TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL MEETING HELD ON DECEMBER 9, 2003

I. CALL TO ORDER AND ROLL CALL

The regularly scheduled meeting of the Town Council was called to order at 9:30 a.m. on Tuesday, December 9, 2003, in the Town Council Chambers by Town Council President William J. Brooks. Upon roll call the following Elected Officials were found to be in attendance:

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

Also attending for all or a portion of the meeting were:

Town Manager Peter B. Elwell
Assistant Town Manager Thomas G. Bradford
Assistant to the Town Manager Sarah Hannah
Town Attorney John Randolph
Fire-Rescue Chief Kent Koelz
Police Chief Michael Reiter
Director of Planning, Zoning & Building Robert Moore
Assistant Director of Planning, Zoning, & Building Veronica Close
Zoning Administrator Paul Castro
Public Works Director Al Dusey
Public Works Assistant Director Paul Brazil
Town Engineer James Bowser
Public Works Facility Maintenance Division Manager Joe Ugi
Finance Director Jane Skittone
Human Resources Director William Crouse
Town Clerk Mary A. Pollitt

Post Office Box 2029 • 360 South County Road • Palm Beach, Florida 33480 • (561) 838-5416
Fax No. (561) 838-5417

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Town Clerk Pollitt gave the Invocation. President Brooks led the Pledge of Allegiance.

III. PRESENTATIONS

NONE

IV. COMMENTS OF MAYOR LESLY S. SMITH

Since this is the last Council meeting of the year, I want to take this opportunity to extend warm holiday greetings and to count our considerable blessings.

As our duly-elected Town Council members ponder the merits of issues that affect the lives of Palm Beach residents, and as they listen to those who support or oppose those issues, however vigorously . . . we are reminded that thousands of United States servicemen and women are fighting in Iraq to protect the very democracy under which we serve.

In Iraq . . . and around the globe . . . our troops are sacrificing their lives so that others might get a taste of the freedom which we too often take for granted. Embedded journalists and 24-hour media reports notwithstanding, I don't think we can really envision the conditions under which our military serve, while we are safe and comfortable under the Palm Beach sun. Nor can we really imagine what it feels like to have a friend shot point blank, or blown up by a suicide bomber, while we stress over a traffic jam on the north bridge.

So, in the spirit of the holiday season, let us put our everyday problems into perspective and hold tight to the people who are dear to us. Let us be especially thankful for this sweet land of liberty in which we live . . . and remember these freedom fighters in our prayers, whether we pray to the God of Christianity, Judaism or Islam.

Most important, let us hope that next December, all Americans will be celebrating . . together . . . at home . . . in a world of peace.

V. APPROVAL OF AGENDA

The following changes were made to the agenda:

ADD Item VII.B.4., Citrus Canker Eradication Program

Motion made by Councilman Wyett, seconded by Councilman McLendon to add Item VII.B.4., Citrus Canker Eradication Program, to the Regular Agenda. On roll call the motion carried unanimously.

DEFER to the January 13, 2004, Town Council Meeting - Item XI. Development Reviews, C.1.b. Site Plan Review #7-2003 with Variances.

Motion made by Councilman McLendon, seconded by President Pro-Tem Goldblum, to defer Item XI. Development Reviews, C.1.b. Site Plan Review #7-2003, to the January 13, 2004, Town Council Meeting. On roll call the motion carried unanimously.

Motion made by President Pro-Tem Goldblum, seconded by Councilman Wyett, to approve the agenda as amended. On roll call the motion carried unanimously.

VI. COMMUNICATIONS FROM CITIZENS- 3 MINUTE LIMIT PLEASE
(Another opportunity for communications from citizens will be offered immediately after the lunch break.)

VII. CONSENT AGENDA

A. APPROVAL OF TOWN COUNCIL MEETING MINUTES FOR THE MEETING

OF NOVEMBER 12, 2003.

B. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL REVIEW COMMISSION AT ITS MEETING OF NOVEMBER 21, 2003.

C. RESOLUTIONS

1. RESOLUTION NO. 67-03 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Granting a Perpetual Non-exclusive Easement Across Town-owned Property in the City of West Palm Beach to the State of Florida Department of Transportation for Storm Drainage Inlets and Piping in Conjunction with a Department of Transportation Roadway Improvement Project on U.S. 1 (Dixie Highway). [Albert P. Dusey, Director of Public Works]

(This item was removed from the Consent Agenda).

Town Manager Elwell explained that some issues had arise with the Florida Department of Transportation (FDOT) regarding the easement in question, and staff believed that the easement may not be necessary at all; thus, the Resolution was being removed from the Consent Agenda. He explained that if the defined plan did still require the granting of an easement, staff would bring it forward with the proper information at the next Town Council meeting.

Motion made by Councilman Wyett, seconded by President Pro-Tem Goldblum to remove Resolution No. 67-03 from the Consent Agenda. On roll call the motion carried unanimously.

D. OTHER

1. Approval of Extraordinary Longevity Pay for Eligible Employees Having in Excess of Twenty (20) Years of Service to the Town of Palm Beach. [Peter B. Elwell, Town Manager]

2. Confirmation of Appropriation of Funding for Retention of Smith & Ballard, P.A. [Peter B. Elwell, Town Manager]

3. Appointment of Town Manager Pursuant to Section 4.02(b) of the Town Charter. [Peter B. Elwell, Town Manager]

Councilman Wyett moved approval of the Consent Agenda, as amended. The motion was seconded by President Pro-Tem Goldblum, and carried unanimously on roll call.

VIII. REGULAR AGENDA

A. Old Business

1. Inventory of Town-owned Parcels

a. For Potential Beautification Projects.
[Albert P. Dusey, Director of Public Works]

Public Works Director Al Dusey reported that staff had reviewed all Town-owned properties in order to determine those that could benefit by additional landscaping/beautification. Staff had provided a listing of the properties that had been determined to need landscaping/beautification:

- The interior of Phipps Ocean Park

- The property on the north side of Phipps Ocean Park – a half-acre property with good landscaping along A1A, but no improvements in the interior.

- Ibis Isle Park – a one-acre parcel located on the south side of the condominium recreation area (which is right across from the entrance road), between Ibis Isle Road West and Ibis Isle Road East.

- The Park Avenue mini-park located at 247 Park Avenue.

Mr. Dusey reported that a listing of Town-owned properties was included in the back-up information, as well as photos of Town-owned properties that could use additional beautification.

Mayor Smith suggested that input from the Garden Club be provided.

Mr. Dusey replied that the Garden Club had not yet seen the listing, and staff had intended to provide them information once the Town Council had indicated the properties that it may be interested in improving.

