranged the storage area. Mr. Heeke stated there is a philosophy of not giving up garage space at all for storage space. Mrs. Douthit noted there would be room to build a storage area without requesting a variance to which Mr. Moore agreed.

Mr. Weinberg believed he heard the applicant state they do contemplate building a storage area later on and suggested they build it now and turn this area back into a garage for their cars.

Var. 68-91
(cont'd)

Mrs. Ricca asked if the size of the awning could cover an automobile if it were made shorter? Mr. Heeke stated that would not solve the problem as there is garage space available which is being used for other than garage purposes.

Mrs. Ricca advised she had put an addition onto her home and they had to put in pilings, so that was a concern of hers at this point. Mr. Heeke responded it is against the Comprehensive Plan and he would have a lot of trouble voting for this. Mrs. Wiener advised the applicant they do understand what she is saying but the Council has to abide by its rules and regulations and this falls so far from those rules as this is a situation that is untenable for them. Mrs. Ricca asked if it could be made shorter? Mrs. Wiener responded it would not help as it would still be the same problem with the setback. Mrs. Wiener moved that Variance No. 68-91 be denied. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Var. 69-91

9. Variance No. 69-91 - Michael Burrows, 1495 N. Ocean Boulevard; to allow construction of a two-story residence at a height of 13.2' measured from lot grade in lieu of measuring from elevation 7.5' as required. R-A District.

Mr. Burrows addressed the Council requesting the variance stating the property seaward of the road is considerably higher than the road itself so to stay within the regulations which stipulate 35 overall feet for the height of a house, they would like to consider the high point of the lot seaward to take place of what is normally considered the high point of the center of the road as the base point from which to measure the 35' height of the house.

Mr. Heeke asked if the maximum height of this building would be greater than the next door neighbor at 1473 North Ocean Boulevard? Mr. Burrows stated that is a one story house set down in the mid-point of the lot and the distance between the Coastal Construction Control Line is approximately 470' and the Gucci house would be about halfway. He stated his home would be placed somewhat easterly of the Gucci house by probably 25 to 30 feet.

Mayor Marix asked how far this house would be from the road as the Gucci house has a huge setback to which Mr. Burrows responded he would also have a large setback, about 220' at least. Mayor Marix asked how close he would be to the Gucci house? Mr. Burrows responded within 15' as there is now the remains of an Australian Pine Hedge which they are trying to induce the Gucci Estate to trim down to 25', which would form a hedge as it grows. Mr. Weinberg asked if he had met resistance with the request? Mr. Burrows responded he has as the trees are now about 100' tall and if there were high winds, the trees would probably land on his house. He knows they are a problem and the Town has been removing them whenever possible, however, this was Boynton Landscape's recommendation that instead of removing them, they be cut to 25' height and they would fill out and form a hedge and provide a buffer.

Mayor Marix believed the house being built would be of the quality that Mr. Burrows has built in the past and wondered if it would not be possible to get it further away from the Gucci property line as this is a large lot and that should be possible. Mr. Burrows responded the property is 115' wide and with the setbacks, it reduces the ocean frontage available for a house and what they have done in the design is to put the key rooms facing the ocean. He explained the house is staggered so some of the bedrooms on the south side would have a view of the ocean so the two story portion of the house facing Gucci's would be approximately 45 to 50 feet in width from east to west. He stated the house itself would not be overbearing to his neighbor. He recalled the houses he designed at the Blossom Estate were designed very carefully with future neighbors in mind. Mrs. Douthit asked if he would be willing to have a reduction of four feet. Mr. Burrows responded in a house of this kind, the big problem is they are allowed 25' from the floor of the first floor to the ceiling of the second floor and he would like the ceilings to be as high as possible and by reducing that height, it makes it not desirable at all. Mrs. Douthit stated heights can vary not only the ceiling heights, but also the roof pitches. Mr. Burrows responded the roof pitch is about 9' and he didn't want a flat roof and it pitches back and doesn't have a big overhang and the style is a French Country House so it is not a big massive house at all.

Mayor Marix asked if there would be landscaping in the front or would there be a courtyard? Mr. Burrows stated from the street you would not be able to see the house at all as the driveway will be between trees.

