MINUTES OF THE TOWN COUNCIL MEETING HELD ON NOVEMBER 14, 2000

I. CALL TO ORDER AND ROLL CALL

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

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

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

II. INVOCATION AND PLEDGE OF ALLEGIANCE

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

III. PRESENTATIONS

A. Recognition of Sally Gingras, Architectural Commission, From 1995 Through 2000 *(Deferred from June 13, 2000 Town Council Meeting)*

Mayor Lesly Smith presented a plaque to Mrs. Gingras honoring her years of service to the Town of Palm Beach.

IV. COMMENTS OF MAYOR LESLY S. SMITH

Because of the length of the meeting, I will keep my remarks brief.

I did speak up for Palm Beach – especially north-end residents – at a County Commission workshop on Peanut Island last month. There are several plans on the table to expand commercial development and one particularly offensive proposal for a 4,000 square foot restaurant. Although the County Commission deferred any decision on Peanut Island until January, it unanimously rejected the restaurant proposal and affirmed their intent to keep the island as a passive park. There are some questions of water and sewer services to be resolved, so I continue to watch out for the interest of Palm Beach.

Last month, I took the first step toward regular communication with other coastal cities by inviting the Mayors and City Managers to an informal lunch. There were 14 communities represented. With only one or two exceptions, neighboring Mayors were delighted to accept and we had a lively discussion of some of our common issues.

At the top of the list was beach erosion and shore protection, which has been a Town government priority of several years. The Palm Beach Town Council has approved a $24 million bond issue for reach-to-reach beach renourishment, which has been stalled temporarily because of lack of state permits and questions about the quality of sand to be used. Jupiter Vice-Mayor Tom McCarthy pointed out that even though Palm Beach County is spearheading the Jupiter-Juno Beach project, it still took six years to get started.

Another issue on which we found common ground was the question of burying above ground utility lines, which has strong support in Palm Beach. Mayor David Stewart of Lantana said his community is involved in a lawsuit on this subject and pointed out that, under current law, the cost of burying the lines cannot be passed on to consumers. It was agreed that we need to lobby in Tallahassee for a legislative solution to this problem.

On the subject of the Royal Park Bridge, I believe the DOT should stipulate in writing that the name will remain "Royal Park Bridge". In the southern part of town, the southern boulevard causeway was dedicated in the early 1970's as the Marjorie Merriweather Post Causeway. Sometime after that without any notification to the Town, the DOT renamed this the Kenneth Mock Causeway. I do not believe the Town should allow this to happen to the Royal Park Bridge.

As to the hearing we had for the selection of the new Town Manager, I was basically disappointed with the DMG Maximus report. While I believe we have a good list of candidates, in retrospect I believe the Town would be better served if the questions to be presented to the candidates be given to those candidates prior to the Town Council meeting. This is not an episode of "Who Wants to be a Millionaire," where the candidate with the quickest answer is the winner. I believe the candidates and the council should see the questions ahead of time and have the opportunity to present the most comprehensive and intelligent responses. I would hope the Town Council might discuss this. By the same token, the Town Council should have the opportunity to submit their own questions, prior to the interview meeting.

Since I always end upon a positive and happy note, I would like to announce that Linda Greene from the Police Department was named Town of Palm Beach Employee of the Year, a well-deserved honor.

Mayor Smith mentioned the retirement party on December 13, 2000, at the Colony Hotel, at 5:00 p.m., for Fire-Rescue Chief Ken Elmore, who would be retiring at the end of the year.

V. APPROVAL OF THE AGENDA

The following changes were made to the agenda:

DEFER Item XII. N. - Special Exception, Site Plan Review and Variances No. 19-2000, to the December 12, 2000, Town Council meeting.

Motion made by Councilman Brooks, seconded by President Pro-Tem McLendon to defer Item XII. N. - Special Exception, Site Plan Review and Variances No. 19-2000, to the December 12, 2000, Town Council meeting. On roll call the motion carried unanimously.

ADD Item VIII. J. - Consideration of Discussing Passenger Loading Zones or Valet Parking Issues.

Motion made by Councilman Wyett, seconded by Councilman Brooks, to add Item VIII. J. - Consideration of Discussing Passenger Loading Zones or Valet Parking Issues to the Agenda. On roll call the motion carried unanimously.

ADD Item VIII .K - Consideration of Adopting a Resolution Regarding Electronic Voting Machines.

Motion made by Councilman Wyett, seconded by Councilman Goldblum, to add Item VIII. K. - Consideration of Adopting a Resolution Regarding Electronic Voting Machines to the Agenda. On roll call the motion carried 3/2, with Councilman Wyett, Councilman Goldblum, President Pro-Tem McLendon casting affirmative votes; Councilman Brooks and President McDonald casting dissenting votes.

Motion made by Councilman Wyett, seconded by Councilman Brooks, to approve the Agenda as amended. On roll call the motion carried unanimously.

VI. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

Mr Gil Messing, 149 Brazilian Avenue, addressed the Mayor and Town Council regarding Intracoastal Health Systems and the potential closing of St Mary's Hospital with the resulting impact on Good Samaritan Hospital.

Mr. Stuart Schulman, 2280 South Ocean Blvd., commented that there was a very dangerous curve at Sloan's Curve, and suggested that property owners, the Town, and Palm Beach County could discuss a way to make it safer. He noted that the hedges at cross streets should be adjusted in size so that drivers can see around them.

Mr. Joel Martino commented that he would like to speak after the report by Public Works Director Dusey concerning the Town Beach restoration project, when that item came forward on the Agenda.

Mr. Erik Gilbertson, 151 Chilian, addressed several topics: the retirement party of former Town Manager Doney, complimenting Acting Town Manager Bradford on an excellent job, and the confusion resulting from the November 7th voting ballot.

VII. APPROVED AGENDA

A. APPROVAL OF RECESSED FINAL BUDGET HEARING MINUTES OF OCTOBER 3, 2000

B. APPROVAL OF TOWN COUNCIL MEETING MINUTES OF OCTOBER 10, 2000

C. APPROVAL OF SPECIAL TOWN COUNCIL MEETING MINUTES OF OCTOBER 17, 2000

D. APPROVAL OF SPECIAL TOWN COUNCIL MEETING MINUTES OF OCTOBER 31, 2000

E. APPROVAL OF CHECK REGISTERS FOR OCTOBER 2000

F. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL COMMISSION AT ITS MEETING ON OCTOBER 25, 2000

G. OTHER

1. Reappointment of Robert Garvy to the Town of Palm Beach General Employees Retirement Board of Trustees for Term to Expire 2002. William C. Crouse, Director of Human Resources.

2. Authorization to Purchase Three Pierce Manufacturing, Inc., Fire-Rescue Department Pumpers, in Accordance with Lake County, Florida, Bid Number 99-150 with "tag-on" Option, Each Unit Price in the Amount of $240,843, for a Total of $722,529. Kent W. Koelz, Assistant Fire-Rescue Chief of Administration.

3. Request for Funding in the Amount of $77,935, From General Fund Contingency, Regarding Americans with Disabilities Act (ADA) to Update Town Facilities and the Town's ADA Transition Plan. David F. Jakubiak, Assistant to the Town Manager.

4. Approval of the Town's Civil Engineering Services Selection Committee Ranking of Firms Pursuant to Florida's Consultants' Competitive Negotiation Act and the Town's Administrative Procedure No. 2-89-2. James M. Bowser, Town Engineer.

5. Authorization for Staff Issuance of Request for Proposals for a Classification and Compensation Study for Town Full-Time Positions. William C. Crouse, Director of Human Resources.

Mr. Clay Tyson, Fire-Rescue Department, voiced support for the Town of Palm Beach in its efforts to remain a leader in all areas, including the area of public safety service. He offered any assistance needed with the survey, and requested an opportunity to re-visit the issue after the survey was completed.

6. Acknowledgment of Receipt of Funds and Settlement Re: Town of Palm Beach vs. Sand Pillow (aka Sea Lord Hotel).

7. Confirmation of Acting Town Manager Appointment of Kent Koelz, Assistant Fire-Rescue Chief of Administration, as the Acting Fire-Rescue Chief Upon the Effective Date of the Retirement of Fire-Rescue Chief Ken Elmore, December 23, 2000. Thomas G. Bradford, Acting Town Manager.

8. Consideration of Staff Recommendations for Health Insurance Premiums to be Paid by Employees and Retirees for Calendar Year 2001. William C. Crouse, Director of Human Resources.

9. Consideration of Conceptual Approval of Proposed Shared Use of the Town's D-8 Storm Water Pump Station Generator with the City of West Palm Beach Public Utilities Department Palm Beach Re-Pump Station. James M. Bowser, Town Engineer.

10. Resolution No. 51-00 - A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Vacating and Abandoning a Five Foot Utility Easement on Property Commonly Known as 358 El Brillo Way, Palm Beach, Florida. Maura A. Ziska, Esq., Agent *(Deferred from October 10, 2000 Town Council Meeting)* **(Applicant has requested withdrawal of this request in light of the easement having been determined to be private)**

11. Status Report on Peanut Island Water and Sewer Issues and Future Land Use Atlas and Text Amendment. Timothy M. Frank, Planner/Projects Coordinator.

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

VIII. REGULAR AGENDA

Old Business

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

Town Engineer James Bowser reported that Town staff had met with the Royal Poinciana Way Association, and the Garden Club to review additional improvements recommended for the Royal Poinciana Way Phasing Plan. After that meeting, Public Works Director Dusey wrote a letter, dated October 31, 2000, outlining recommendations of Town staff to the Town Council of improvements over and above the original Florida Department of Transportation (FDOT) plan. Mr. Bowser specified many of the details of the project, and introduced Perla Medina Kinney, FDOT. And Humberto Gomez of the Consulting Engineering firm of Biscayne Engineering.