Mayor Smith suggested that the Garden Club review the whole overall list, and staff could then come back with their recommendations.

Councilman McDonald moved deferral of the issue regarding the potential beautification of Town-owned properties to the March 9, 2004, Town Council meeting, in order for staff to receive recommendations from the Garden Club. (He explained that perhaps the design could be considered by the Town, and then leave it up to residents of the neighborhoods to provide contributions if so desired). **President Pro-Tem Goldblum seconded the motion.**

Town Manager Elwell clarified that staff would review all four of the parcels identified, review them with the Garden Club, and bring the issue back to the Town Council in March 2004.

In response to Councilman McDonald regarding the west side area across from Phipps Park, Mr. Dusey replied that part of the state A1A project was for beautification and replanting of native vegetation, and new sodding; irrigation systems would be provided.

Councilman McDonald suggested that the Town Council review the plan again, since a substantial buffer would be removed.

Mr. Dusey replied that it was the intention of staff to bring the plan back to the Town Council in January 2004 for review.

On roll call the motion to defer the issue of potential beautification of Town-owned properties to the Garden Club for review carried unanimously.

b. Potential Alternative Locations for a Dog Park.
[Albert P. Dusey, Director of Public Works]

Public Works Director Al Dusey reported that a list of Town-owned properties had been submitted that were of sufficient size for possible use as a dog park. The list included:

- Wrightsman Estate - located on the west of North County Road between Tangier Avenue and Miraflores Road.
- Phipps Ocean Park - interior on north end.

- 2125 South Ocean Boulevard - property located adjacent to and north of Phipps Ocean Park.
- Ibis Isle Park - located between East and West Ibis Isle Road south of the main entrance.
- Old Public Works Facility Property - located on the northwest corner of Olive and Quadrille Avenue in West Palm Beach.

Mayor Smith commented that it was her understanding that properties would be identified so that the Town Council could review them at another time, and that a decision would not be made today in regard to a dog park.

There was no action taken by the Town Council at this time.

B. New Business

1. Florida Department of Transportation's A1A Improvement Project (Lake Worth Road to Southern Boulevard)– Request for Extended Work Hours. [Donovan Pessoa, Project Manager]

Public Works Director Al Dusey reported that the project engineer for HDR Engineering, Inc., Will Suero, had requested permission for extended work hours on the A1A improvement project – from 7:00 a.m. to 8:00 p.m., Monday through Saturday, as well as allowing them to construct the first section from Lake Worth Road to Sloan's Curve starting on March 28, 2005. Staff had then requested that the contractor start in the south of the project and work northerly, and the contractor had agreed to that. The contractor had agreed to restrict all of the work to be south of Lake Worth Road, and Lake Worth Road itself until May 1, 2005.

The contractor had also requested a start date to begin construction from Sloan's Curve to Southern Boulevard of April 17, 2005, with start times of 7:00 a.m. to 8:00 p.m. Staff recommended that work be allowed from 8:00 a.m. to 8:00 p.m. Monday through Saturday. He explained that the reason that the extended work hours and early start was being requested was because the contractor thought that it would be difficult to get all of that work completed during one of the Town's construction seasons.

Councilman Wyett expressed concern regarding the disruption to the Town.

Town Manager Elwell commented that there would be some disruption to the community, however, the Florida Department of Transportation (FDOT) had made a commitment to work with the Town and to approach the project in a manner where shorter segments at a time would be completed. During each of the two summers the work would be in relatively short segments; there would not be anything like a mile torn up at one time for either of the two summers.

Mr. Will Suero, Project Engineer, HDR Engineering, Inc., advised that there was really no widening on the section north of Sloan's Curve and there would be very sporadic widening north of Widener's Curve. From Sloan's Curve to State Road 80, the work would entail milling and resurfacing the existing pavement; the impact with regard to closing of lanes would be restricted to non-peak hours.

President Pro-Tem Goldblum noted that all of the lanes on the middle and north bridges would need to be opened during the construction time, and the Town would need to be sure that all lanes on both bridges were in operation at that time.

Town Manager Elwell noted that there would be some conflict in the final alignment of the new bridge with the lanes on the northern side of the bridge and the temporary bridge. He stated that he did not know the exact timing of when that would be resolved; the new bridge was supposed to open to traffic during 2004. During the latter part of 2004 and into 2005, the temporary bridge would be dismantled, and there was a reasonable expectation that there would not be any conflict between what was planned for the bridges and the FDOT project being discussed. He advised that there was no indication that there would be major work done on the north bridge – only the occasional maintenance for a day or two.

Mayor Smith expressed concern with the area between Widener's Curve and Southern Blvd., and the stated date of April 17th – the property owners in the area had been experiencing great disruption with construction that had been ongoing for four years. In addition there would need to be some provision that the work would not be going on during the Thanksgiving holidays. She suggested that the peak hours also be shortened in that particular area, as there was no other way for those property owners to get in and out.

Mr. Suero commented that the contractor had equipment that he needed to keep in close proximity to the job site during construction, and there were two areas identified for this purpose: on the south project it was the area of Phipps Park, and on the north project it was the area along State Road 80, where there were no residential properties.

In response to Mayor Smith and Councilman McDonald, FDOT representatives advised that they would review the site screening of the equipment; in addition, a formal letter would be provided to all residents on the south project, where residential landscaping may be temporarily disrupted, notifying them to move any lights encroaching on the right-of-way.

Town Manager Elwell proposed that the northern parking lot at Phipps Ocean Park be used for staging of the equipment.

Mr. Elwell summarized the recommendations:

- Staff recommends that the contractor be allowed to work from 8:00 a.m. to 8:00 p.m, Monday through Saturday.
- Staff recommends that the contractor be allowed to begin construction on the Lake Worth Road to Sloan's Curve project on March 28, 2005, with work restricted to the area south of Lake Worth Road until the usual construction season, with a start date of May 1, 2005.
- Staff recommends that the contractor be allowed to begin construction on the Sloan's Curve to Southern Blvd. segment on April 17, 2006, but restricted to working in the area between Widener's Curve and Southern Blvd. only during the period of May 1st through October 31st. of 2006. There will be no lane closures after 3 p.m.
- Staff recommends that the contractor be allowed to maintain an equipment staging area along the Southern Blvd. Causeway area for the 2006 segment of the job, and the northern parking lot of Phipps Ocean Park during the 2005 segment of the job.