Mr. Moore gave the staff comments noting the Blossom Estate would be analogous to this although that land was virgin land as far as structures in the immediate vicinity as there were none. He recognized on the staff level that these applications have been granted in the past on a routine basis, with very little objection from staff, however, in the last year or so, there has been considerable effect upon the neighborhood with new construction and in an effort to try and address this, as they are using the maximum. He states this house would have a height of about 48' when measured from the existing grade, whereas the neighbors have heights as low as 37' to 41'. He has correctly told you the house is positioned further to the east towards the ocean than is the Gucci house, however, this is a substantially higher house and if the landscaping were removed, it would be a significantly higher house than is currently in this area.

He recalled Mrs. Douthit asked if he could lower it and he felt one of the things that could be done is removing some of the fill that is on the property and start at a lower point. He stated this is more costly to the developer, however, but it is an option. Mr. Heeke stated the overall height if measured from the Boulevard would be 48'. Mr. Burrows explained in terms of the neighborhood, it is impossible to see his house from the road because of the trees. He pointed out additionally that the property to the north of his property is now vacant and would have the same level of height above the street, so that anyone building there would do the same thing that he is requesting, so the houses would be compatible in height. He thought it only made sense that if you go to the south there is a house at the turn of the road built by Mr. Messing and that house though it is a flat roof and contemporary is built higher and part of it were set down in the dunes. He stated he would like to keep the first floor pretty much on the level with the high point as it is seen, simply because of the beauty that emanates therefrom. He stated the gradual slope coming up to the house will see the garage, which will be a three and one half or a four car garage extending on a one story basis on the south side. He stated this will be several steps below the first floor. He doesn't wish to put many stairs in the house especially in the garage as they will be carrying packages and it is a problem for those who are not agile. He felt that whatever is built on the Gucci property ultimately, will be a two story. He stated he would not come before the Council with this plan if he felt it would be a difficulty for the Council as he doesn't want to produce a problem for any of them, but he felt the design was appropriate for the property as he doesn't want a flat roofed house.

Mrs. Peters read a letter of objection from Edward Kendall of 1494 N. Ocean Blvd. as he felt if this were granted would have an adverse effect on the neighborhood.

Var. 69-91
(cont'd)

Joanne Frost-Golino, 1500 North Ocean Blvd. addressed the Council noting her residence is diagonally across from the applicants and she urged the Council to vote against this application. She realized the proposed home will be set back far from the road, but there are two houses to the north in addition to the empty lot he referred to. She felt the neighborhood in general should be looked at and not just what faces the ocean as the neighborhood also includes those of them located on the west side of N. Ocean Blvd. She doesn't believe the Ordinances mean that all houses have to be built to the maximum and she felt that is why the Ridge Study is being done south of Onondago and the point here the Ridge does continue north of Onondago and that is not part of the area being studied. She thought a bad precedent would be set and urged them to vote against this variance.

Mayor Marix believed when the ridge area was to be studied, it was her understanding that there were other areas in the Town that would also be studied with this problem. Mr. Moore responded when it was put on as a study item, it was from Queen's Lane to Onondago and any other areas in the R-B District that would be affected. Mayor Marix knew this particular area is R-A and perhaps this needs to be studied also. Mr. Heeke commented that is not what we are talking about right now.

Mr. Burrows stated there are three pieces of property immediately abutting his property to the north and the first is a tiny home and next to that there are three additional homes and there are two two-story houses, and one of them is overpowering and imposing and he will plant trees to get rid of that view and he will deal with it. He stated Mr. Kendall's home is a one story house and fills up the lot which most houses do in Palm Beach.

Mr. Burrows stated his property is 475 from the road to the apex and he will be setting his house back and it will not be viewed from the roadway and he will provide heavy landscaping as he doesn't want people looking into his house. He is conforming to all of the rules. He has not used the entire ocean frontage and it is not a massive, overbearing house and the rendering shows that. He felt that this house when placed will be a nice addition to the neighborhood as it is so much better than some of the other things that are now there and will improve the environment. He recalled the lot has been for sale for several years and part of the problem in the neighborhood was because the houses in the neighborhood were pretty trashy. He didn't believe anyone would want to build a magnificent home on a lot surrounded by houses of lesser quality.