Ms. Perla Medina Kinney, FDOT Consultant/Project Manager, addressed the Town Council, stating that the FDOT had received the memorandum from Town Engineer Bowser detailing the improvements to the project, and noted that as many as possible would be incorporated into the project, while also trying the meet the schedule. She noted that FDOT would pay for the sidewalk improvements and the planting area on the west end of the project; the decorative posts/signs would be funded up to what normally would be put up on a project, with the Royal Poinciana Association or the Town of Palm Beach making up the remainder; FDOT would work with the Town regarding any conduits that were required; the cost of the receptacles and benches would have to be borne by the Town or the Royal Poinciana Association, however, FDOT would be willing to build any concrete paths that would be necessary to place them; she hesitated to give a definite answer on the median openings, as the consultant would be laying out the plans to determine what would work; additional irrigation would be necessitated by the additional green space areas, which would have to be designed and funded by the Town.

Town Engineer Bowser commented that sleeving would be needed during FDOT construction, with the Town then making the irrigation improvements as the new landscaped areas were developed. He noted that FDOT would require a joint project agreement outlining responsibilities of the Town of Palm Beach. Assurances would be needed from the Royal Poinciana Association, as to costs that would be paid by them, and the Town Attorney could advise regarding an agreement between the Town and the Royal Poinciana Association.

Mr. Leslie Shaw, on behalf of the Royal Poinciana Association, addressed the Town Council, thanking the Town Council, FDOT, Mr. Dusey and Mr. Bowser for their aggressive, positive approach to the project. He stated that the Royal Poinciana Association would be willing to work with the Town of Palm Beach, and assume its financial responsibility; the percentages would need to be resolved; they would work with the Town regarding uniform benches and receptacles. He requested clarification on the brick outlining/edging on the sidewalks, decorative standards on sign poles, and the continuity of design on the pedestrian crosswalks. He stated that the Royal Poinciana Association was definitely in favor of going forward with the project.

Mayor Smith noted that the Town Council had voted not to have pedestrian crosswalks across the medians, as Royal Palm Way would soon be renovated and there would have to be agreement on crosswalks in the two areas; she requested a cost estimate of the improvements.

Mr. Shaw replied that costs would be available at the next meeting; the crosswalks to be included were at the west end of the project, and one in the middle – he was in agreement that the two major streets of the Town should replicate each other.

Town Engineer Bowser noted that there were crosswalks at the ends of the medians currently, and a mid-block median could also be incorporated.

Mayor Smith explained that the Town Council had indicated that paths going across the grass were not desired; the Town Council had not yet discussed the mid-block median.

Mr. Shaw commented that parking was an issue in the Town, and a balance was needed for the mid-section double turn and increased parking; the Royal Poinciana Association had suggested the sidewalk in the new mid-block median.

President McDonald commented that it would be determined if it was feasible to put a median in that area, and if it was possible, the Town Council would need to decide if a sidewalk was desired. He polled the Town Council, and it was the consensus that a sidewalk should be placed in the median.

President Smith commented that she did not believe the sidewalk would be an enhancement to the area, and would like to see the area stay opened; she suggested that specifics be discussed at a later point, when costs would be available.

Ms. Polly Earl, Preservation Foundation, commented that she would like to see more discussion regarding specifics with the Garden Club.

Town Engineer Bowser responded that staff would return to the meeting next month with several alternate options; a proposed agreement with the Royal Poinciana Association; some estimated costs; following that staff would follow up with the State so that the specifics of the plan would be detailed.

In response to Mr. Shaw, Town Engineer Bowser stated that nothing additional would be done with the parking.

Mayor Smith referred to the proposed hourglass design in the middle, which would supposedly allow for 26 more parking spaces, and questioned how that would occur?

Mr. Shaw explained that by eliminating the entire cut, there would be 26 spaces; by doing the hourglass, there could be 2-5 additional spaces. The possibilities now available were: the single turn, which would add approximately 15 parking spaces; the hourglass which would add a few spaces; the positive effect which would be gained by the outline of the hour glass was that instead of a massive black top area, it would become a more pleasing green space.

Ms. Kinney, FDOT, noted that she had a commitment date to have the plans completed, which was December 13, 2000; anymore changes would delay the construction start date; FDOT was trying to work to try to incorporate all of the changes that could be accommodated in the time period allowed.

Director of Planning, Zoning & Building Robert Moore noted that the Landmarks Preservation Commission would be the final authority as to the design of the area, and would have to be included in the process at some point.

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

To avoid any possible confusion on technical matters a verbatim transcript is provided:

DUSEY: The Mid-Town project has gone through one more iteration regarding a request for additional information from our consultant. It is coming to a close, however, and we are still on the track for construction next November. Phipps Ocean Park is actually about to hit a milestone with an intent to issue the permit forthcoming any day now, and we will receive a variance to use borrow areas 3 and 4 sand. Federal permitting continues on both projects, and we anticipate about a 3-4 month process there. The erosion control line – we have talked to DEP staff, and they're happy with what we're doing and proposing; it's just a matter of preparing final plans there that shows a little bit more information. Reaches 2, 5, and 8, the other three reaches that we intend to pursue – we're about to come to you with proposals for preliminary design feasibility level studies that would help us define what we can and can't build in those reaches. Then, the last issue is funding – as you all know, Palm Beach County Environmental Resource Management staff took a negative position, or a position against fully funding Mid-Town and Phipps projects because of their concern about environmental impacts. Our Town consultants don't believe that those impacts will occur, but nevertheless, they'll be recommending to the County Commission that they not fund that particular sections – two sections – one in each project. Of course we have the right to talk to the County Commission at the time those recommendations are made and hopefully convince them otherwise. I have prepared a memorandum to Acting Town Manager Tom Bradford, which I believe you have received. It is attached to this memorandum, and it talks about where we are with funding. To try to put these in prospective – when we bid these two projects, we're going to have about 2 ½ million cubic yards of sand – you know, $.25 a cubic yard on a bid either way, plus or minus is substantially more than where we are now in deference with the County. These projects are going to be evolving financially. We may get some assistance with some free sand, or cheaper sand, from the Corps of Engineers. There are a lot of things that are happening. I suggest that we not be overly concerned a this point with what the County is doing, although I do recommend that we pursue changing the County Commission's mind, if they intend to vote against us on that.

McLENDON: I don't understand the State, the County, the Corps of Engineers, or whatever – the attitude they take with fairly recently exposed hard bottom that are now marine live material – I mean, don't they realize this is a result of a few years of erosion, when we were not getting sand coming down? I don't know why they take nosed attitude about that.

DUSEY: It's not just DEP. DEP and the Corps of Engineers have sister agencies – the Department of Interior is one, U.S. Fish and Wildlife Service, and there is also Marine Fisheries – they each have their own little thing, and they're very concerned about all kinds of stuff. There's another agency that used to be in DEP that was focused on turtles particularly, and that's been moved to a different State agency, but the concerns are still there. So, it's not just those agencies that are having these difficulties. They just want to make sure that everything we do is reasonable, and that environmental impact is minimized and we've done a lot of things to try to accommodate that – we build mitigation – we build tings that are going to be better than what we're covering, when they develop. So we do a lot of things to try to mitigate, but those concerns will always be there. These agencies are very strong in their opinions. The issue of recent uncovering of rock – we've raised those issues with the permitting agencies. We can show them surveys where sand had covered some of the hard bottoms within the last 4-5 yeas, and they do consider that. It's called ephemeral – it's rock that is covered and uncovered.

McLENDON: This huge November 2nd thing from the Corps of Engineers. I think that's the southerly part of our project, is it not? It's got 16,000 questions and objections to it – what we've proposed to do –

DUSEY: That's the Phipps project, yes. Most of those questions have been answered at the State level, and it's just a matter of going through the process again. It's a very hard process.

McLENDON: I don't see how you have the patience you do with them.

DUSEY: Well, it's consultants that get me through it, quite honestly, because I couldn't do it.

WYETT: I would ask you to clarify – where you discussed Reaches 2, 5, and 8 – you stated the design feasibility on 2 and 5 are just about ready, but you say Reach 8 will be in the near time – very near future, I guess. Could you clarify that, so the residents of this area have a little more confidence in what's going on?

DUSEY: All we're doing – we're splitting that up – I'm proposing to split that between two different consultants, just to split some work load up, and I haven't gotten to the other consultant yet for a proposal, but it's intended to be in the same time frame. Depending on what comes out of that study, we may be able – there's a possibility that we may be able to combine that with Reach 7, but I wouldn't want to lead anyone in that direction, because getting permits is really hard, even for little bits of work.

WYETT: Am I correct, if you're successful, it would be less expensive to do Reach 8 if you combine it with Reach 7?

DUSEY: It would be, yes. That would be the goal, but again, our time is kind of short for getting there.