President Pro-Tem Goldblum moved approval of the recommendations of staff as outlined by Town Manager Elwell. The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

2. John's Island Restoration– Request by Pete & Ron's Tree Service for Extended Work Hours.
[Albert P. Dusey, Director of Public Works]

Public Works Director Al Dusey reported that the restoration of John's Island was scheduled to begin on January 5, 2004, and would be completed by May 24, 2004. He explained that the contractor had requested the following:

- Extended work hours - 7:00 a.m. to 5:30 p.m.
- Work on the Martin Luther King holiday.

Staff recommended work hours from 8:00 a.m. to 5:30 a.m., assuming that there were no complaints, and work on Martin Luther King holiday.

President Pro-Tem Goldblum moved approval of the recommendations of staff for extended work hours from 8:00 a.m. to 5:30 a.m. from January 5, 2004, to May 24, 2004, with work allowed on Martin Luther King holiday. The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

3. Proposed Sequence of Events Related to Strategic Planning, Annual Goal Setting, and Budget Forecasting During the First Half of 2004. [Peter B. Elwell, Town Manager]

Town Manager Elwell referred to his memorandum of December 4, 2003, which is included in its entirety below:

****

To: Mayor and Town Council

From: Peter B. Elwell, Town Manager

Re: Proposed Sequence of Events Related to Strategic Planning, Annual Goal Setting, and Budget Forecasting During the First Half of 2004

Date: December 4, 2003

STAFF RECOMMENDATION

I recommend Town Council approval of the sequence of events described below and the general description of the timing of each event. Upon receiving such approval, staff will proceed with more detailed planning for each of the noted events, including coordinating with each elected official to identify mutually convenient dates and times for the applicable meetings.

GENERAL INFORMATION

The approved Strategic Plan calls for the Mayor and Town Council to, at least annually, review our progress in implementing the Strategic Plan and make any appropriate modifications thereto. The plan also states that the Town will hold annual community forums for residents to discuss issues of interest and concern. In this memorandum, I am proposing a series of meetings and related activities which will accomplish these strategic planning actions and integrate them into the annual goal setting and budget forecasting activities which we have completed during the months of February and March for the past few years. The recommended sequence of events concludes with a series of informational meetings regarding the organization and operation of the Town's various departments; I believe these meetings will build upon the broader planning, goal setting, and budget forecasting activities by providing valuable information that may be relevant to the budgetary decisions which will be made by the Town Council during the period from July through September of 2004.

The recommended sequence of events is as follows:

Mid to Late February	Hold two community forums (one in the south end of the Town and one in the Mid-Town area). Consistent with the format which worked successfully for the Strategic Planning Board, these forums would include brief introductory presentations followed by extended facilitated discussion periods in which all members of the audience will be encouraged to participate. The Mayor, Town Council, and senior staff will act as facilitators for the discussion groups.
Late February	Hold a special Town Council meeting to review the first nine months of implementation of the Strategic Plan and to consider any modifications which may be appropriate based upon that review and upon the input of the citizens at the community forums.
March	Complete an annual goal setting process similar to that which we have completed during each of the past few years, but with a slightly compressed time line to enable us to complete this activity during a three to four week period.
Late March or Early April	Hold a special Town Council meeting at which the annual goals for FY 2005 will be finalized and at which we will begin the budget forecasting process through a dialogue that will relate the Strategic Plan review and annual goal setting process to the budget priorities and parameters for the upcoming year.

April, May, and June	Hold a special Town Council meeting lasting approximately two to three hours during each of these three months for the purpose of receiving presentations and having discussions regarding the organization and operations of the Town's various departments. The purpose of these sessions will be to refresh and update your knowledge of departmental details, to provide such knowledge to interested citizens, and to establish a more detailed foundation upon which to review and act upon the proposed FY 2005 budget in July.

STRATEGIC PLAN

Approval of this recommendation and completion of the sequence of activities described above will contribute to the achievement of the objectives identified under the following Strategic Plan action statements:

A1. **Strategic Planning:** Continue and expand the strategic orientation of Town government with the following measures:

a) Continue to apply the principle of goal-driven management and performance standards throughout the organization.
Timeframe: Ongoing

b) Monitor and periodically revise the Strategic Plan
Timeframe: The Mayor and Town Council will, at least annually, review progress on implementing this Plan and make appropriate modifications, as needed. The Plan will be formally updated at least every 5 years, or to coincide with Comprehensive Plan updates.

A4. **Public Communications:** Expand opportunities for public communication and involvement in Town governance, including the following:

d) Provide for annual community forums for residents to discuss issues of interest and concern.
Timefrane: Ongoing.

A6. **Flexibility and Responsiveness:** Continue the Town's policy of monitoring, evaluating, and changing policies and operations as dictated by changing needs and circumstances.
Timeframe: Ongoing.

****

After discussion, President Pro-Tem Goldblum moved conceptual approval of the proposed sequence of events related to strategic planning, annual goal setting, and budget forecasting during the first half of 2004. The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

Town Manager Elwell pointed out that this Town Council meeting was the first meeting where the new standardized format for submitting back-up information was being used. He noted that staff was attempting, through the new system, to facilitate the ability for the Town Council to simply move the staff recommendation, rather than define it with additional language/discussion on the floor.

4. Citrus Canker Eradication Program

Town Manager Elwell advised that a meeting had been held on October 24, 2003, with representatives of the United States Department of Agriculture (USDA), and the Florida Department of Agriculture (FDA), regarding citrus canker, and the fact that the quarantine area for the northern half of the City of West Palm Beach had been extended into a portion of the Town of Palm Beach, extending from Royal Palm Way to Country Club Road. At that time, staff had expressed concern regarding the extension of the quarantine area into the Town, based on some issues that would be addressed more fully today. Staff had also discussed what the Town would have to do, assuming that it had properly been included within the quarantine area. During the meeting a suggestion had been made to have property owners within the quarantine area become independently responsible for meeting the requirements of the quarantine area, and that the Town would only be responsible for those activities that the Town was conducting within the quarantine area. After further review, staff had determined that there would actually be greater costs in the aggregate to having the private solution, because private property owners would all become independently responsible for arranging for the transport of the material to the Solid Waste Authority landfill, according to the rules in the quarantine area. The Town was already set up to do that, and it would be costly to change the method of operation; residents would be paying any additional cost burden. After contacting the USDA to request additional time to present all scientific data and information related to the program, staff was informed that, given the urgency of the matter, and their responsibilities to enforce regulations within the quarantine area, it would be necessary to include this matter on the

Town Council agenda for this meeting. Otherwise, the Town operation at the yard trash disposal sites would be closed down, which would then force the Town to take all of the yard trash from the entire Town to the Solid Waste Authority. He explained that although staff had prepared information for this meeting, there was still a question related to the methodology used relating to the boundaries of the quarantine area and the criteria used to determine the boundaries.