Mr. Moore stated the Ordinance contemplates building from an area that is adjacent to a street and there may be some occasions where there will be higher areas and variances have been applied for in those areas. He stated that rather than doing the study and changing the Ordinance for each small area, staff thought they would have Council take a look at how this would effect the existing neighborhood and that was the purpose of this, rather than to create new regulations for pocket areas, which could be considered as "spot" zoning. He stated the purpose was to try and identify this particular problem today and have Mr. Burrows address it and receive comments from the public that was notified in the neighborhood.

Mr. Burrows recalled the entire area of the Blossom Estate was on a ridge and each of those houses which were along the Ocean have had to go for special requests and each was granted nor was there a problem at the north end, now all of sudden, he is astonished they are having this type of a conversation as he certainly does consider this to be spot zoning. He can take the roof which is about 8' high and make it Regency Style and make it a flat roof house. Mrs. Wiener asked if he would be willing to reduce the height by removing some fill? Mr. Burrows stated physically they can remove the fill. Mrs. Wiener asked if he would be willing to do that and if not, why not? Mr. Burrows stated architecturally it would spoil the look a great deal, but another problem is this height was designed with the swimming pool on the eastern side of the house and because of the terrific winds, what they are planning to do is to take the swimming pool area and depress it, so people could be out there on windy days and that will require a certain amount of steps and for him to set the house down more would be destructive to the entire concept.

He stated if he were to take away from the height requested, he would have to change the house to a Regency house and he doesn't wish to do that. Mrs. Frost-Golino stated she resented the comment that the neighborhood was "trashy" and she thought no matter what the neighborhood is, any architect worth his salt should be able to build a building within the context of the neighborhood and that is the challenge. She doesn't believe this house with an overall height of 48' will fit into the area and she has a real problem with that and reducing the height and making it a Regency style, they still have a two story house built to the maximum and she urged the Council to not grant this request as he should be required to bring the house down to the seven and one-half foot flood regulation and start there.

Mr. Heeke announced he just recalled he has a conflict on this and he passed the gavel to President Pro Tem Weinberg to chair the meeting.

Mayor Marix asked if the house were built closer to the road, so technically it was within the height limit and even though it was built to the maximum, would it look bigger than if it was higher up and set back further on the property. Mrs. Frost-Golino responded it would and that is why she stated there were mitigating circumstances, the fact that it set far back. She was concerned about the precedent of putting this on the ridge and secondly, it should fit more into the neighborhood. She also believed the plans show there was a tennis court in the front yard backing against the neighboring property and that is another thing that needs to be addressed as if the house is built closer, there will have to be some place made for the tennis court and perhaps he can't do that.

Mrs. Wiener commented that as far as setting a precedent, it has already been set as the house at 1290 S. Ocean Blvd., the Machek house was granted the request of not being measured from the place where other homes were measured from; secondly, the Gottfried house at South County Road and El Brillo received the same kind of consideration in 1991 and the Lawson house at 1070 N. Ocean Blvd. was also granted that request in 1991, so it would not be a matter of precedent. She believed everyone ought to be treated the same. She didn't believe the house proposed was not fitting for the neighborhood and everything that Mr. Burrows has built in this Town has been of high quality but she would like to see him accommodate the Town somewhat as they are not on the one hand giving him everything he would like to have and totally ignoring the other people in the neighborhood who have a problem with this proposed home. Ten per cent of the neighbors have objected and ninety per cent have no comment, she stated, so she felt that needed to be taken into

Var. 69-91
(cont'd)

consideration and she would like to see some kind of an accommodation. Mrs. Douthit suggested one foot off the roof pitch and one foot out of the ceiling heights on both floors and she didn't believe that was a horrendous sacrifice. Mr. Burrows understood and he appreciated this but had so much trouble with the concept as he wishes to put a house there which costs a great deal more than a flat roofed house. Mrs. Douthit stated she is not asking for a flat roofed house as he can have a pitched roof, but it should be reduced somewhat. Mr. Burrows explained what happens to houses like that is if she could visualize it, and was standing on the roadway and looking at the house, she couldn't see it if it were a flat roofed house and the only way she could see the roof is if it were tilted. Mrs. Douthit understood what he was saying and felt it could be a 35 degree or 45 degree and she is asking him to reduce it one foot. Mr. Burrows felt this would be disproportionate and he had a problem with that architecturally.