KUVIN: I came with no prepared remarks, but I'm listening to Mr. Dusey. I think we're hearing only half the story. There were five residents from the Town of Palm Beach present at the Beaches and Shores Council, who are here today, and were there on October the 16th, as was Mr. Bradford. Mr. Dusey just articulated that the Mid-Town and Phipps projects were being constricted because of funding issues. That is just not correct. The fact is that the constriction of Mid-Town, which will result in less funding, and Phipps, which will result in less funding, was because of the environmental concerns, which were presented at the Beaches and Shores Council, and which I might add was voted on by a vote of 11-4 to support the staff recommendations of the Beaches and Shores Council. In doing so, it reduced the Mid-Town beach from 2.4 miles to 1 mile, and it took off 2,000 feet of the Phipps Park project as well. So, when Mr. Dusey says publically that this is a funding issue, it is not a funding issue. The funding issue has come about as a result of the Council's decision of a negative impact on the environment on those two areas. Also parenthetically, I find it difficult to understand Mr. Dusey's comments about Reaches 2 and 8, in the affirmation in which he presents; namely, that on the Council meeting of October 10th, it was articulated in the minutes that Reaches 2 and 8 were both anticipated to be very difficult to permit, and both will require innovative design considerations. Lastly, not to raise it again, but the question of a waiver and variance was submitted for Phipps unbeknownst to you as a Council, unbeknownst to the public, and it was all done because of the unsuitability of borrowing areas and the sand that will result from it. So, I'm a little disturbed to hear a presentation before the Council, which, after all you will make the final decisions on these matters, which only presents half the issue, and even the half issue is not presented in its entirety. Mr. Bradford was there. If you wish more detailed comment, you can request it from him. Thank you very much.

MARTINO: The handout that you see before you illustrates the situation that I believe exists today. The red portions are indicative of areas which have severe environmental problems. If you tried to go ahead permitting would be very difficult, if not impossible. The yellow area towards the middle, Reach 5, has not been really decided as to what will actually go on and happen there. And the two green areas are the areas which look like they are feasible and possible if suitable sand is available, and of course, that is a very big "if." So, the upshot of all this is, we borrowed 23-23 million dollars, and it would appear that far less of this plan is going to be implemented than was originally intended. And I'd like you to think a little bit about maybe the possibility of extinguishing some of that debt. I don't expect it to be done today, but I think you should have your thinking caps on about the possibility of returning some of that indebtedness, because these projects look like they will be severely curtailed. Thank you.

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

Mr. Eric Pedrone, Project Engineer, Florida Department of Transportation (FDOT) reported that there had been some conflicts involved in the South County Road project, such as saturated ground, gas/water/sanitary sewer problems. The drainage crew had been interrupted in their day-to-day work as a result of work in series performed by the contractor. As of this month, three drainage crews, two work crews, one lighting crew, and one concrete crew would be used, and as of today the contractor was on schedule with the revised schedule that was approved. There were seven out of eight drainage spaces completed; drainage construction was expected to be completed by November 25th, with traffic lanes opened shortly thereafter. The entire project was expected to be completed by December 23rd.

Councilman Brooks commented that work hours had been extended by the Town Council, however, on Monday, October 16, at 7:20 there were five workers on South County Road; on Tuesday, October 17, there were five workers on South County Road; on Wednesday, October 18th, there were four workers; on Thursday, October 19, there were nine workers; on Saturday, October 21st, at 3:30 p.m. there were five workers on the job; today (November 14th) there were 15 workers at 7:30 a.m. He asked for clarification on the completion date.

Mr. Pedrone responded that there were various crews in place, and Ranger Construction was only responsible for the roadway; the only place that they could work right now on the roadway was in the south part of Town, where there had been three conflicts this past month, which could be the reason why there was not much roadway construction work being done. He explained that the drainage crews had been continuing to work; most of the conflicts in the business area had now been resolved; the completion date was certainly attainable.

Mayor Smith commented that residents were very disturbed about the project, and there would be a major outcry if it continued past the December 23rd date; she urged that enough crews be employed in order to get the project finished.

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

Public Works Director Al Dusey reported that a meeting had been conducted with the Army Corps of Engineers at the Port of Palm Beach, during which updates were provided concerning the Sand Transfer Plant – a final answer would be provided in six months; Peanut Island sand – a final decision will be made this month.

In response to President Pro-Tem McLendon regarding the sand transfer plant, Mr. Dusey explained that options were being investigated as to whether they update, construct a new sand transfer plant, rehabilitate the existing sand transfer plant, or do nothing with the sand transfer plant, but still transfer sand via dredge on a periodic basis. Mr. Dusey noted that the question was if enough sand could be received on an annual basis to keep the beaches in healthy condition once they were renourished; a three-year study was being completed that would indicate more precisely the amount of sand that should be transferred on an annual basis.

E. Status Report BellSouth Issues:

1. Lease Agreement. David F. Jakubiak, Assistant to the Town Manager.

President McDonald referred to the memorandum in this regard from Acting Town Manager Bradford, requesting approval of the lease agreement with BellSouth, and an appraisal or formula method in determining compensation for leasing property from the Town of Palm Beach.

Councilman Brooks moved approval of the lease agreement between the Town of Palm Beach and BellSouth Telecommunications, Inc., as proposed by Town Attorney Randolph. The motion was seconded by Councilman Wyett. On roll call the motion carried unanimously.

President McDonald suggested that the appraisal method for determining compensation for leasing property from the Town of Palm Beach was the better choice, as the County assessor most often did not increase values as often as the market did, and an appraisal would give a more accurate value.

Town Attorney Randolph advised that it was his opinion that the appraisal method was the better approach.

Councilman Goldblum moved approval of the use of the appraisal method in determining compensation for the leasing of Town property. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

2. Consideration of BellSouth Proposal for Settlement Offer on Public Service Tax and Franchise Fee Audit in BellSouth Telecommunications, Inc., vs. Town of Palm Beach. John C. Randolph, Town Attorney. *(Deferred from October 10, 2000 Town Council Meeting)*

Town Attorney Randolph recalled that a decision on whether to accept the offer of settlement had been deferred at the last Town Council meeting. He advised that the Town not accept the offer, as it was believed extremely low under the circumstances.

In response to Councilman Brooks, BellSouth Regional Manager, Sid Poe, advised that the attorneys were working with each other to reach a conclusion in the settlement offer, and he was not directly involved in the approach to the negotiations.

Town Attorney Randolph noted that the attorney for BellSouth had requested that the Town determine an amount that was believed to be appropriate for settlement.

Councilman Goldblum moved that the offer of settlement by BellSouth be rejected. The motion was seconded by Councilman Brooks. On roll call the motion carried unanimously.

Mayor Smith commented that the study done by Mr. Jakubiak had indicated a figure of approximately $400,000; at that time BellSouth had offered $75,000, which was turned down, and now were offering $65,000.

Town Attorney Randolph advised that a figure would be determined which would be recommended to the Town Council, and that he would return to the Town Council at the December meeting with further information.

In response to Councilman Wyett regarding clarification of telephone service to the Town of Palm Beach, Mr. Poe advised that fiber optic facilities were in place that could carry the services, as long as BellSouth could provide the electronics; until the appropriate technology was in place to turn the fiber optics on, upgraded services could not be provided to certain portions of northern Palm Beach. He indicated that there was some frustration with the term of the five-year lease agreement, and BellSouth was motivated to try to work towards some solution. He advised that BellSouth had completed the work necessary on South County Road.

F. Town Staff Report on Negotiations for Town Hall Needs, Gray's Mobil and Alternatives. Thomas G. Bradford, Acting Town Manager and Albert P. Dusey, Director of Public Works. *(Deferred from October 10, 2000 Town Council Meeting)*

1. Resolution No. 45-00 - A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida Declaring the Town's Official Intent to Seek Reimbursement for Certain Capital Expenditures Made or to be Made in Respect to the Relocation, Acquisition, Construction and Equipping of a New Fire Rescue Facility, and Renovation of Portions of Town Hall From the Proceeds of its not to Exceed $8,000,000 Principal Amount of Bonds. Thomas G. Bradford, Acting Town Manager. *(Deferred from October 10, 2000 Town Council Meeting)*

Acting Town Manager Thomas Bradford recalled that a proposal had been received relative to the Gray's Mobil site, and the owners had subsequently indicated that they were no longer willing to sell their property at this time. Another alternative, 375 S. County Road, owned by Mr. Burt Handlesman, had been investigated – there was approximately 9,000 sq. ft. gross for office space; three studies had been completed (appraisal, observation report, and a cost estimate on renovations). Mr. Bradford advised that the property was in a good location, was approximately $2 million less than what would have been paid for Gray's Mobil, however, the downside was that it would cost approximately $677,000 to make the property usable by the Town. He requested direction from the Town Council.

Mr. Burt Handlesman addressed the Town Council, stating that the price of $1,950,000 was firm, and was not a square foot price, but a sales price. The number of parking spaces would depend upon how they were striped. In response to questions concerning repairs, he agreed that the Town would be responsible for the percentage of the property it owned.

Councilman Wyett remarked that there were also other alternatives, and that he believed that the Handlesman property was the most expensive alternative. He suggested that the Beaumont Lot be re-considered, and that the costs to renovate the Handlesman property and renovate Town Hall would exceed $4 million. He suggested that a new fire station would be preferable to renovating the old one; further study was needed on Town needs.

Councilman Wyett then recommended deferral of the Town Hall needs issue for further study. The motion

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

Councilman Goldblum moved approval of referring the issue of the Town Hall space needs to the Public Works Committee. The motion was seconded by Councilman Brooks. On roll call the motion carried unanimously.

The meeting of the Public Works Committee was scheduled for December 14, 2000, at 10:00 a.m., in the Town Council Chambers.

New Business

G. Consideration of Emergency Medical Transport Fees. V.K. Elmore, Fire-Rescue Chief and Jane Skittone, Director of Finance.

Fire-Rescue Chief Ken Elmore addressed the Town Council, referring to his report of October 5, 2000, detailing data on the issue of charging for emergency medical transport by the Fire-Rescue Department. He recommended that the issue be referred to the Public Safety Committee in order to have the opportunity to deal with the complexities of the issue.