Town Attorney Randolph reiterated that staff had been put in the position of having to review the material in a rushed fashion, in order to have the item on the agenda today. He explained that staff had researched the matter, and clearly the USDA had the right to administer the Citrus Canker Eradication Program, and did so through a cooperative agreement with FDA. The regulations that have been imposed were clear as to the quarantine area and the method of disposal, and the ability to enforce and regulate was with the USDA. Staff had not been able to locate the grounds for the authority of the USDA to order the Town to shut down its facility; also, staff believed it would be beneficial for the Town to understand the science related to the issue. He suggested that the USDA be contacted to advise them that the Town would need to determine the basis of their authority before consideration was given to the extent to which the Town would need to comply.

Town Manager Elwell advised that staff had not received the explanation for the basis for the eastern boundary of the quarantine area. Mr. Will James of the USDA was present, and would comment on the issue.

Mr. Will James, USDA, advised that the eastern boundary issue could be reviewed by the appropriate USDA representatives. He noted that Town meetings had occurred last spring to discuss the imposition of the quarantines in the area. At that time, the biology behind the disease, and the areas affected were discussed, and anyone had the right, at that time, to step forward with questions. He explained that he had met with Mr. Elwell and Assistant Public Works Director Paul Brazil in October, and there was some concern about the passage of time. There was a very high risk situation presented of two landfills that had not been approved by the USDA program in the Town, where quarantine material was being hauled to improperly and illegally left on the site. The basic concern was that the trucks hauling the debris out of the quarantine area were going to a site which was not USDA approved. He explained that State Rule 5B58 applied, as well as Federal Quarantine regulations, 30175 4(e) III a, b, and c, all covering the requirement that any quarantine material being hauled out of the quarantine area be hauled, covered properly/enclosed, and then go to an approved landfill where it is properly covered once a day. Currently, none of those things were happening. He explained that if it could be verified that the trucks were not hauling any citrus debris whatsoever, there would be no reason to close the landfills. There was a great deal of concern about the spread of citrus canker, as the disease was clearly moving its way north. He explained that commercial companies should have a license with the County, or the State of Florida, and if so, would be in compliance. Homeowners were not specifically and closely regulated as far as decontamination, because there was only so much that could be monitored, however, the commercial companies and municipalities were expected to be responsible for any quarantine regulations.

President Brooks commented that the Town wanted to be cooperative, however, the actions of the USDA, as presented, smacked of arrogance. He suggested that an agreement be made where the Town and the USDA could work together. He stated that he was very interested in the Town consulting with a scientific expert so that the eastern boundary of the quarantine could be reviewed.

Mr. James apologized if he had sounded unreasonable in his correspondence with Mr. Elwell and Mr. Brazil, however, seven months had passed and there had not been non-cooperation from any town in Florida when a quarantine was imposed.

Mayor Smith commented that most residents were gone in May and June, and to the best of their knowledge they had not intended non-cooperation; most were hearing about it today for the first time.

Mr. James replied that he was not saying that the Town Council was non-cooperative; he explained that there were prominent articles in the Palm Beach Post, and there had been numerous meetings, where there had been ample opportunity for all concerned citizens in the County to become aware that the quarantines were coming.

Mr. Elwell commented that there was the expectation of additional fees that would be charged for trips to the landfill; there were additional costs that the vendors would incur, that staff anticipated would be passed along to the property owners.

Mr. James responded that presumably lawn landscape companies working outside of Palm Beach were already making trips to the landfill on a daily basis.

President Pro-Tem Goldblum commented that inspectors had come into the Town and no canker was found. He asked how it had been determined that Palm Beach had been included in the quarantine area?

Mr. James replied that he was willing to go back to the people who drew the quarantine lines to inquire how it came as far east as the Atlantic Ocean. He explained that traditionally a quarantine was drawn out at a minimum of one mile, and usually a maximum of two miles. He stated that he did not know the reason why the boundary was taken out to the Atlantic Ocean at this time, and that he would obtain information regarding that issue.

Mr. Elwell requested a one-month delay, to the January 13, 2004, Town Council meeting. During the intervening weeks the two staffs would work together to better define the scientific question, so that either it would be determined that the boundaries should be changed or it would be determined that it would be necessary to request approval of the funding necessary to comply with the requirements.

Mr. James commented that if he had known that the focal point would have centered on the scientific question, he would have provided a staff member who could have provided more specific information. He explained that the quarantine boundaries had been set in May, and generally there was a determination on the location of the infected tree, and then one-two miles from that point. He noted that meetings had been held at various locations in Palm Beach County in regard to the Citrus Canker Eradication Program.

Mr. Mark Fagan, spokesman for the Citrus Canker Eradication Program, which he explained was part of the Department of Agriculture and Consumer Services, addressed the Town Council. He explained that a number of public meetings had been held in Palm Beach County. Mr. Clayton Hutchinson, Director of Palm Beach County Agricultural Extension Service was present, and through his cooperation, the public meetings had been scheduled. Several meetings were held in the south county, because all of Boca Raton had been quarantined and the southern portion of Palm Beach County. There were numerous public meetings throughout Palm Beach County.

President Pro-Tem Goldblum replied that this was the Town of Palm Beach, and that residents had not known of the meetings, and were used to having meetings in their own backyard.

Councilman McDonald commented that it was surprising that holding a public meeting regarding the issue that affected the Town of Palm Beach had not been a consideration, with the tax base, and amount of taxes paid by the Town of Palm Beach.

Mr. Fagan replied that he believed that he had offered a Town meeting; he believed that he had spoken with a County Commissioner.

After further discussion, it was determined that no action would be taken today on the Citrus Canker Eradication Program issue, and that it would be deferred to be heard at a time certain, 10:00 a.m., at the January 13, 2004, Town Council meeting.

IX. ORDINANCES

A. Second Reading

1. ORDINANCE NO. 4-03 An Ordinance of the Town Council of the Town of

Palm Beach, Palm Beach County, Florida, Amending Chapter 82 of the Code of Ordinances Relating to Duty Disability; Amending Section 82-122 to Restate the Same to Eliminate the Five-year Limit to Minimum Duty Disability Pensions for Public Safety Officers, Except Members in Bargaining Units; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.
[John B. McCracken, Esq.] *Deferred from the January 14, 2003, Town Council Meeting.*

Town Attorney Randolph read Ordinance No. 4-03 by title, as printed above.