Mayor Marix asked if he would like to defer this for a month and think about what he would like to do? Mr. Burrows stated he would rather not as he would like to get this started. He felt a new precedent was being established as this has been allowed for years and years and now it isn't allowed. Mrs. Douthit disagreed as she felt those were exceptions to the rules and he had been granted those exceptions several times and she was looking for a compromise. Mr. Burrows stated if he would take two feet out of the roof as he doesn't want to take it from the ceiling height, would that be acceptable? Mr. Weinberg stated they recognized the quality of his work but they needed to have some reduction here. Mr. Burrows stated he didn't want to have a flat roofed house so he will go with the two foot reduction and he will adjust it in some way. Mr. Weinberg handed the gavel to Mrs. Wiener to chair the meeting and moved with the two foot reduction, the Variance No. 68-91 be granted. Mrs. Wiener handed the gavel back to Mr. Weinberg and seconded the motion. On roll call, the motion did not carry with Mrs. Douthit, Mr. Ilyinsky voting against the motion and Mayor Marix breaking the tie with her negative vote. 3-2.

Mrs. Wiener moved that the Variance No. 69-91 be granted with a three foot reduction. Mr. Weinberg handed the gavel to Mrs. Wiener to chair the meeting and seconded the motion. Mr. Weinberg again assumed the chairing of the meeting. On roll call, the motion carried 3-2 with Mr. Ilyinsky and Mrs. Douthit voting against the motion and the Mayor breaking the tie with an affirmative vote.

Mr. Heeke assumed the Chairmanship of the meeting. He stated his conflict was that Mr. Burrows is being represented by a member of his firm on a legal matter.

Mrs. Wiener commented on the meetings of ARCOM and LANDMARKS where people declare they have a conflict but they do not state what the conflict is and they must also file the Conflict form and she didn't believe that was being done and she asked Mr. Moore to follow up on this. Mr. Heeke suggested the Town Attorney remind all the Commissions about this law.

Var. 64-91

6. Variance No. 64-91 - Catherine Tankoos, 608 Island Drive - to allow construction of a covered terrace increasing the lot coverage to 30% in lieu of 25% maximum allowed. R-B District. Jackie Alberran, Architect from SKA representing Mrs. Tankoos addressed the Council noting the house is one story with a very small section over the garage which is two stories. She stated now existing is a small canopy which is "L" shaped and she would like to replace this canopy with a structure to allow this terrace to be covered. Mrs. Douthit made a motion to approve Variance No. 64-91 on the grounds that the two story portion of the house is very minimal and for all intents and purposes, it is a one story house and this .04 addition is not a colossal enlargement. Seconded by Mrs. Wiener making the comment that very often these are in front of the Council and sometimes there is a situation where there is a very small amount and she wondered if perhaps this could be a study item for next year's zoning season that if it is under 10% of the house, that it be considered as a one story house. Mr. Heeke asked Mr. Moore to make a note of that and give it some consideration.

On roll call, the motion carried unanimously.

Mayor Marix stated she doesn't entirely agree that this should be studied but she would like to repeat her request that there should be submitted large photographs with each variance which only cost about \$9 so everyone can see what the property looks like and today there hasn't been one. She didn't think it was fair to the audience and she thought they should try and get these oversized photographs so everyone can see exactly what is happening.

Mrs. Alberran reported she had a line drawing for the presentation she made at the ARCOM meeting. Mr. Moore commented that he thought that was better than a photograph. Mrs. Douthit recalled there are throw away wide angle cameras which would be able to give the picture the Mayor is talking about. Mr. Heeke believed the points were valid but they needed to move on with the agenda.

A short break was taken. Meeting called back to order.