Councilman Wyett moved approval of referring the issue of charging for emergency medial transport by the Fire-Rescue Department in Palm Beach to the Pubic Safety Committee. The motion was seconded by Councilman Brooks. On roll call the motion carried 4/1, with President Pro-Tem McLendon casting a dissenting vote.

The Town Council determined that a Public Safety Committee meeting would be scheduled after the report/opinion of the State Attorney General regarding the two local hospitals. Further discussion in this regard would take place at the December 12, 2000 Town Council meeting.

H. Florida Department of Transportation Royal Park Bridge:

1. Presentation From Florida Department of Transportation of New Royal Park Bridge.

Mr. Joe Borello, Project Manager, Florida Department of Transportation (FDOT), addressed the Town Council, reporting that FDOT had completed its coordination with the Landmarks Preservation Commission and had received its certificate of appropriateness for the new Royal Park Bridge.

Mr. Mario Echaguarra, E. C. Driver & Associates, addressed the Town Council, giving a status report on the details of the Royal Park Bridge. He noted that the plans were now complete and were ready for bid and advertising, with construction to begin in early May 2001, with a three-year schedule, to include a $900,000 no excuse bonus to have four lanes of traffic on the new bridge opened in 24 months. He noted that the temporary bridge now encroached on the Town property on the east side, and an easement would be needed to restore the park area. He presented renderings of the proposed new bridge. He requested a waiver in construction hours for the bridge, which would allow the contractor time to meet the incentive, and a resolution requesting the easement to restore the park area.

2. Request for Waiver of Construction Hours. James M. Bowser, Town Engineer.

Town Engineer Bowser reported that a letter had been received from the Florida Department of Transportation (FDOT) requesting extended work hours: the hours of 8:30 a.m. to 6:30 p.m., Monday through Friday, and 8:30 a.m. to 5:00 p.m. on Saturdays.

After discussion, Councilman Brooks moved approval of the hours of 8:30 a.m. to 6:30 p.m. during the winter season (December 1st to May 1st), and 8:00 a.m. to 8:00 p.m. from May 1st to December 1st. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

Town Engineer Bowser noted that FDOT would be coming in from time to time to request special hours working at night, as special concrete pours would need to be continuous.

3. Resolution No. 54-00 - A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Granting a Temporary Construction Easement to the Florida Department of

Transportation for Roadway Construction South of the Royal Park Bridge. James M. Bowser, Town Engineer.

Town Attorney Randolph read Resolution No. 54-00 by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PAM BEACH COUNTY, FLORIDA, GRANTING A TEMPORARY CONSTRUCTION EASEMENT TO THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR ROADWAY CONSTRUCTION SOUTH OF THE ROYAL PARK BRIDGE.

Councilman Brooks moved approval of Resolution No. 54-00. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

I. Palm Beach Towers - Appeal of Application of Town Policy Contained in "Standards Applicable to Rights-of-Way and Easements Within the Town of Palm Beach." Albert P. Dusey, Director of Public Works.

Public Works Director Al Dusey reported that Palm Beach Towers Condominium was appealing the application of Town policy as contained in the standards applicable in the Right-of-Way Manual, as they wished to construct an ornamental driveway between the sidewalk and the street, which was prohibited via Town policy for many years. Mr. Dusey noted that, although he had not been employed by the Town of Palm Beach when the policy was established, he believed that the policy had been set as a result of safety concerns.

Director of Planning, Zoning & Building Robert Moore commented that the continuity of driveway approaches had been desired, with concrete or asphalt standardized approaches; the original permit for the plan for Palm Beach Towers Condominium had indicated pavers on the east side of the bike path sidewalk and joining the asphalt at Cocoanut Row, however, the standard procedure for issuance of permits in that area required contractors to obtain Public Works permits. He indicated that the Public Works permit had been denied, and thus the appeal today.

Attorney Peter Bretton, on behalf of the Palm Beach Towers Condominium, addressed the Town Council, stating that the appeal was from an interpretation of the Town of Palm Beach Right-of-Way Manual, section 1.10. He exhibited photographs of the area in question, explaining the proposal of the decorative driveway plan. He clarified that Palm Beach Towers Condominium had attained the approval of the Architectural Commission (ARCOM) for the installation of the paver brick all the way to Cocoanut Row, including the apron area of concern; in addition building permits had been obtained, however, because of confusion resulting from the survey, it had not been known that the apron portion was in the Town right-of-way – consequently the contractor had not initially applied for the right-of-way occupancy permit. He explained that there was disagreement on the interpretation of staff regarding section 1.10. He maintained that all sidewalks in the Town of Palm Beach should have a plain, concrete brushed finish for uniformity and safety; the policy also emphasized that sidewalks always took priority over driveways; decorative driveways were permitted in the road right-of-way in areas where sidewalks did exist – a narrow interpretation would allow a decorative driveway where there was a sidewalk, as long as that sidewalk was left with a consistent, smooth, concrete surface. Palm Beach Towers Condominium would not be touching the bike path at all, which would create a visual continuity. He cited several examples in the Town of Palm Beach where similar situations existed, specifically 124 Seaspray Avenue, where paver blocks extended up the driveway, stopping at the sidewalk, and then continuing on to the road right-of-way. Mr. Bretton requested that, if a narrow interpretation was not accepted, that the policy be waived in this case because the bike path was very wide in the area, with plenty of room for pedestrians, and there was nothing on the other side of the street. He noted that Palm Beach Towers Condominium would be willing to indemnify the Town of Palm Beach, was fully insured, would maintain the area as required, and there would be no risk for the Town of Palm.

Mr. Moore explained that paver bricks had generally been acceptable in single family areas in the Town of Palm Beach, and this particular case had been considered more of a commercial area.

Mr. Bretton replied that the driveway was for a residential use, even though it was surrounded by commercial areas.

Councilman Wyett commented that pavers would be somewhat more favorable to the drainage problem in the area, however, he rejected the narrow interpretation of the rules and regulations. He asked what amount of insurance indemnity would be sufficient?

Town Attorney Randolph replied that he believed the $2 million policy would be sufficient in this case.

Ms. Wendy Victor commented that she used the driveway in question frequently, and found that the pavers being on the inside was a safety feature, as it was difficult to remember to stop for bicyclists when exiting from the Palm Beach Towers Condominium; with the pavers stopping on the west side of the bike path it was a reminder to slow down and stop.

Mr. John Grosskopf, Manager, Palm Beach Towers Condominium, commented that there had been a drainage problem in the area in question, which was why consideration had been give to pavers; in addition, there was a safety feature to the use of the pavers, which could be used as an indicator of a driveway. He stated that any required insurance would be provided, and it would be agreed that the pavers would be picked up and put back at the expense of the Palm Beach Towers, if the Town had to complete any kind of work in that area.

Councilman Brooks moved denial of the appeal or a waiver of the Palm Beach Towers Condominium regarding the application of Town policy contained in "Standards Applicable to Rights-of-Way and Easements within the Town of Palm Beach." The motion was seconded by Councilman Goldblum. On roll call the motion carried 3/2, with Councilman Brooks, Councilman Goldblum, and President McDonald casting affirmative votes; Councilman Wyett and President Pro-Tem McLendon casting

dissenting votes.

J. Consideration of Discussing Passenger Loading Zones or Valet Parking Issues

Councilman Wyett moved that the issue of valet parking be sent for study to the Ordinances, Rules & Standards Committee, as many complaints had been made concerning issues related to parking and possible revenue that may be obtained from the valet parking franchises. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

The Ordinances, Rules& Standards Committee meeting was scheduled for December 4, 2000, at 9:30 a.m. in the Town Council Chambers.

K. Consideration of Adopting a Resolution Regarding Electronic Voting Machines

Councilman Wyett moved that the issue of the Town of Palm Beach approve a resolution for the use of electronic voting machines be included on the Agenda for the December 12, 2000, Town Council meeting. The motion was seconded by Councilman Goldblum. On roll call the motion carried 3/2, with Councilman Wyett, Councilman Goldblum, and President Pro-Tem McLendon casting affirmative votes; Councilman Brooks and President McDonald casting dissenting votes.

IX. RESOLUTIONS

A. Resolution No. 52-00 - A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Establishing Commercial Solid Waste Collection Fees To Become Effective January 1, 2001. Albert P. Dusey, Director of Public Works.

Town Attorney Randolph read Resolution No. 52-00 by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, ESTABLISHING COMMERCIAL SOLID WASTE COLLECTION FEES TO BECOME EFFECTIVE JANUARY 1, 2001.

Councilman Brooks moved approval of Resolution No. 52-00. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

B. Resolution No. 53-00 - A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to Murray Logan Construction, Inc., in the amount of $168,000 for Delivered Rock to Be Used for Mangrove Habitat Restoration at the Par 3 Golf Course. James M. Bowser, Town Engineer.

Town Attorney Randolph read Resolution No. 53-00 by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING A CONTRACT TO MURRAY LOGAN CONSTRUCTION, INC., FOR THE DELIVERY OF ROCK TO BE USED FOR MANGROVE HABITAT RESTORATION AT THE PAR 3 GOLF COURSE.

Acting Town Manager Bradford commented that there was some concern on the part of the Recreation Department that the contract be delayed, as it would interfere with the fairways adjacent to Lake Worth, which could be detrimental.

Public Works Director Dusey commented that the award of the contract had nothing to do with the schedule.

Mayor Smith commented that the project was scheduled for June, which would not impact the Golf Course.