Town Manager Elwell commented that both ordinances No. 4-03 and No. 7-03 had been modified since the first reading. A second reading would be done today, and the third reading and final adoption would occur at the January 13, 2004, Town Council meeting.

President Pro-Tem Goldblum moved approval of Ordinance No. 4-03 on second reading, with the third and final reading taking place at the January 13, 2004, Town Council meeting. The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

2. ORDINANCE NO. 7-03 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Providing Certain Benefit Options under Chapter 82 of the Code of Ordinances to Public Safety Officers Who Are Drop Participants in the Retirement System, Except Members of Bargaining Units; Providing an Option to Such Drop Participants under Section 82-64, Code of Ordinances, to Elect, as of September 30, 2002, to Purchase an Increased Multiplier for Calculation of the Amounts of Pensions under Section 82-59; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing an Effective Date. [John B. McCracken, Esq.] *Deferred from the January 14, 2003, Town Council Meeting.*

Town Attorney Randolph read Ordinance No. 7-03 by title, as printed above.

Town Manager Elwell commented that both ordinances No. 4-03 and No. 7-03 had been modified since the first reading. A second reading would be done today, and the third reading and final adoption would occur at the January 13, 2004, Town Council meeting.

Councilman Wyett moved approval of Ordinance No. 7-03 on second reading, with the third and final reading taking place at the January 13, 2004, Town Council meeting. The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

3. ORDINANCE NO. 19-03 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 66, Article IV, Division 5, Section 66-311 of the Town Code of Ordinances; Providing for Removal of Prohibited Invasive Non-native Vegetation; Providing for Prohibited Plants; Providing for Exemptions; Providing for Future Removal Requirements; Providing for Protection of Natural Areas and Incentives; Providing for Enforcement; Providing Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.
[John C. Randolph, Town Attorney]

Town Attorney Randolph read Ordinance No. 19-03 by title, as printed above. He noted that he would make the spelling correction in Section (b)(3) to be correct – "Casuarina," and would also remove the word "planting" from Section (b), because the Town could not allow Australian Pines to be planted, but could simply allow them to be placed in hedges, etc., if they were already there.

President Pro-Tem Goldblum moved approval of Ordinance No. 19-03 on second reading. The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

B. First Reading

NONE

X. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

Town Manager Elwell announced the cancellation of the Public Works Committee meeting that had been scheduled for December 11, 2003, regarding the security of the Town water system. He advised that the issue would be addressed as a report to the Town Council at the January 13, 2004, Town Council meeting.

XI. DEVELOPMENT REVIEWS

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

A. Appeals

NONE

B. Time Extensions

1. Site Plan Review #8-2001, the Sea Lord Hotel Property. [James R. Brindell, Esq.] *Deferred From the June 10, 2003, August 12, 2003, September 9, 2003, October 14, 2003, and November 12, 2003, Town Council Meetings.*

Attorney James Brindell, on behalf of Rafferty Funding, addressed the Town Council. He advised that the situation of the bankruptcy had been explained at the last Town Council meeting. Since then Rafferty Funding and the owner had come to an agreement; the Bankruptcy Court entered an order allowing the remaining excavations to be filled, and for the torn cloth along the poles on the north side to be taken down. Those things had now been accomplished, and there was a hearing set for December 29, 2003, on a Motion for Relief of a Stay.

Director of Planning, Zoning & Building Robert Moore commented that there had been discussions with Attorney Brindell and Mr. Doug Barnes of Rafferty Funding, and the staff recommendation had been to request that Mr. Barnes extend the bond for an additional three months for at least 50% of the bond amount until the work could be completed.

In response to Councilman McDonald, Mr. Barnes advised that the relief from stay was general; once the stay was lifted, he could do whatever he wanted to do on the property. The reason that dismissal was not requested was so that the other party could not re-file, which would require another 30-day administrative process proving that they would not be allowed to do that. He explained that if the stay was lifted, he could proceed with foreclosure proceedings, which is the only way to get the title issue cleared; while foreclosure was proceeding, he would also be able to see that the sodding, irrigation, etc., was completed.

President Pro-Tem Goldblum moved approval of the time extension for Site Plan Review #8-2001 for another month with the extension of the bond for three months (from January for at least 50% of the bond ($70,000) until the work was completed. The issue would also be placed on the January 13, 2004, Town Council Agenda. The motion was seconded by Councilman McLendon, and carried unanimously on roll call.

C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

a. VARIANCE #42-2003 The application of Richard Paul Richman and Ellen S. Richman relative to property described as Lots 2 and 2A, East Shore Addition; commonly known as 615 North Lake Trail; located in the R-B Zoning District. Variance to permit construction of residence using a point of measurement only on western portion of subject property abutting North Lake Trail of 13.8' feet NGVD in lieu of 7.5 feet NGVD maximum permitted (for purposes of determining maximum height and cubic content ratio.) *Deferred from the October 14, 2003, and November 12, 2003, Town Council Meeting.*

Ex-parte communication was declared by Councilman McDonald, Councilman Wyett, Councilman McLendon, President Pro-Tem Goldblum, and President Brooks, as a result of having a letter from Attorney Timothy Hanlon delivered to their homes.

Attorney Timothy Hanlon, on behalf of the applicant, addressed the Town Council, stating that the lot in question was very unique. He advised that he would explain how the Town Code affected the property, and how the applicant tried to minimize the variance request.

Attorney Hanlon explained that the lot in question was considered a through lot, under the Zoning Code, which meant that there was a street on both sides of the lot. The point of measurement along Crest Road which was the frontage of the lot was 15.3' NGVD, and the point of measurement from North Lake Trail was 7.5' NGVD. That would cause a very different structure to be constructed on the western half of the lot versus what could be constructed on the eastern half of the lot. The lot sloped from east to west, creating drainage issues; Crest Road also sloped quite drastically from north to south; the lot was at or very near the point of collection for the storm water drainage system, which was the hardship for the property. In the March 2002 Town Council meeting, the Council used that same criteria to determine there was a hardship for a point of measurement variance of even greater height than what was being requested today.

Attorney Hanlon advised that the applicant had tried to minimize the variance – the Richmans had met with all of the neighbors to address their concerns. The neighbors along Crest Road had expressed a concern with minimizing the appearance of the mass of the home, and wanted the house moved as far west as possible on the lot. However, if the property was moved further west, the variance request would be increased, and would also conflict with the request of the neighbors who were contiguous with the lot, who had expressed concern that they did not want any portion of the residence further west than where their homes were currently constructed. In order to address those concerns, it was proposed that the residence be centered on the lot as much as possible. The neighbor diagonally across the street had requested that all construction workers park their vehicles on the subject property, not on Plantation Road or Crest Road, and removal of the three wooden utility poles within the north forty feet on the east side of the property. Attorney Hanlon explained that the applicant was agreeable to the pole removal, if it was approved by Florida Power & Light (FP & L).