C. Other

1. Consideration of Proposed Landscape Plan for the Restoration of Memorial Fountain - Deferred from November meeting

Landscape Plan
for restoration
of memorial
fountain

Mr. Frank stated the plan has been revised and the plans have been made available to the Mayor and Town Council. Mr. Frank stated the services for the revised plan were donated by Morgan Wheelock, Inc., Landscape Architects and Mr. Avara addressed the Council from Morgan Wheelock indicating they did meet with Mrs. Summers and Mrs. Ballinger of the Garden Club of Palm Beach. He noted two palm trees were removed from the back side of the fountain so the Town Hall can be readily viewed. He believed the scheme the Garden Club would like is when people are driving by, they could see across the plantings to the fountains in a long channel with a much more formal planting. He advised the Garden Club has chosen a color pallet of salmons, peach, orange and yellow with two flowering trees donated by Mrs. Ballinger which will be placed on the backside of the wall. They have maintained the rocks which are there but feel they should be exposed more and framed by impatiens and ferns.

Mr. Weinberg asked about the areas around the pool and was told these would be sod only. Mrs. Wiener stated she liked the look but wondered why they chose the marigold as there are so many

other wonderful flowering plants we have in South Florida. Mr. Avara stated these are very hearty and would be planted mostly in the summertime as they can withstand the heat.

Mr. Frank pointed out the planting scheme will not be in place until the Spring. Mrs. Ballinger addressed the Council stating marigolds do withstand the heat and sunlight in the summertime and they have been used extensively with good success. She thought the Town would like something pretty in colors which would compliment the colors of the Town Hall and the Police Station.

Landscape
Plan for
restoration
of memorial
fountain
(cont'd)

Motion was made by Mrs. Wiener to approve the landscape plan for the Memorial Fountain Park. Seconded by Mr. Ilyinsky. Mr. Weinberg asked what would have to be replanted on an annual basis? Mrs. Ballinger responded nothing needs to be replanted in the area of the fire department, and the only things that would have to be replanted are the small low annuals which go on either side of the long pool and that would be twice a year.

On roll call, the motion carried unanimously.

Mr. Moore pointed out the services of Jackie Alberran-Mendoza and Morgan Wheelock have been donated and when a lighting plan is prepared, the Preservation Foundation has indicated they will participate in helping the Town redo the lighting, which was not included in the grant monies.

XIV. COMMUNICATIONS FROM CITIZENS - 3-MINUTE LIMIT PLEASE.

Communications
from citizens

MID-TOWN BEACH AREA. Mrs. Ballinger addressed the Council on the landscaping that was destroyed during the storm in October and stated the Garden Club feels there ought to be some better things that could be used along the oceanfront. She has recently returned from Bermuda and found some plantings which are planted on the shores of Bermuda and she thought perhaps that ought to be investigated and she attended a meeting with Dr. Moore of the Palm Beach Civic Association and Mrs. Wean and Mrs. Nelson of the Garden Club and the suggestion was made by herself that planting beds against the sea wall is very impractical and she thought it should be filled in with brick pathways or non-slippery tiles or artificial keystone which would not have to be maintained and it would look better than the river of cement that was there and is being proposed to be replaced. Mr. Heeke advised they wish to restore that area as quickly as possible and that is why the decision was made by the Town Council at the last meeting that this be restored much as it was and they would have to see plans of what the Garden Club is proposing and this matter could be reconsidered. Mrs. Ballinger asked how soon would they need the plan as it probably would not be able to be done before Christmas, and she thought if money could be saved and get things installed which would last longer and would not need maintenance, that that would be a good plan of action. Mr. Heeke stated he had spoken to Mrs. Wean and she thought there was ample time to get the plan prepared, but in any event the Council has already made the decision and he would not want to call for a motion to reconsider without any specific plan before them. Mrs. Ballinger stated she would be willing to help out in any way that she could. Mr. Heeke stated they already discussed this at the last meeting and they didn't want to be rediscussing matters. Mrs. Ballinger stated she wasn't here when they were discussing this. Mrs. Wiener recalled the Council made the decision that in order to get on with the work, they would restore this area as it was and the vote was unanimous. Mrs. Ballinger reported the Garden Club doesn't want it done that way. Mayor Marix stated it was her understanding that any one on the prevailing side can ask to have something reheard if they want, so probably it could be reheard as she can see Mrs. Ballinger's point that there is less and less beach to protect ourselves with and we don't know when that will be restored, and we have experienced a bad storm which made a big mess there and costs lots of money to restore and this could happen again and if there is a way of finding something that would be a little bit more permanent, perhaps we should look at it.