Councilman Brooks moved approval of Resolution No. 53-00. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

C. Resolution No. 55-00 - A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Department of Public Works, Engineering Division, Standards Applicable to Public Rights-of-Way and

Easements Within the Town of Palm Beach. James M. Bowser, Town Engineer.

Town Attorney Randolph read Resolution No. 55-00 by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE DEPARTMENT OF PUBLIC WORKS ENGINEERING DIVISION, STANDARDS APPLICABLE TO PUBLIC RIGHTS-OF-WAY AND EASEMENTS WITHIN THE TOWN OF PALM BEACH.

Councilman Brooks moved approval of Resolution No. 55-00. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

****The luncheon recess was taken at 12:15 p.m.****

****The Town Council meeting of November 14, 2000, was reconvened at 1:45 p.m.****

X. ORDINANCES

Second Reading

A. None

First Reading

B. None

XI. COMMENTS OF THE TOWN COUNCIL MEMBERS

Councilman Brooks commented on the letter from the State Attorney indicating that Save Our Cats, Inc., on public property, would not be prosecuted, and he urged the Police Department o exercise vigilance on areas of private property

President McDonald noted that the Mayor had questioned if the questions for the Town Manager candidates should be given out before the meeting on November 29th.

Councilman Wyett agreed that the Town Council should have the questions in advance.

Councilman Goldblum commented that the reason it had been determined that the questions would not be released was so that the candidates would not be aware of the specifics before the meeting.

Councilman Wyett suggested that the questions be faxed to the Mayor and Town Council the night before the meeting.

After polling the Town Council regarding the issue of distributing the questions before the November 29th meeting, President McDonald announced that it was agreed to leave the scheduled procedure in place.

XII. DEVELOPMENT REVIEWS

A. Time Extensions - None

B. Variances, Special Exceptions, and Site Plan Reviews

Old Business

C. VARIANCE NO. 51-2000 The application of Paul & Geraldine Emmett relative to property described as Lot 27 & W ½ Lot 28, Ocean Park Block 2; commonly known as 143 Seminole Ave.; located in the R-B Zoning District. To allow construction of an entrance portico providing a frontyard setback of 19.8' in lieu of 25' required. *(Deferred from October 10, 2000 Town Council Meeting)*

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

Attorney Jeff Shaffer, on behalf of the applicant, addressed the Town Council, stating that a revised plan was being submitted with a 21.8' setback, in lieu of a 19.8' setback. He noted that detailed discussion had taken place at the last Town Council meeting, and offered to respond to any questions at this time.

Zoning Administrator Paul Castro commented that the applicant had been requested to modify the application at the last meeting; a concern of staff related to the handrail on the carport, which must be eliminated from the plans. In addition, concern had been expressed about the size of the front portico, the plan re-design appeared to have the front portico the same height as it had originally been at the last meeting.

Attorney Shaffer responded that the guardrail had been erroneously placed on the plans by the architect; there was no intention for a guardrail at that location at this time; he noted that the height of the front portico was not part of this variance application, and the height would be under the one-story requirement. He noted that the plans had been revised so that the setback would be 21.8' in lieu of 19.8, in accordance with the suggestions to reduce the setback. He exhibited photographs of a home with a portico directly across the street from the home of the applicant – that portico measured a 21' setback from the road; the height of the portico of the applicant would not exceed as high as the bottom of the threshold of the window on the second story; the height would comply with existing zoning regulations.

Councilman Wyett suggested, that the portico be reduced in width in order to more closely comply with the zoning regulations.

Attorney Shaffer responded that the home was a two-story home, and reduction of the portico may result in the look of an odd proportion to the home.

In response to Mayor Smith, Architect Turco explained that the minimum height of the portico (because of the existing transom over the front door) would be 11 ½'.

Councilman Wyett noted that the drawing presented were not to scale, and that he did not have enough confidence in them to vote yes. He then made a motion to defer Variance No. 51-2000 to the December 12, 2000 Town Council meeting, in order that the applicant could appear with proper renderings. The motion was seconded by Councilman Brooks. On roll call the motion carried unanimously.

D. VARIANCE NO. 52-2000 The application of Dr. and Mrs. William Kaye relative to property described as W100' Lot 56 less street, Eden Properties; commonly known as 302 Eden Road; located in the R-B Zoning District; To allow construction of a second story addition on a two story house with an east street side yard setback of 24'11" in lieu of the 30' required. *(This portion of the application was deferred from October 10, 2000 Town Council Meeting to be legally advertised)*

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

Mrs. Lisa Kaye, homeowner of 302 Eden Road, addressed the Town Council, stating that the hardship for the east sideyard setback ran with the land; the zoning code setback requirements had changed since the residence had originally been constructed. The proposed addition would provide the same abilities as the neighboring properties; the variance being requested was the minimum necessary to allow the construction of the addition.

Councilman Wyett moved approval of Variance No. 52-00, with the hardship being the configuration of the land. The motion was seconded by Councilman Brooks.

Director of Planning, Zoning & Building Robert Moore commented that the hardship had been identified; the applicant had identified that there were already similar existing properties in the neighborhood, and the house had been originally been built at the proper setbacks.

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

E. SPECIAL EXCEPTION NO. 17-2000 WITH SITE PLAN REVIEW & VARIANCE The application of Echo Restaurant relative to property described as Lots 75-78, Sunrise Ave. Addition 2; commonly known as 230 Sunrise Ave; located in the C-TS Zoning District. To allow elimination of one parking space thereby reducing the required off street parking from 45 to 44 spaces, and to allow an additional 110 sq.ft. occupancy thereby modifying Special Exception approval 28-99 from

4,585 sq.ft. allowed to 4,695 sq.ft. *(Deferred from October 10, 2000 Town Council Meeting)*

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

Attorney James Brindell, on behalf of Echo Restaurant, addressed the Town Council, stating that the request for a reduction of one parking space was because the existing refrigeration available inside the restaurant was inadequate. He pointed out that deliveries could then be reduced by about 50%. He presented photographs of the building and parking area, noting that a parking analysis had been prepared indicating a need for 63 parking spaces in the evening, which was the peak time for the restaurant; with the loss of one parking space, there would still be 67 parking spaces available to serve the restaurant. With the current valet parking the system could accommodate 84 vehicles, even with the loss of one parking space.

Director of Planning, Zoning & Building Robert Moore provided staff comments as follows: Comprehensive Plan: the request did not meet the criteria for granting a variance; Town Manager: hardship must be shown for reducing amount of parking; Building Department: hardship must be demonstrated and possible relocation of cooler northerly in an enclosure that would eliminate the need for a variance. He agreed that there would be a reduction in delivery traffic.

Attorney Brindell commented that relocating the cooler northward, underneath the ramp, would involve a series of electrical boxes. He explained that the proposed cooler was7.9 x 13.6'; the existing cooler was roughly 6' x 8'.

Councilman Brooks commented that he believed there was a question of whether this was a need or a want.

Attorney Brindell explained that there would be adequate parking for the customers; the traffic generated would be diminished as deliveries would be reduced; the current kitchen would not allow the addition of the cooler space.

Councilman Goldblum maintained that there was room under the ramp for the cooler, which would result in no need for a variance.

Attorney Brindell replied that there was a great deal of equipment in that area, however, the applicant would be willing to consider the location.

Zoning Administrator Castro commented that there was the possibility of adding a cooling unit under the existing ramp, which would abut the existing walk-in cooler.

Attorney Brindell exhibited renderings of the lay out of the kitchen area, pointing out that there was no room in the current kitchen for more freezer space.

Councilman Wyett commented that it was against public policy to remove existing parking spaces; there had been complaints from the public about the use of the street by the valet parkers.

Attorney Brindell commented that the restaurant could eliminate three seats, one less parking space would be required and the cooling unit could then be installed in the proposed area.

Director of Planning, Zoning & Building Moore commented that as long as the unit was not visible, that was an option.

Councilman Goldblum moved deferral of Special Exception No. 17-2000 to the December 12, 2000 Town Council meeting. The motion was seconded by Councilman Brooks. On roll call the motion carried unanimously.

New Business - Minor

F. None

New Business - Major

G. VARIANCE NO. 54-2000 The application of Kane K. Baker relative to property described as Lot 13, less the east 5 feet for r/w, and Lot 13-A, Plat of Alto Lido; commonly known as 1246 North Lake Way, located in the R-B Zoning District. To allow construction of a two-story addition with a 7 foot side yard setback in lieu of the 15 foot setback required by code, and the construction of a 17 foot high (at its highest point) wall in lieu of providing the maximum 6 foot high wall allowed.

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

Attorney James Brindell, on behalf of the applicant, addressed the Town Council, stating that the proposal included adding space for a bedroom on the upper floor and a family room on the lower floor of the house. He presented a site plan of the property, noting that it was substandard in terms of width, and the walkway on the north side was 12' wide and was between the property in question and the property to the north.. He pointed out that there was also a proposal to add a stairway from the second floor, eliminating an existing balcony, and relocating an existing wall. The new stairway would encroach less into the side yard than the existing balcony; the proposed lot coverage would be less than what was allowed by code; the proposed landscaped open space would be more than required by code, and the cubic content ratio (CCR) was less than what was allowed by code. He presented a letter from the owners of the property immediately to the north who did not have any objections.

Architect Jacquie Albarran, SKA Architects, commented that the owners of the property were a young family with four children; there was a need for expansion; the elevation would not change.

Director of Planning, Zoning & Building Robert Moore gave the following staff comments: Comprehensive Plan: plan does not appear to meet criteria for granting variances; Building Department: the hardship should be demonstrated; Town Manager: the hardship should be demonstrated. Staff had no objection to the relocation of the existing wall, but did feel that the staircase could be placed elsewhere on the property.