Architect Mark Marsh presented an architectural rendering of the property in question, noting that the concerns of the neighbors had been addressed as much as possible; he displayed photographs of the neighborhood, and explained the type of architecture proposed for the new residence.

Zoning Administrator Paul Castro advised that the applicant had revised the plans since the previous Town Council meetings, and had tried to minimize the variance requests. He noted that there was a letter from the attorney of the neighbor to the north saying that Mr. Richman had agreed to locate the front facing of the proposed residence further east from North Lake Trail, so that it would be in line with existing homes. The Comprehensive Planning portion of the Building

Department had commented that the applicant still did not meet the criteria for granting of a variance. Some of the conditions that staff would recommend were:

- the seawall be raised to a minimum 5' elevation
- removal of any walls or proposed fences out of easements
- the applicant would require a change of address, since the house would face Crest Road

Attorney Hanlon commented that the neighbor immediately to the south had used the same hardship.

Zoning Administrator Castro explained that the neighbor to the south had not requested the same variance, as their hardship was that Crest Road, as well as Plantation, drained towards their property, and they needed more elevation. They were not in a through lot situation.

Attorney Hanlon commented that he believed that the reasons for the drainage issues were the same basis for the hardship.

President Pro-Tem Goldblum moved approval of Variance #42-2003, the hardship being the elevation of the land, with the conditions that:

- **the seawall is raised to a minimum 5' elevation**
- **remove any walls or proposed fences out of easements**
- **the applicant would require a change of address, since the proposed house would face Crest Road**

The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

b. SITE PLAN REVIEW #7-2003 WITH VARIANCES The application of 11 Via Vizcaya, LLC relative to property described as Lot 13, Via Vizcaya; commonly known as 13 Via Vizcaya; located in the R-A Zoning District. Site plan approval to construct a single family house on a platted, non-conforming lot with an existing lot area of 15, 987 square feet in lieu of the 20,000 square foot minimum required, and with a lot depth of 130.8 feet in lieu of the 150 feet minimum required in the R-A Zoning District; variance request for a street side setback of 15 feet on the south side of the property in lieu of the 35 feet minimum required; and, request for a building height plan variance with a setback of 39.2 feet in lieu of the 47 feet minimum required. **Request for Deferral to the January 13, 2004, Town Council Meeting per Letter Dated November 13, 2003, from Ronald K. Kolins.**

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

c. SITE PLAN REVIEW #8-2003 WITH SPECIAL EXCEPTIONS AND VARIANCES The application of 237-243 Worth Avenue Partnership (Michael A. Fruchtman, Treasurer) and Armani relative to property described as Lots 44, 45, 46 and 47, Block 15, Royal Park Addition to Palm Beach; commonly known as 237-243 Worth Avenue; located in the C-WA Zoning District. To allow a ground floor expansion of a retail space on the north and northeast sides of the current location requiring site plan review, special exceptions and variances. Request to modify a previously approved special exception to have 4,950 (gross) square feet when a maximum of 2,000 square feet is allowed. Site plan review to construct an additional 1,241 square feet (gross) to allow for alterations, storage, shipping/receiving, restrooms, and offices, and to expand the showrooms into the previously used space. (The store currently has 3,709 square feet.). A Variance to Provide No Additional Off-street Parking 6 Off-street Parking Spaces Request for the Proposed Addition. *Deferred from the November 12, 2003, Town Council Meeting.*

Attorney James Brindell, on behalf of the applicant, addressed the Town Council, stating that the proposed addition would house areas for alterations, storage, shipping, receiving, restrooms, and an office, which would free space in the store in order to provide additional accessory lines to their customers. The expansion would not be visible from the street, and the property would still comply with the requirements of lot coverage, landscaped open space, and setback requirements. The drainage would be brought up to current standards. The request included modifying a previously approved special exception to allow for the additional 1,102 sq. ft.; a site plan approval as part of that special exception; a variance for parking. The additional space would require six additional parking spaces. Clearly there was not enough room to provide that parking on site, however, six parking spaces just across the bridge had been located at Holy Trinity Church to be used for store employees, which would be used in a similar manner to the parking situation that had been used for the Brazilian Court Hotel. The hardship was the size of the property and the fact that there was no physical room to create six additional spaces. The customer traffic number from the store was very low; on an annual basis the average per day was 11.5 customers, and 16 during the season; therefore, the demand for parking was actually quite low. He explained that Architect Lawrence had consulted with staff, and determined that a second floor addition expansion was not acceptable; a more modest one floor addition in the rear was now being proposed.

Zoning Administrator Paul Castro commented that the parking was of concern; while Armani had been steadfast and good for Worth Avenue, there was no guarantee that Armani would be there in perpetuity. Constructing additional square footage without providing any parking would set a bad precedent for Worth Avenue as well as the area. There were already parking and traffic pressures on the streets. Staff did not see a hardship as it related to the parking issue.

In response to President Brooks regarding the accommodations made for employee parking off-site for the Brazilian Court Hotel, Zoning Administrator Castro replied that staff did not recommend approval of off-site parking for the employees and did not believe that it would work; also, it had to be within 15-minutes of the hotel itself. From that standpoint they had been required to provide documentation that they would not be parking on the street and that they would be using the off-island service. At that time staff had believed it was a bad precedent as well for the Brazilian Court Hotel.

In response to Councilman McDonald, Attorney Brindell that there were currently no parking spaces on site; there were 14 employees currently.

Attorney Brindell emphasized that the characteristics of customer traffic at this store was extremely low – the parking standards had not been designed with that in mind. He noted that the provision put in the Brazilian Court approval of off-site parking was that employees parking off-site would have a particular decal that was identifiable, which would be provided to the Police Department along with their license tag numbers; a parking agreement was required to be shown on an annual basis.

Councilman Wyett commented that it was a hardship for customers not to have a selection of Armani clothes, which was probably quite difficult in the current small store. He suggested that the six off-site parking spaces be accepted on a temporary basis, requiring the applicant to come back each year with a statement that parking spaces on the Island were being sought. He noted that the various owners of the property behind the store were squabbling, and that he believed that was the reason spaces could not be acquired this year.