Mrs. Ballinger
re: Mid-town
beach area

Mr. Heeke commented he didn't anything would have survived the October 31, 1991 storm, and the point is they have acted on it and he wishes to move forward on the agenda.

XV. ANY OTHER MATTERS

A. ZONING COMMISSION REPORT: Mr. Moore reported the report from the Zoning Commission is in the hands of the Chairman at this time and this will be reviewed by the Town Council on January 6th from 9:30 to 4 PM and what is not heard on the 6th be put over to the 7th, if necessary and suggested the PUD matters be heard on the 7th so the interested parties may adjust their calendars, to which the Council agreed.

Zoning
Commission
Report

B. ADDITIONAL VISIONAL AIDS FOR TOWN COUNCIL CHAMBERS. Mr. Moore advised one of the recommendations of the Zoning Commission was that staff should bring to the Town Council the request for additional visual aids, such as an additional monitoring screen on the other side of the room to assist those in the audience and the Commissioners seated at the east end of the table. He stated another suggestion was a screen on the wall behind where the Council is seated. Mayor Marix felt if they were not going to be making presentations with larger photographs as she has suggested, it would not any good. Mr. Heeke suggested staff investigate this suggestion and see what could be done to improve the situation.

Additional
Visual Aids
for Town Council
Chambers

C. CLARION REPORT ON MAR-A-LAGO Mr. Moore reported there was a cost overrun on their initial bill of \$7160 and he has been able to negotiate with them and have that reduced to \$3580 and he needed approval from the Town Council to pay this. Mrs. Douthit moved that the additional \$3580 be paid to Clarion for their report on Mar-A-Lago and the additional funding should come from the General Fund Undesignated Balance. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Clarion
Report on
Mar-a-lago

D. MID-TOWN BEACH LANDSCAPING: Mr. Ilyinsky made a motion that the mid-town Beach restoration work authorized by the Town Council last month be reconsidered and the Garden Club's idea of putting in some sort of a decorative walk-way along the wall be considered. Seconded by Mrs. Douthit. On roll call, the motion failed to carry 3-2 with Mrs. Wiener, Mr. Weinberg and Mr. Heeke voting against the motion.

Mid-Town
Beach Land-
scaping

E. DEPARTMENT OF NATURAL RESOURCES PACKET ON THE PEP REEF BEFORE THE GOVERNOR AND THE CABINET: Mr. Doney reported this packet just came in today and needs to be studied and the Mayor will be attending this meeting next week and this may require action by the Town Council at their

DNR - PEP REEF

January meeting. Mr. Heeke urged all members to read it thoroughly and call the Town Manager's office with their comments before the meeting.

F. UPCOMING MEETINGS: Mr. Doney reminded the Mayor and Town Council to note the upcoming meetings as attached to the agenda. Mr. Weinberg suggested that perhaps the Zoning Commission meetings should be held after the Town Council meeting in January as there will not be much opportunity to review the report during the holidays. Mayor Marix agreed but believed the reason it was set up this way is a few years ago the first reading of the new Zoning Ordinance was heard by one Council and then a newly elected Council heard the second reading and they didn't have an opportunity to know what it was all about. Mr. Moore advised they do have a calendar set up and have time constraints and that is why the meetings have been set up in this fashion.

XVI. ADJOURNMENT There being no further business the meeting was adjourned.

Grace T. Peters
Town Clerk

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

LAST NAME—FIRST NAME—MIDDLE NAME HEEKE BERNARD A		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Town Council	
MAILING ADDRESS 124 Seabreeze Ave		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 12-10-91		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. The requirements of this law are mandatory; although the use of this particular form is not required by law, you are encouraged to use it in making the disclosure required by law.

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

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

ELECTED OFFICERS:

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

In either case, you should disclose the conflict:

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

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

APPOINTED OFFICERS:

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

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

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

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

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

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

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, BERNARD A. HEEKE, hereby disclose that on 12-10-, 1991:

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

☐ inured to my special private gain; or

☒ inured to the special gain of Michael Burrows, by whom I am retained.

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

My partner represents Mr. Burrows in an unrelated matter.

12/10/91
Date Filed

B. Heeke
Signature

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