Architect Albarran explained that the family room was minimal, and the staircase was on top of an existing storage room; the balcony in place currently would be removed.

Director of Planning, Zoning & Building Robert Moore advised that staff did not see a hardship for the stairway.

Attorney Brindell amended the application to remove the request for the stairway from the plan.

Councilman Goldblum moved approval of Variance No. 54-2000, with the amendment that the stairway be deleted; the hardship was the width of the lot and the location of the house on the lot The motion was seconded by Councilman Brooks. On roll call the motion carried unanimously.

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

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

Attorney Greg Kino, on behalf of Thomas and Patrice Carden, addressed the Town Council, presenting a site plan, and stating that it was proposed to remove an approximately 400 sq. foot one story addition built in 1960 and replace it with a two-story addition. The current addition did not meet the front yard setback of 25', which would be remedied with the proposed addition. Relief was being requested for the second story, for architectural reasons, as well as add square footage. He noted that there was a substantial landscape buffer between the property in question and the property to the west. He indicated that the hardship was that the house was positioned at an angle on the property, as the residence setback line established by the plat allowed only 3600 sq. ft. of buildable area; there was no other place to put the addition without further encroachment into the prohibited building zone; in addition, the interior lay out of the house did not lend itself to variation in the proposal.

Director of Planning, Zoning & Building Robert Moore gave the following staff comments: Comprehensive Plan: does not appear to meet the criteria for granting of a variance; Building Department: applicant must demonstrate hardship for the second floor over the existing floor; Town Manager: no comment.

Councilman Wyett commented that the applicant could re-design the floor if the expansion was accepted, with less of a variance or no variance at all; the bathroom could be consolidated, and the closet could be smaller. He noted that it was his intent to have architects recognize that problems could not be solved by coming to the Town Council; problems could be solved within the code, and the Town Council should be approached only when it was impossible to solve a problem within the code.

Architect Mindy Schwab explained that the livability of the house was an issue as it was designed with four bedrooms, with no real master bedroom; the applicant wished to add a closet and master bath to create a master bedroom. She pointed out that the front elevation of the house would be effected if the second story was pulled back by 5'; in addition roofing and aesthetic problems would result.

Attorney Kino explained that if the second story was pulled back, the first floor would have to be pulled back as well, for the style of the house and the roof treatment.

Councilman Wyett moved deferral of Variance No. 53-2000, to the December 12, 2000 Town Council meeting, so that further study could be conducted of the plans by the architect so that less of a variance could be requested, or no variance at all. The motion was seconded by Councilman Brooks. On roll call the motion carried unanimously.

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

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

Zoning Administrator Paul Castro advised that a letter had been received from an associate of the architectural firm designing the proposed wall requesting a withdrawal; unfortunately, since the letter was not from the applicant, the request could not be accepted, even though the applicant was out of the country and could not forward a letter. He noted that staff did not find a hardship related to the request.

Councilman Brooks moved deferral of Variance No. 55-2000 to the December 12, 2000, Town Council meeting. The motion was seconded by Councilman Goldblum. On roll call the motion carried unanimously.

J. <u>VARIANCE NO. 56-2000</u> The application of Park Place Inc., Owner, and Leasehold Owner, Bessemer Trust Company of Florida, as personal representative of the Estate of Helen D. Hanson, Deceased, relative to property described as: Lots 1,2,3,4,5,6,7,8, and 9, Block 5, REVISED MAP OF ROYAL PARK ADDITION, according to the Plat thereof recorded in Plat Book 4, Page 1, commonly known as 369 South Lake Drive, Apts. C-1 and D-1; located in the RD-2 Zoning District. To allow nonconforming elements of a building as it relates to dwelling density and required parking to be resumed by the division of one unit back into two units as was originally designed and constructed (Apts. C-1 and D-1).

Ex-parte communication was declared by Mayor Smith with two of the real estate agents involved in the property, as to why the apartment should be divided.

Attorney Frank Lynch, on behalf of the estate of Helen D. Hanson, addressed the Town Council, explaining that the variance request was being made today in order that the apartment could revert to its original design; it had been two separate units, with two separate electrical meters, and one parking space had been assigned to each unit. He advised that the hardship was that the current zoning had changed since the apartment was converted into one, and would not currently allow the separation into two apartments.

Director of Planning, Zoning & Building Robert Moore gave the following staff comments: Comprehensive Plan: should not allow increase in density; may violate goals and objectives of the Comprehensive Plan; Building Department: increase in density problematic; demonstrate hardship; condominium association must approve. He advised that there were a dozen of these type of scenarios existing in the Town, where density was higher when the structures were built, and in the past the Town Council had not prohibited the re-dividing of such units, as long as there was no objection from the condominium association. He noted that letters of agreement from the condominium association had been submitted.

Councilman Brooks moved approval of Variance No. 56-2000. The motion was seconded by Councilman Goldblum. On roll call the motion carried 4/1, with Councilman Wyett casting a dissenting vote.

K. <u>SITE PLAN REVIEW NO. 12-2000</u> The application of M.S. and Susan Rukeyser relative to property described as Lot 26, Less South 3' Woods Landing, Plat 2, Plat Book 26, Page 100; commonly known as 579 East Woods Road; located in the R-B Zoning District. To allow construction of a new single family two story home on a non-conforming lot which has 75' frontage in lieu of 100' minimum required and 9,946.5 square foot lot area in lieu of 10,000 square foot lot area required.

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

Pat Seagraves, SKA Architects, addressed the Town Council, stating that the lot in question was nonconforming in two directions – it was 75' wide in lieu of 100'; 9,946 sw. ft. in lieu of 10,000 sq. ft. An existing house was on the property currently, which was in poor condition. He proposed that the existing house be replaced with a new two-story house of approximately the same footprint, with the addition of a two-car garage, with a pool cabana attached. The garage doors would not be visible from the street, and the house would be of Spanish Mediterranean style

Zoning Administrator Paul Castro advised that staff had several concerns relative to a 6' wide utility easement running along the north side of the property. The Public Works Department had stated that if the applicant entered into an agreement with the Town as well as put in a gravel driveway located on the utility easement, there would be no objection relating to the design of the driveway. He advised that staff was also concerned with the landscaped open space requirements on the patio on the south side of the house; because the driveway was so close to the north property line; additional landscaping may be needed to buffer the properties on the north, which would involve a utility easement with a sewer line within it.

Mr. Seagraves advised that he had met with Town Engineer Bowser in regard to the storm sewer line, and it was intended to keep the landscaping already in place; he stated that the house would be conforming in all setbacks and green space requirements.

Councilman Brooks moved approval of Site Plan No. 12-2000. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

L. SITE PLAN REVIEW NO. 13-2000, WITH VARIANCE The application of Amigo Partnership, Paul Wittmann and Diane Poli, General Partners, relative to property described as Lots 41,42,43,44,45 and 46, Block 3, Revised map of Royal Park Addition, (Plat Book 4, Page 1), commonly known as 329-333 Australian Avenue; located in the R-C Zoning District. To allow construction of a 2-story, 3-dwelling unit structure on the north side of Australian Avenue immediately west of the Brazilian Court Hotel, and to allow construction of a 10' high wall on a portion of the eastern side yard wall in lieu of 7' maximum allowed.

Ex-parte communication was declared by Councilman Brooks with Attorney Ron Kolins; by President Pro-Tem McLendon with Attorney Kolins; by Councilman Goldblum with Attorney Kolins; by Councilman Wyett with Attorney Malefatto, and Suzanne Baumann, abutting neighbor.

Attorney Alfred Malefatto, Greenberg Traurig, on behalf of Amigo Partnership, addressed the Town Council, stating that he was appearing for Attorney Kolins, and approval was being sought for a two-story, three unit multi-family structure located at 329-333 Australian Avenue; a variance was also being sought for the garden wall on the east side of the property abutting the Brazilian Court. He presented a landscaping plan, and architectural renderings of the property in question, pointing out that the plan would meet or exceed all code requirements. He pointed out that the building would fit in with the current streetscape; property owners in the two eastern units of the 12-unit multi-family residence to the west had expressed no objection to the project; Mrs. Baumann had expressed some concerns, which he believed had been addressed – the air conditioning units would be moved away from her property line, and the swimming pool would be moved to the east; however, another issue had been raised regarding whether or not the building was three story. A large three story residential building was located to the northwest of the proposed project, and no objections had been received from those residents; immediately to the north, there was a building under construction, and it was understood that property owner was in support of the application; to the west was the Brazilian Court Hotel – the part of their property abutting the property in question was the area where their loading dock and service entrance was located.

Attorney Malefatto stated that the criteria for site plan review was clearly met, all code requirements were met, modifications had been made to the site plan, and the prior concerns of Mrs. Baumann had been addressed. He referred to the issue now being raised by Mrs. Baumann as to whether the project was a three story building, rather than a two story building: although it was his understanding that the code interpretation resulted in calculations of two stories. The hardship for the variance request was the location of the lot and the location to residentially zoned property immediately adjacent to the service area and loading dock of the Brazilian Court Hotel – the request was for a 10' wall as opposed to a 7' wall in order to buffer the noise from that area.

Zoning Administrator Paul Castro commented that staff had met on several occasions with the applicant relative to the site plan, and staff believed that the site plan met all code requirements relating to the three levels of the project – the bottom level was a basement, as identified in Town code; the only concern of staff related to the front setback, as parking was being shown at that location, which was not allowed in the required front setback; the air conditioning units were place so as not to have much impact on the neighboring property owners; the project was in character with the existing development; staff had no objection to the request for the wall variance.