Councilman Wyett moved approval of Site Plan Review #8-2003, on the basis that the parking situation be reviewed on a yearly basis, with the owner trying to get parking on the

Island in the lot behind the store as soon as possible. The motion was seconded by Councilman McLendon.

Mayor Smith commented that the parking had never been a problem with Armani – the store was never crowded, as customers were serious shoppers who bought in bulk.

Director of Planning, Zoning & Building Robert Moore clarified the conditions of off-site parking were the same as those that had applied to the Brazilian Court – the license plate numbers and decals would be provided to the Police Department.

Councilman Wyett included the parking conditions as applied to the Brazilian Court as part of the motion to approve Site Plan Review #8-2003, as did the seconder of the motion. On roll call the motion carried 4/1, with Councilman McDonald casting a dissenting vote.

2. New Business

a. VARIANCE #45-2003 The application of Bryce Lingo relative to property described as the West 21.37 feet of Lot 17, All of Lot 18, and the East 25.89 feet of Lot 19, Block 2 of Reverie; commonly known as 233 Barton Avenue; located in the R-B Zoning District. Variance to allow construction of a second floor balcony with a front yard setback of 15.1 feet in lieu of the 30 feet minimum required in the R-B Zoning District; variance to allow a cubic content ratio of 5.3 in lieu of the 4.14 maximum allowed and 5.2 existing; and, variance to allow an angle of vision of 110 degrees in lieu of the 100 degrees maximum allowed.

Ex-parte communication was declared by Councilman McLendon via a conversation with Attorney Ziska; by President Pro-Tem Goldblum via visiting the site with Attorney Ziska; by President Brooks via a conversation with Attorney Ziska and the architect.

Attorney Maura Ziska, on behalf of the applicant, addressed the Town Council, stating that the applicant had recently purchased the house, and was undertaking various renovations to improve the appearance of the residence. The owner would like to connect two small balconies and re-design the railings on the second floor to enhance the appearance of the front of the house. The new balcony would not project any further into the setbacks than the existing balcony. Also, as part of the renovations, the lot coverage was being reduced 2% and the greenspace increased 3%; the drainage system would meet the new 2" retention. The hardship ran with the land; the property was deficient in size and depth – 10,000 sq. ft. was required in the R-B District, and only 8,605 sq. ft. existed. She noted that in 1997 the Town Council found a hardship in the area with the lay of the land and did grant variances for lot coverage, CCR, greenspace, and FAR.

Architect Noe Guerra addressed the Town Council, exhibiting current and proposed elevations; the design would have more conformity with the design characteristics of the neighborhood. He displayed photographs of properties in the surrounding neighborhood who had taken a very similar approach to the aesthetics.

Director of Planning, Zoning & Building Robert Moore provided the following staff comments: Police and Fire: no comment; Comprehensive Plan: request seems excessive - does not meet criteria for granting variance; Town Manager: identify hardship; Building Department: sees no hardship.

Attorney Ziska responded that she believed there was a precedent for the granting of variances that would enhance and improve the look of a house. She mentioned 470 S. Ocean, where there had been 13 variances granted.

President Brooks noted that 470 S. Ocean was a residence on a main thoroughfare, and the street in question was totally residential.

Attorney Ziska explained that the hardship was that the property was deficient in depth, 85' in lieu of the 100' required; properties on Barton all had similar setbacks.

President Pro-Tem Goldblum commented that he had looked at the house in question and the house next door which did have the same type of porch as proposed, and he agreed that it did make the property look better.

Architect Guerra advised that of all of the properties from The Breakers to Royal Palm Way this street had the narrowest lot depth.

Zoning Administrator Paul Castro commented that he could understand the argument if the applicant was building a new house, however, this was an existing house, and staff did not see the hardship.

Councilman Wyett commented that hardships had been granted in the past for undersized lots, and that the architectural change proposed would add to the street and to the value of the Town. He moved approval of Variance #45-2003. The motion was seconded by President Pro-Tem Goldblum. On roll call the motion carried 3/2, with Councilman Wyett,

President Pro-Tem Goldblum, and Councilman McLendon casting affirmative votes; Councilman McDonald and President Brooks casting dissenting votes.

b. SPECIAL EXCEPTION #29-2003 The application of Wade Shavell and NRT New York Inc., d/b/a The Corcoran Group relative to property described as Lots 76, 77, and 78 Floral Park, less and excepting therefrom the West 15 feet of said lots, And, the West 15 feet of Lot 1, Addition No.2 to Floral Park; commonly known as 101 North County Road; located in the C-TS Zoning District. Special exception to allow a real estate brokerage office, which would be Town-Serving, that is 4,090 square feet in the C-TS zoning district.

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

Mr. Guy Rabideau, Rampell & Rabideau, LLP, on behalf of the applicant, addressed the Town Council, stating that the property in question was the old Casablanca Restaurant site. The special exception being sought today was to use the entire building as a real estate brokerage office. It was a permitted use within the area, and the reason for the special exception was the 2,000 sq. ft., unless Town serving documentation was provided. The size of the building was 4,090 sq. ft. An analysis had been submitted indicating that 81% of the clients of The Corcoran Group were Town serving; the applicant had also submitted several expressions of support from neighboring businesses in the area.

Director of Planning, Building & Zoning Robert Moore commented that this was a permitted special exception by way of the fact that there is no entrance directly from the sidewalk that would be permitted. One of the conditions of approval would be that the current door that is configured on the corner of S. County Rd. and Main St. be exit only, per the Fire Department, with alarm and panic hardware. The current space was used primarily by parking behind the Post Office; there were six spots on site; by way of being a real estate office, the listings would have to be at least 50% within the Town of Palm Beach in order for them to comply with the Town serving requirement. He noted that the Town Council had requested that new businesses submit Town-serving documentation on a six month basis for the first year.

Mr. Rabideau suggested that this was not a new business, because The Corcoran Group had merged with Paulette Koch Real Estate.

Councilman Wyett moved approval of Special Exception #29-2003, subject to the

condition that the front door at the intersection of County Rd. and Main St. not be used as an entrance, per the Fire Department requirements; Town-serving requirements must be met. The motion was seconded by President Pro-Tem Goldblum. On roll call the motion carried unanimously.

c. SITE PLAN REVIEW #9-2003 WITH SPECIAL EXCEPTION The application of Gerald Vento relative to property described as Lots 46 to 52, inclusive, Block 11, Royal Park Addition; commonly known as 341 Peruvian Avenue; located in the C-TS Zoning District. Site plan review for an attached two-story addition to an existing, two-story single family home, changing the floor area from 9,628 square feet to 10,796 square feet (air-conditioned space and non-air-conditioned space) on the existing one-half acre lot; and, special exception in the C-TS zoning district to allow demolition of a non-conforming, free-standing structure and the construction of an attached addition to the existing single-family structure which requires a special exception for the second story. The subject property currently has a two-story single-family home which is non-conforming, and this will not expand the non-conforming use.

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

Attorney Al Malefatto, Greenburg Traurig, on behalf of the applicant, addressed the Town Council, stating that the applicant was seeking approval of a two-story addition to an existing two-story residence. The proposed addition would replace a non-conforming structure which was recently taken down with approval of the Architectural Commission (ARCOM). The new addition would be completely conforming for the C-TS Zoning District.

Zoning Administrator Paul Castro commented that the applicant had demonstrated that special exception criteria were met, however, staff had three concerns: the minimum flood elevation must be met for the finished floor of the addition; the entire building must be fire-sprinklered, since it would now be over 10,000 sq. ft.; the drainage requirements must be met.

Councilman Wyett moved approval of Site Plan Review #9-2003 with Special Exception, with the conditions as stated by staff. The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

d. MODIFIED SITE PLAN REVIEW #10-2003 WITH SPECIAL EXCEPTION The application of Heart of Palm Beach Hotel, LLC by Mark W. Cook relative to property described as all of Lots 31,32 and 33, Block F, Royal Park Addition; commonly known as 160 Royal Palm Way; located in the C-B and C-TS Zoning District. Modified site plan review with special exception approval is requested to expand the previously approved hotel (a special exception use) by constructing a 452 square foot basement addition below the service area and previously approved function room. The additions will consist of a hallway, storage room, elevator machine room and elevator hoistway.

Ex-parte communication was declared by Councilman McLendon via a telephone conversation with Attorney James Brindell; by President Pro-Tem Goldblum with Attorney Brindell; by Councilman Wyett via a telephone conversation with Attorney Brindell; by President Brooks via a telephone conversation relative to the application with Attorney Brindell.

Attorney James Brindell, on behalf of the applicant, addressed the Town Council, stating that the applicant was requesting an additional 452 sq. ft. basement addition. As part of the construction of a second floor addition, excavation would have to occur anyway, and the addition would take advantage of that opportunity in order to create some additional space. The applicant also desired to relocate a walk-in refrigerator/freezer; no variances were requested.

Director of Planning, Zoning & Building Robert Moore commented that a portion of the space would be visible from the street. When the original approval had been granted the space could not be seen, and staff had believed it was beyond their ability to give administrative approval for the space being requested today. Staff had no objections.

Architect Gene Lawrence exhibited an architectural rendering of the property in question, however, the first floor elevation underneath the pre-function room was not shown.

Mr. Moore reviewed the material in the application folder, and produced an elevation indicating the pre-function room.

Councilman Wyett moved approval of modified Site Plan Review #10-2003. The motion was seconded by President Pro-Tem Goldblum. On roll call the motion carried unanimously.

3. Other

a. Request for Permission for Work to be Performed at 240 Worth Avenue. [Robert L. Moore, Director of Planning, Zoning, and Building]

Director of Planning, Zoning & Building Robert Moore stated that Town policy was that if there was an emergency anywhere in Town, either in season or off season, especially on Worth Avenue, it was within the jurisdiction of the building official to work on that emergency. The building in question had emergency work going on right now due to water damage. This particular application had been a cosmetic problem, where the roofers used nails that were too long, and penetrated a decorative ceiling below. The application was for the roofers to go back and correct the ceiling during the season, and not wait until afer the season. The response had been no, and staff recommendation was that the applicant should not be permitted to make a cosmetic change on Worth Avenue during the season.

The petitioner was not present at this time.

Councilman Wyett commented that he did not believe the work was elective, and that it was indeed an emergency. He moved approval of the request for permission for work to be performed at 240 Worth Avenue. The motion died for lack of a second.

President Brooks exercised the right of the chairman, declaring the action null and void, because the petitioner was not present. The petitioner could present the request at 2:00 p.m., at which time the motion of Councilman Wyett would be entertained.

****

The luncheon recess was taken at 12:30 p.m.

The regular meeting of the Town Council of December 9, 2003, was reconvened at 2:20 p.m.

****

After reconvening from the luncheon recess, the petition for work to be performed at 240 Worth Avenue was again considered.

Mr. Moore suggested that if approval was granted, the Worth Avenue Association also give its blessing.

In response to the request of President Brooks, Mr. Stacey Crawley addressed the Town Council, stating that his crew usually did not work on the weekend, however, if it had to be done on the weekend they would do so.

Mr. Crawley stated that the workers would park at the parking lot north of Worth Avenue. He explained that the holes in the ceiling had happened accidentally during a roofing project. He estimated that it would take a few days to repair.

Councilman Wyett moved approval of the request for permission for work to be performed at 240 Worth Avenue, on a Sunday and Monday. The motion was seconded by President Pro-Tem Goldblum. On roll call the motion carried unanimously.

XII. ANY OTHER MATTERS

Councilman Wyett commented that he would like to have a review of the grandfathering clauses regarding corners, such as El Vedado, where there were hedges and walls that blocked views of vehicular traffic. He suggested that it be added to the January 13, 2004, Town Council meeting agenda for discussion, as there were many streets with this problem.

Director of Planning, Zoning & Building Robert Moore commented that the recent speed limit change in the Town had occurred as a result of a study that was done at the expense of the Town, where engineers found that one of the justifications for lowering the speed limits in Town were the grandfathered hedges and walls in Town. He suggested that input from Town Manager Elwell and Public Works Director Dusey be obtained before the issue was discussed at the Town Council meeting.

Councilman Wyett responded that the study had included a few streets in Town, and that there could still be a serious accident, even at 10 miles per hour, when one could not see.

Mr. Moore advised that the issue had been considered at one time, and when the notification letters had gone out, it had not taken long for the subject to go away. He explained that the wall at 680 S. County Road did meet the Town ordinances; the wall was now in the process of being moved.

The Town Council determined that the issue would be put on the January 13, 2004, Town

Council meeting agenda for discussion.

In response to President Brooks, regarding an ordinance requiring hedges to be lowered on certain corners, Mr. Moore advised that it was done at the goodwill of the homeowner if the hedge was existing; if it had been built when the requirement was a 30" height, it must be maintained at 30".

XIII. ADJOURNMENT

There being no further business, the regular meeting of the Town Council of December 9, 2003, was adjourned at 2:35 p.m.

William J. Brooks
Town Council President

Mary A. Pollitt
Town Clerk