Mr. Nevin Baumann addressed the Town Council, stating that he had reviewed the site plan and elevations, and it had looked as if the building had three stories; a question had been submitted as to whether the building was indeed three stories, because of the possible negative effect on the property of Mrs. Baumann. He identified the definition in the Town Code of what constituted a story – a story means that portion of a building included between the surface of any floor and the surface of the next floor above it; if there is no floor above it the space between such floor and the ceiling next above it; he maintained that the building seemed to be three stories.

Zoning Administrator Paul Castro advised that under Section 134.1608 a basement did not have to be completely underground; the intent of the Code must be met as it related to the floor to ceiling height to the average level of the lot. He also noted that Section 134.1608 stated that "in all zoning districts, except the R-B zoning district, a basement story shall not be considered a story with regard to height regulations contained in this chapter if the story does not exceed +8' above zero datum for the subject lot and if clearly designed and adapted and used solely for the purposes of automobile parking and/or machinery and essential building utility services, not including habitable space." He explained that staff had examined the issue very closely; the garage in this case was exempt, and the house was a two story home, based on Town Code.

Councilman Goldblum moved approval of Site Plan Review No. 13-2000 With Variance. The motion was seconded by Councilman Brooks.

Councilman Wyett commented that the project was too massive, by putting the parking underground, rather than using garages; he urged that mass in the center of Town be given some attention during the next zoning season.

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

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At this time, President McDonald recognized Town Attorney John Randolph as the president elect of the Florida Municipal Attorneys Association.

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M. SPECIAL EXCEPTION NO. 18-2000 The application of Worth Avenue Associates, relative to property described as Lot 1 (less County Road r/w in DB 951, PG 202 and building only), Lots 2 through 5 (less building only) and Lots 7 through 24, Block 17, Royal Park Addition; commonly known as Louis Vuitton at 150 Worth Avenue (Esplanade); located in the C-WA Zoning District. To allow approval to utilize 2,482 square feet of gross leasable area on the first floor for retail purposes. Cynthia Spall, Esq.

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

Attorney Cynthia Spall, on behalf of the Louis Vuitton and the Worth Avenue Association, addressed the Town Council, stating that the Louis Vuitton store wished to move from its present location at 251 Worth Avenue to 150 Worth Avenue in the Esplanade building, in order to utilize more space. Town serving documentation would be provided to the Town during the next year.

Director of Planning, Zoning & Building Robert Moore gave the following staff comments: there was no Town serving data in the existing store since it was under 2,000 sq.ft., and the applicant had agreed that the appropriate data would be submitted next year on a timely basis, before the renewal of the occupational license. Staff had no objections.

Councilman Wyett moved approval of Special Exception No. 18-2000. The motion was seconded by Councilman Brooks. On roll call the motion carried unanimously.

N. SPECIAL EXCEPTION, SITE PLAN REVIEW AND VARIANCES NO. 19-2000 The application of The Palm Beach Day School Inc., relative to property described as Lots 664-752, Poinciana Park 3rd Addition, according to the Plat thereof as recorded in Plat Book 8, Page 72, Public Records of Palm Beach County, Florida; commonly known as 241 Seaview Avenue; located in the R-B Zoning District. To allow construction of a 187 square foot elevator addition on the back of a nonconforming building between the Administration Building and Mathers Auditorium; to allow construction of a 10' high fence within the front setback approximately 10' east of the west property line north of Seaview Avenue in lieu of the 6 foot maximum allowed; to allow construction of a 10' high fence 4' south of the north property line, a 10' high fence running 10' east of the west property line and a 9' high wall along the north property line north of Seaview Avenue in lieu of the 7 foot maximum allowed; to allow construction of a 9' high wall adjacent to the rear (north) property line commencing approximately 74' from the west property line and extending eastward approximately 150' in lieu of the required 2.5' setback from the rear property line; to allow placement of two additional Palm Beach Day School signs on the Auditorium and Library in lieu of one allowed by Code already existing on the building, and to allow each of said signs to be 6 square feet in area in lieu of the 6 square foot total maximum allowed, and to allow said signs to be placed on the east side elevations of the building in lieu of fronting the street as required by Code. **(Request for Deferral, per Letters Dated November 1, 2000 and November 7, 2000, from James R. Brindell, to be deferred to the December 12, 2000 Town Council Meeting)**

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

Other

O. Discussion of Zoning Issues Pursuant to the Requests of Allen S. Wyett, Town Councilman:

1. Removing Grandfathering of Businesses.

Councilman Wyett expressed concern with the grandfathering of businesses after they were vacated.

Town Attorney Randolph advised that specific types of commercial uses to be amortized out of existence would need to be identified; an amortization clause could be included within the ordinance, which would amortize out grandfathered uses over a period of time, which would allow them to realize their investment value. He explained that had been done in certain communities, primarily residential, which allowed the uses to be amortized out over a lengthy period of time. He advised that some sort of a study would need to be conducted, which would establish a rational basis for amortizing the use out over a lengthy period of time; a financial expert could advise the length of time.

Town Attorney Randolph advised that Councilman Wyett had also given consideration to decreasing the time for abandonment of a grandfathered use of a property to a lesser period of time, and that was also an option.

Councilman Wyett commented that he would like to reduce the time for abandonment of a of a grandfathered use on a property to six months, which would apply to future abandonment, and would also like to prohibit the expansion of a grandfather clause. He noted that he would like to specifically address nightclubs and bars, (exempting hotels) when they conflicted with residential areas that were disturbed by the use.

Town Attorney Randolph advised that six months was a very short period of time; additionally, expansion of non-conforming uses was not allowed – a variance would be necessary; the zoning ordinance would need to be changed if there was the desire for a provision indicating that bars or lounges could not be adjacent to residential uses. He explained that the ordinance change would allow the uses in effect to continue, however, if they were ever abandoned, they would no longer be able to resume.

Councilman Wyett made a motion to refer this issue to the Zoning Commission for the next zoning season.

Mayor Smith noted that exempting hotels would be difficult, since some of the nightclub/bar operations were located within hotels. She suggested that perhaps the hours of operation could be limited.

Director of Planning, Zoning & Building Robert Moore advised that the hours of operation were not subject to the zoning ordinance, but were subject to alcoholic beverage sales.

Councilman Wyett stated that his goal was to establish a better quality of life for residents in the Town of Palm Beach who lived in the areas of concern.

Councilman Brooks urged that caution be used in this issue – he pointed out that grandfathering was grounded in legal precedent.

On roll call the motion of Councilman Wyett, seconded by President Pro-Tem McLendon, to refer the grandfathering of uses issue to the Zoning Commission carried unanimously.

2. Elimination of Objectionable Commercial Land Uses Adjacent to Residential Areas.

This item was combined with the preceding item and sent to the Zoning Commission for review.

3. Establishment of Standards to Reduce Number of Variances and Special Exceptions.

Councilman Wyett commented that the word "standards" should be removed – his suggestion had been for a general discussion as to how less variance and special exception requests could be achieved, with a goal to make some of them administrative – he gave the example of a kitchen agreement, which could be handled administratively. He pointed out that architects and attorneys needed to concentrate on how NOT to have to appear before the Town Council for requests.

President McDonald commented that a variance must include a hardship, and if variances without hardships were denied, the message would be received.

Mayor Smith commented that the problem of variances had been addressed at the meeting held for Mayors of neighboring communities, and the consensus was that the Town of Palm Beach had one of the best zoning codes, however, the Palm Beach Town Council had recently granted more variances than all of the other communities put together. The suggestion had been that variance requests could be decreased by sending the message they would not be easily granted.

Director of Planning, Zoning & Building Robert Moore commented that the Town Council could devise a list of those items that could be considered administratively, with input from the Town Attorney. The Zoning Commission could then consider the list, as changes would be required in the ordinance.

President McDonald clarified that the Town Council was giving direction to Mr. Moore to prepare a list of items that could be considered administratively, for presentation to the Town Council.

P. The Mar-a-Lago Club:

1. Request by Raymond W. Royce, Esq., Representing the Mar-a-Lago Club, for Consideration of Amendment of the Town Tent Ordinance.

Attorney Ray Royce, representing the Mar-a-Lago Club, addressed the Town Council, requesting consideration of amendment to the current Tent Ordinance, which would extend the length of time a tent could be in place. He explained that the current ordinance required that a tent could not be in place for more than six months during any one calendar year; the tent at Mar-a-Lago was essentially walled in and not visible from the street, and many requests came for its use in the spring/summer months. He noted that a new building could not be built at Mar-a-Lago until the new four lane bridge was completed, and it would be helpful if the Tent Ordinance could be revised.

Director of Planning, Zoning & Building Robert Moore suggested that the Town Council not consider amending the Tent Ordinance simply for the Mar-a-Lago Club; if an amendment was considered he suggested that it be something that could be decided on an individual basis. He explained that the reasons for the six month period were that a tent was a temporary structure, and the time period corresponded with the hurricane season, when it was not advisable to have tents in place. He suggested that any change in the ordinance be made in such a way that a waiver could be applied for, in order that the Town Council could consider the merits.

Attorney Royce commented that he had not intended that the ordinance be modified specifically for Mar-a-Lago; he was suggesting that the six-month provision be considered for amendment in order for an applicant to apply for a waiver.

Councilman Wyett commented that he saw no general reason to consider any extension of the length of time a tent could be in place; in the past tents had merely gone up for a specific function and then were removed. The original agreement with Mar-a-Lago had included the provision for a tent, however, it was ambiguous.

President Pro-Tem McLendon commented that he was concerned about what would happen to the Mar-a-Lago Club when Donald Trump was no longer living; he had presented a request that the advisory board and Mr. Trump consider transferring title to the members, however, further consideration was not given to the request. He asked Attorney Royce what would happen to the agreement if Mr. Trump was no longer living?

Attorney Royce advised that the estate of Donald Trump would own the Mar-a-Lago Club at this point; he requested that Mr. Blackman address the question of transferring of the title to the members.

Mr. Wes Blackman, Director of Projects at the Mar-a-Lago Club, addressed the Town Council, stating that a meeting had been held with the advisory board discussing the transfer of title of the Club to its members, and there was no interest expressed by the advisory board to take on the onus of ownership, and the issue died at that time. He stated that it was something that could be continued to be addressed; he mentioned that the constituency of the Mar-a-Lago Club had a love of the estate, and would pursue its preservation should some disaster occur.

Attorney Royce noted that the property could not be utilized for anything except "club" purposes; there was also a conservation easement in favor of the National Trust, which required that the estate be preserved. In terms of what would happen if something happened to the current owner, the property would have to be used for exactly the same thing it was being used for now – it could not be used for any other purpose, because it had been zoned for a special exception for that purpose, and the conservation easement would preclude modifying the building.

Councilman Wyett commented that he recalled that the original Declaration of Use Agreement contained the provision that the property would revert and was the sole responsibility of the owner of the property, Mr. Trump, or his successors, should the Mar-a-Lago Club cease to be a club.

Attorney Royce advised that he did not recall that specific; he noted that there was a provision that indicated that Mr. Trump had to guarantee the losses for a certain period of time. He pointed out that there was a special exception and a Declaration of Use Agreement, and that was a two way contract.

Councilman Wyett replied that Mr. Trump was the sole stockholder, and the property could revert back to a private residence; picking up the responsibility of running the large operation was not of interest to its members. He noted that the Club had a club feature, but also had a private business/profit feature, which made it totally different than any other club in the Town of Palm Beach.

Attorney Royce advised that many members wanted to have weddings at the Mar-a-Lago Club, frequently in May and June, and that was the main thrust of the request today – to have the tent available for member uses during that period of time.

Councilman Wyett commented that the ballroom and other facilities on the property could also be used for events; he noted that the Mar-a-Lago Club had more events than all of the other clubs in the Town of Palm Beach combined.

Mr. Blackman commented that the tent environment could be transformed for any type of event through decoration, and many members enjoyed that aspect; the typical size of a wedding in the tent was 150-200 people.

There was no further action taken by the Town Council in this regard.

2. Request by Raymond W. Royce, Esq., Representing the Mar-a-Lago Club, to Modify Construction Dates of the Approved Construction Management Plan for the Cabanas on the East Side of South Ocean Boulevard.

Attorney Ray Royce recalled that two cabana buildings and a swimming pool had been approved by the Town Council on the beach side of the Mar-a-Lago property; stringent conditions had been applied, one of which was to return to the Town Council with a construction management plan. That plan had been submitted and approved by the Town Council. The construction management plan had indicated that construction would stop in December and pick up again several months later. He explained that delays had been experienced with workmen and final approvals for the Florida Department of Environmental Protection (FDEP).

Mr. Wes Blackman, Director of Projects at the Mar-a-Lago Club, addressed the Town Council, submitting pictures of the site in question, noting that the wall facing the neighbor to the north was in place (which was a requirement of approval for the cabanas); the final notice to proceed had been received from FDEP on November 1, 2000. He explained that at the time the construction management plan had been approved it had been anticipated that a logical stopping point would be reached by December 1, 2000. He submitted a modified construction schedule that would allow the work to be completed in a timely manner.

Councilman Goldblum asked if Mrs. Massey or the Bath & Tennis Club had given input on the modified plan?

Mr. Blackman replied that he had not received letters of approval from either, however, both were represented today at the meeting. He explained that with the modifications to the schedule, the construction could be finished by December 1, 2001.

Ms. Wendy Victor expressed concern with more construction in the Town at this time.

Mr. Douglas Egam, Manger of the Bath & Tennis Club, addressed the Town Council, objecting to the proposed construction during the height of the season. He suggested that the Town Council adhere to the original agreement, wherein it stated that construction would stop on December 1, 2000, and commence in April 2001.

Attorney John Moyle, on behalf of Mrs. Jack Massey, addressed the Town Council in opposition to the request for modification of the construction plan approved by the Town Council. He noted that notice had been received approximately one week ago regarding the proposed modification of construction plans, and that the reasons for the proposed modifications were not valid. He pointed out that he did not foresee a problem with a need for several extra days, however, there was strong objection to an entire season of construction work.

Attorney Royce suggested that construction take place until December 20, 2000, and then cease construction until the April commencement date.

Attorney Moyle advised that he did not have the authority to agree to the proposed date, and would confer with Mrs. Massey. He pointed out that it would be close to the holidays, and suggested that construction stop approximately December 14th, with mature landscaping in by December 20th; there would not then be a request for an extension by Mar-a-Lago.

Mr. Egam advised that the Bath & Tennis Club preferred adherence to the original agreement.

Councilman Wyett noted that the construction plan had been approved so as to avoid traffic/seasonal problems, and moved denial of the request for modification of the construction plan. The motion was seconded by Councilman Brooks. On roll call the motion carried 4/1, with President McDonald casting a dissenting vote.

Q. Request for Palm Beach Day School Extended Work Hours. Cynthia Spall, Esq.

Attorney Cynthia Spall, on behalf of Palm Beach Day School, addressed the Town Council, stating that the request today was for an extension of work hours for the season - - to work the same hours that were currently being done – from 8:00 a.m. to 6:00 p.m., until the gymnatorium was dried in. The request was only for the gymnatorium work. She explained that a power line located behind the building prohibited work from being done to finish the back of the building and part of the roof; Florida Power & Light (FPL) had promised that the line would be moved in August, and had now promised that it would be moved on Thursday. Work could not be accomplished because of the lethal nature of the power line. She explained that after the gymnatorium was dried in, the Day School was requesting an extension of hours to work one extra hour – from 6:00 p.m. to 7:00 p.m. ONLY on the inside, in order to finish the complete construction of the gymnatorium by the end of March, 2001.

Councilman Wyett moved approval of the request for an extension of work hours by the Palm Beach Day School.

Director of Planning, Zoning & Building Robert Moore advised that weekend work was being done as well, on Saturday, but not on Sunday.

Ms. Polly Earl, speaking as a close resident to the area, commented that she had lived in the Town of Palm Beach for many years, and had never seen the extent of construction and destruction; the Florida Department of Transportation (FDOT) had moved in like an invading army, and every single additional construction project approved anywhere in the Town would add to the problem. She urged the Town Council to move to find a way to prohibit the concentration of construction projects all at once. She pointed out that she was a graduate of Palm Beach Day School, and loved it too, however, she lived one block away and there were many construction projects in the area.

Mayor Smith clarified that Saturday work would be done from the hours of 9:30 a.m. to 5:30 p.m., however it could not be done over the upcoming holidays.

Attorney Spall agreed that Saturday work would be done from the hours of 9:30 a.m. to 5:30 p.m., with no work on Sundays or holidays.

Ms. Lisa Hamilton, Weitz Company, commented that the only day that construction was restricted by the Building Department was Christmas day – whatever the ordinance required would be the times that construction would not be done. She explained that all exterior work on the gymnatorium was proposed to be completed by the end of December, if FPL accomplished its work.

President McDonald clarified that restrictions would be necessary for the holidays.

Councilman Wyett moved approval of the extra 1½ hrs. of work from now on, ceasing of construction from December 20, 2000 to January 3, 2001. The motion was seconded by President Pro-Tem McLendon.

Director of Planning, Zoning & Building Robert Moore explained that the current work hours allowed were from December 1, 2000 for construction work six days per week, between the hours of 8:00 a.m. and 5:00 p.m. The applicant was now requesting additional time of 1 ½ hrs. – until 6:30 p.m., to work inside during that extra time. He stated that he was now understanding that it was the preference of the Town Council to give the extra 1 ½ hrs. of work from now on, six days per week, and that construction cease both outside and inside from the time of December 20, 2000, to January 3, 2001.

Upon the request of President McDonald, Town Clerk Pollitt repeated the motion: to approve the extra 1 ½ hrs. of work from now forward, with NO WORK between December 20, 2000 and January 3, 2001.

On roll call the motion carried unanimously.

R. Declaration of Zoning in Progress for the proposed amendments to Chapter 134, Zoning, as of November 15, 2000. No building permits shall be issued by the Planning, Zoning & Building Department in contravention to the proposed amendments as of said date. The exception being those zoning items related to the proposed prototype design guidelines for the four (4) identified streets in the R-B district. Robert L. Moore, Director of Planning, Zoning & Building.

Director of Planning, Zoning & Building Robert Moore explained that each year the Town Manager usually issued a letter saying that zoning was in progress and permits could not be issued that would be in contravention to what was being proposed. Town Attorney Randolph had suggested that the declaration of zoning in progress be taken care of at this meeting; each year the Building Department would bring the issue to the Town Council in October, rather than in November so that the declaration of zoning in progress could be issued on a timely basis.

Councilman Brooks moved approval of the declaration of Zoning in Progress. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

XIII. ANY OTHER MATTERS

There were none.

XIV. ADJOURNMENT

The Town Council meeting of November 14, 2000 was adjourned at 5:00 p.m.

Mary A. Pollitt
Town Clerk

SEAL OF THE TOWN OF PALM BEACH FLORIDA
INCORPORATED APRIL 17, 1911

Prepared by: