TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL MEETING HELD ON NOVEMBER 13, 2007

I. CALL TO ORDER AND ROLL CALL

The Regular Town Council Meeting was called to order on Tuesday, November 13, 2007, at 9:30 a.m., in the Town Council Chambers. On roll call, the following elected officials were found to be present:

Mayor Jack McDonald
President Richard M. Kleid
President Pro Tem Denis P. Coleman
Council Member William J. Brooks
Council Member Gail Coniglio
Council Member Susan Markin

Others present for all or a portion of the meeting were:

Town Manager Peter B. Elwell
Deputy Town Manager Thomas G. Bradford
Assistant Town Manager Sarah E. Hannah
Town Attorney John C. Randolph
William Amador - Fire-Rescue Chief
Kirk Blouin, Administrative Captain, Police
Jay Boodheshwar - Recreation Director
James Bowser - Town Engineer
Paul Brazil - Public Works Director
Eric Brown - Public Works Assistant Director
Veronica Close - Planning, Zoning and Building Assistant Director
Paul Castro - Zoning Administrator
William Crouse - Human Resources Director
Tim Frank - Planning Administrator
Fred Hess - Police Sergeant

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Charles Langley - Public Works Assistant Director
John Page - Planning, Zoning and Building Director
Michael Reiter - Police Chief
Jane Struder - Finance Director
Susan Eichhorn - Town Clerk

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Town Clerk Eichhorn gave the invocation. President Kleid led the Pledge of Allegiance.

III. PRESENTATIONS

A. Property Taxes. [Representative Carl Domino]

Representative Carl Domino addressed the Town Council regarding proposed property tax initiatives. He noted that citizens would be asked to vote at the January 29th Presidential Preference Primary election on the property tax issue, which would include the portability of the "Save Our Homes" benefit anywhere throughout the State with a cap of $500,000.

Mr. Domino responded to questions and concerns of the members of the Town Council.

B. Beach Nourishment. [Senator Jeff Atwater]
TIME CERTAIN: 12:00 P.M.

Senator Jeff Atwater addressed the Town Council regarding beach renourishment He advised that he had the privilege of representing coastal Florida from Jupiter to Ft. Lauderdale, and noted, for the record, his observation of the extraordinary lengths and efforts the residents of the Town had gone through over the years to ensure the nourishment of their beaches, which had been done through team work with all of the Town's State and Federal partners, volunteers, the Citizens' Association, etc.

Senator Atwater noted that there had been an exchange of correspondence on Friday between Mayor McDonald and Florida Department of Environmental Protection (FDEP) Secretary Michael W. Sole regarding the remaining outstanding issue, as far as the State was concerned: the acceptance by the Town of Palm Beach on the need for additional mitigation. The Town was awaiting the Biological Opinion from the U.S. Fish and Wildlife

Service, which it expected to receive within the next several days, and then it would be placed in the hands of Secretary Sole to make a decision from the following options:

- To approve the permit with the authority he possessed; or
- To suggest that this issue should go before the Board of Trustees (Governor and Cabinet) for a final decision?

Senator Atwater noted that Secretary Sole had assured him that he was pressing his staff to make a decision on the permits as quickly as possible, awaiting the Biological Opinion from the U.S. Wildlife Service.

Senator Atwater advised that there was a regrettable bit of information, of late: the Army Corps of Engineers (Corps) was urging the National Marine Fisheries (NMFS) to make a decision on whether they should now be presenting a Biological Opinion. He noted that he found it to be a great disappointment to find out, at this late date, that some other department might wish to assert themselves into this. He explained that anyone that would want to scrutinize the process that the Town had been through, in partnership with the State and Federal government, would know that the Town had done everything that they could for all constituencies. He continued that all involved should be grateful for the Town's Federal representatives, Congressman Klein, Senator Nelson, Senator Martinez in asking the NMFS if it was necessary to have another Biological Opinion. He commented that if another Biological Opinion was required, it could extend the process deep into the winter months and the Town would miss out on their window.

Senator Atwater explained that the next five to seven days were critically important with the final Biological Opinion coming in from the U.S. Wildlife Service, and with the decision by Secretary Sole as to whether there was enough information for him to make the call or the assessment he might make to take it to the Cabinet.

Senator Atwater responded to questions and concerns of the Town Council and the following issues were discussed:

- Plan B:
  - Whether it was viable to create an emergency situation?
  - Whether there was any permanency of seawalls?
- Accepting nothing less than full renourishment of the beaches
- The Water Bill
- Coastal planning - elimination of some of the bureaucratic hurdles
- Whether a long term plan could be developed to provide a consistent solution to beach protection for shore side communities.

- Whether there might be opportunities to band those communities together under Senator Atwater's representation in order to conduct a long term beach protection project?
- Breakwater solution
- Set up of the system with departments in charge of protecting wildlife, fisheries, etc., but not one that had the objective of protecting these beaches resulting in all other departments ability to overrule.

President Kleid personally thanked Senator Atwater for his extraordinary effort and cooperation on behalf of the Mayor, Town Council and most importantly, the citizens of the Town.

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The luncheon recess was taken at 12:30 p.m.
The Town Council Meeting of November 13, 2007, was reconvened at 2:00 p.m.

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PUBLIC COMMENT:

Sharon Wiggins, 228 Brazilian Avenue, questioned whether she could address Site Plan Review #20-2007, at this time, as she might not be able to address it at its appropriate time.

President Kleid advised that Ms. Wiggins she could explaining to the Town Council that Ms. Wiggins had a personal problem and had to leave by 4:00 P.M.

Town Attorney Randolph noted that this was a public hearing. Ms. Wiggins comments should be passed on to the applicant, if they were not present, at this time, in order that they be allowed to respond to comments.

Ms. Wiggins commented that they recently purchased a home after having rented in Town for a year, noting that they had learned about the community and had been impressed with the planning of the Town and the work of this Town Council. She noted that presently there were concerns in the neighborhood regarding Item C.4.c., Site Plan Review #20-2007 with Variances, 215 Brazilian Holding, LLC, The Brazilian Hotel and she commented on the following:

- The two major issues concerning her neighborhood: noise and lack of parking.

- The use of property, which had originally been zoned residential; subsequently given a variance to become a small hotel with twenty to thirty seat dining, with a parking ratio for the hotel rooms.
- An additional variance recently given the applicant to operate a fifty room hotel with 134 seat dining and function room, with a ratio of approximately 2.3 seats per hotel room and a reasonable ratio with 59 parking spaces.
- The neighbors were led to believe that it would be a condominium hotel with a small dining room for hotel guests and a function room.
- The variance request today was to change the hotel from 50 rooms to a 24 condominium hotel room business, which now would have a ratio of 4.5 dining seats per room as opposed to 2.1.
    - The neighborhood believed this had crossed the line from the principal operation of the hotel, turning it from hotel site to a bar and restaurant operation.
    - The developer had taken half of the parking spaces from the basement converting them for additional support for a bar and a restaurant.
    - The use of this property had turned from a condominium hotel to a bar and restaurant facility with no parking.
    - The key to the solution was not the zoning, which had been grandfathered, but to focus on the restrictions of the operation of this business.
- Questioned where 134 dining room guests, the support staff, and people going to the bar would park.
- The number one concern was the potential restaurant and bar party scene.

Leslie Evans, 214 Brazilian Avenue, advised that he lived in the neighborhood and did not agree with Ms. Wiggins statements relative to the concerns of the neighbors. He commented that he believed she should speak for herself.

C. Introduction of John Page as the Town's Director of Planning, Zoning, and Building. [Peter B. Elwell, Town Manager]

Mayor McDonald introduced John Page, Director of Planning, Zoning, and Building.

IV. COMMENTS OF MAYOR JACK McDONALD

There were none.

V. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

President Pro Tem Coleman requested a copy of the report from the agency that monitored the quality of water in Lake Worth and that it be placed on the Town's website.

Town Council President Kleid noted that the City of West Palm Beach monitored three or four locations in Town and they provided a report regarding drinking water, which was sent to the Department of Health.

Town Manager Elwell advised that the City of West Palm Beach did test the drinking water on the Island, and reports were available. He explained that there were a number of different agencies that provided some level of monitoring of the water in Lake Worth. The most active monitoring conducted was by the Palm Beach County Environmental Resources Management Department. He advised that staff would obtain copies of the report for review.

Council Member Markin commented that she supported the formation of a group of residents to serve on a Financial Advisory Committee that would provide input to the Town.

VI. COMMUNICATIONS FROM CITIZENS- 3 MINUTE LIMIT PLEASE

Dr. Sten Lilja read a statement into the record regarding the Reach 8 portion of the upcoming Comprehensive Storm Protection Program Referendum.

Bruce McAllister, 224 Bahama Lane, made comments regarding the Comprehensive Plan of Palm Beach.

Sanford Kuvin, 149 E. Inlet Drive, commented regarding the Reach 8 beach renourishment, and noted that Chapter 62B-33, Florida Administrative Code, may allow the declaration of an emergency in regard to the installation of seawalls/revetments.

Kathleen Wallace, 1472 South Ocean Boulevard, commented regarding the Consent Agenda, Item G.9., Approval of Consultant Selection Committee for the Peruvian Dock Expansion Project, and expressed her opposition.

Richard Raffo, 173 E. Inlet Drive, suggested that the Town Council appoint a new Shore Protection Board.

Walter Ross, 456 Worth Avenue, commented in opposition to the Peruvian Dock Expansion Project.

Jeffrey Ray, 230 South County Road, commented in opposition to the removal of the three parking spaces in front of businesses located at 230, 232 and 234 South County Road.

Sam Boykin, 285 Jamaica Lane, commented regarding the Reach 8 Beach Renourishment Project.

Patricia Sans, President of the Greater South County Road Association, commented regarding the parking placard system.
A discussion took place with staff and members of the Town Council regarding the following issues:

- Seawalls, groins, breakwaters;
- Reactivation of the Shore Protection Board;
- Municipalities north and south of the Town and the status of their beach renourishment projects;
- Declaration of a local emergency situation.

President Kleid requested Town Attorney Randolph review Chapter 62B-33, Florida Administrative Code, in reference to the comments of Dr. Kuvin.

After further discussion, the consensus of the Town Council was for staff to place the following on the agenda of the December 11, 2007, Town Council Meeting:

- A report providing historical context of what the Shore Protection Board considered, recommended and approved, and what was ultimately approved by the Town Council, so that the context of the plan was presented as well as some specific discussion that would be updated relative to what the Town knew about the potential for constructing seawalls, breakwaters or other alternatives.
- A report on who could declare an emergency and what an emergency declaration would allow.
- A status report on municipalities north and south of Town to include Jupiter Island to Boca Raton, as to the status of their projects.

VII. APPROVAL OF AGENDA

MOVED Item VIII.G.4., Authorization to Purchase Parking Kiosks, to XI.A.1.c.

DEFERRED Item C.3.b., Site Plan Review #14-2007 with Variances to the December 11, 2007, Town Council Meeting.

DEFERRED Item C.3.c., Site Plan Review #15-2007 with Variances to the December 11, 2007, Town Council Meeting.

DEFERRED Item C.4.b., Special Exception #14-2007 with Site Plan Review and Variances to the January 8, 2008, Town Council Meeting.

Motion made by Council Member Brooks, seconded by President Pro Tem Coleman to approve the Agenda as amended. On roll call, the motion carried unanimously.

VIII. CONSENT AGENDA

A. MINUTES: OCTOBER 4, 2007
APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

B. MINUTES: OCTOBER 29, 2007
APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING

C. MINUTES: NOVEMBER 5, 2007
APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING

D. MINUTES: NOVEMBER 6, 2007
APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING

E. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL COMMISSION AT ITS MEETING ON OCTOBER 24, 2007.

F. RESOLUTIONS

1. RESOLUTION NO. 65-07 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding an Engineering Contract to Corzo, Castella, Carballo, Thompson, and

Salmon (C3TS) for Their Proposal Amount of $110,865 for Design Services for the D-8 Storm Sewer Collection Improvements. [H. Paul Brazil, Director of Public Works]

2. RESOLUTION NO. 68-07 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Town of Palm Beach Police Department Edward Byrne Memorial Justice Assistance Grant (JAG) Program Application to the Florida Department of Law Enforcement and Authorizing the Mayor to Execute the Same on Behalf of the Town.
[Michael S. Reiter, Chief of Police]

G. OTHER

1. Authorization to Reschedule November 11, 2008, Town Council Meeting to November 13, 2008, Due to the Veterans' Day Holiday.
[Peter B. Elwell, Town Manager]

2. Appropriation of Funds From the FY08 General Fund Contingency Account to Replace Lapsed FY07 Funding for the Medical Care Commission. [Jane Struder, Director of Finance]

3. Appropriation of Funds From the FY08 General Fund Contingency Account to Replace Lapsed FY07 Funding for Landscape Improvement Funds for Ibis Isle and Palm Beach Public School. [H. Paul Brazil, Director of Public Works]

4. Authorization to Purchase Parking Kiosks.
[Thomas G. Bradford, Deputy Town Manager]

5. Authorization to Purchase Electronic Chalking Devices.
[Michael S. Reiter, Chief of Police]

6. Authorization to Purchase Three Replacement Vehicles for the Fire-Rescue Department from the Equipment Replacement Fund. [William Amador, Fire-Rescue Chief]

7. Authorization to Purchase Golf Course Rough Mower from the Equipment Replacement Fund.
[Jay Boodheshwar, Director of Recreation]

8. Approval of One-Year Extension of the Annual Air Conditioning Maintenance and Repair Contract.
[H. Paul Brazil, Director of Public Works]

9. Approval of Consultant Selection Committee for the Peruvian Dock Expansion Project.
[H. Paul Brazil, Director of Public Works]
(Removed from Consent Agenda, and added to Regular Agenda as Item XI.A.5., Time Certain 4:00 p.m.)

Council Member Markin requested that Item VIII.G.9., Approval of Consultant Selection Committee for the Peruvian Dock Expansion Project be moved to a time certain.

President Pro Tem Coleman objected to moving the item and requested a vote.

In response to President Kleid, Town Attorney Randolph advised that an individual Town Council Member had the right, unilaterally, to remove an item from the Consent Agenda to the Regular Agenda.

MOVED Item VIII.G.9., Approval of Consultant Selection Committee for the Peruvian Dock Expansion Project to XI.A.5., Time Certain 4:00 p.m.

Motion made by Council Member Brooks, seconded by Council Member Markin, to approve the Consent Agenda as amended. On roll call, the motion carried unanimously.

IX. BOARD/COMMISSION ANNUAL REPORT

A. PLANNING AND ZONING COMMISSION.
[Veronica B. Close, Assistant Director of Planning, Zoning, and Building]

Assistant Director of Planning, Zoning, and Building Veronica Close referred to her memorandum to the Mayor and Town Council dated November 2, 2007, and included in the backup material, to present the 2007 Annual Report of the Planning and Zoning (PZC) Commission.

William Guttman, 216 West Indies Drive, newly elected Chairman of the Planning and Zoning Committee, commented on the following two issues:

1. The planning role of the Commission

   - The planning role of PZC was limited to land use planning.
   - PZC recommended it be designated as the local planning agency under the Florida Growth Management Act of 1985.
   - Recommended that the Town Council consider at the January 7, 2008, Special Town Council Meeting, Phase I of the Planning and Zoning Commission Report.
   - Suggested that staff submit to the Town Council a prioritized list of planning issues that PZC would like to study during the off-season.
   - Noted that the Commission did not want to intrude on the planning activities of the Town Council and requested that the list or a redacted list be approved for the Commission to study.

2. The term structure of the Commission

   - §2-326 of the Town's Zoning Ordinances created a three-year staggered term structure to assure continuity of the Planning and Zoning Commission.
   - The Planning and Zoning Commission, at its meeting last week, voted unanimously to recommend that the Town Council amend the Code of Ordinances in order that the staggered terms began in October rather than February each year.
   - The approval of this recommendation would require the adoption of a new Ordinance, which would amend §2-326 to provide a cycle of three-year terms that began each October; and secondly, a transitional rule that would automatically extend the term of incumbents from February to October.

Council Member Coniglio congratulated the Planning and Zoning Commission on their decision to meet year round.

After discussion, the consensus of the Town Council was to direct staff to return in December or January with an Ordinance incorporating amendments to §2-326 so that terms would begin in October rather than February of each year, and an automatic extension of incumbents from February 2008 to October 2008.

President Kleid thanked every member of the Planning and Zoning Commission for their hard work and their dedication to the Town.

X. COMMITTEE REPORTS

A. ORDINANCES, RULES, AND STANDARDS COMMITTEE MEETING OF NOVEMBER 1, 2007.

Council Member Coniglio presented the following report and reviewed the recommendations made by the Ordinances, Rules, and Standards Committee Meeting held on November 1, 2007, and attended by both Chair Coniglio and Committee Member Kleid.

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REPORT OF THE ORDINANCES, RULES AND STANDARDS COMMITTEE HELD ON NOVEMBER 1, 2007

I. CALL TO ORDER AND ROLL CALL

The Ordinances, Rules and Standards Committee Meeting was called to order on Thursday, November 1, 2007, at 9:30 a.m., in the Town Council Chambers. On roll call, Chair Gail Coniglio and Committee Member Richard Kleid were found to be present.

Others present for all or a portion of the meeting were:

Deputy Town Manager Thomas G. Bradford
Town Attorney John C. Randolph
Kirk Blouin - Police Department Support Services Captain
Paul Brazil - Public Works Director
Veronica Close - Director of Planning, Zoning and Building]
Fred Hess - Police Sergeant
Charles Langley - Public Works Assistant Director
Gary Sallenbach- Police Department Support Services Captain
Susan A. Eichhorn - Town Clerk

II. APPROVAL OF AGENDA

The Agenda was approved as printed.

III. CONSTRUCTION RELATED ISSUES

1. Construction Completion Times

Veronica Close, Director of Planning, Zoning & Building, reviewed the current construction time limits:

- 13 months for projects under 4,000 sq.ft.
- 22 months for projects under 6,000 sq.ft.
- 30 months for all major construction projects 6,000 sq.ft. and over.

She noted that approximately one year ago staff had begun to track major construction projects that had not completed in the time allowed or had not asked for an extension of time from the Town Council. Those projects that were not in compliance with the completion time had been referred to the Code Enforcement Board.

Ms. Close pointed out that staff proposed that the new time limits would apply to all open projects, unless they were already over the time allowed in the present code. In essence, someone at the end of construction, going over the time allowed, would not get any additional time, but would go directly to the new procedures, or the Code Enforcement Board. Those projects currently under construction, and within the time allowed, would have the new time limits applied to them.

Ms. Close also noted two situations that staff was proposing to be included in the Code, when a construction permit would be automatically be extended:

1. When a condominium prohibits work during a certain time of the year.
   Example: A 13-month permit, given in a condominium that prohibits work for five or six months of the year, would be extended by the number of months that construction was prohibited by the condominium.

2. In the CWA District, which prohibits work during certain times of the year, the permit is automatically extended to allow work to stop during the season and resume after the season.

In response to Committee Member Kleid, Ms. Close pointed out that construction time limits applied only to major construction or redevelopment. They were not for minor construction projects.

Ms. Close stated that the new procedures had been reviewed with the contractors, and they had indicated that the new time limits were certainly achievable. She reviewed what would happen, under the new procedures, for projects requesting Town Council approval of an extension prior to the expiration of time limits:

- Contractor/Owner comes to the Town Council to request time extension.
- If the time extension is granted:
  10 days prior notice to surrounding neighborhoods.
- A condition of approval, if they do not complete the project within the extended time limit would be, that they pay a fee of 10 cents per square foot per day, with a minimum of $500 per day up to 60 days, no longer.

Committee Member Kleid clarified that staff was proposing that after receiving a time extension from the Town Council, and that time extension ran out, the contractor would automatically get another 60 days, provided that they paid the fee of 10 cents per square foot per day.

Ms. Close pointed out that if the 60 days was a problem, a policy decision could be made to limit it to 30 days.

Town Attorney Randolph commented that an alternative would be to impose the fee immediately, rather than imposing it after the extension date is done.

Committee Member Kleid noted that he was not in favor of an automatic 60 day extension; the extended construction periods were very liberal, and that the Town Council was going to be very tough on those not meeting the time lines.

Committee Member Kleid moved that the provision relating to the automatic 60 day extension be expunged, and that the fee of 10 cents per square foot would be applied by the Town Council at their discretion, when a permit extension was granted. The motion was seconded by Committee Chair Coniglio.

Jere Zenko, Tangier Avenue, commented regarding the impact of construction to the quality of life of residents, the length of time given to contractors to complete projects, and the constant disruptions caused by 8:00 - 6:00 p.m. work hours, six days a week

Committee Member Kleid noted that the contractors would have a time frame in which to build. If they had not completed at that time, they would come back to the Town Council to request a time extension – it may be for two weeks or for nine months – however, it would be a decision of the Town Council to make a determination as to how much of an extension would be given, and what conditions would be in place.

Ms. Zenko replied that she hoped extraordinary scrutiny would be given to a contractor who had deliberately slowed down on the project and not completed it in the allotted time.

Committee Member Kleid responded that it was evident in these meetings, that enforcement would be very strict.

Committee Chair Coniglio pointed out that many times the extension of construction was due to homeowner changes.

Mrs. Yvelyne Marix, 1570 North Ocean Blvd., commented regarding the notice/advertisement of the meeting today, the rights of residents, and that contractors should not be given more time to complete projects. She suggested that there should be no time extensions, and immediate Code Enforcement Board action when projects were not completed in the allotted time.

On roll call, the motion carried unanimously.

Ms. Close provided assurance that the owner will be cited as well as the contractor, and both would appear before the Town Council to request time extensions.

Ms. Close then reviewed the staff recommendation for projects <u>not</u> requesting Town Council approval prior to the expiration of time limits:

- Pay a fee of $.20 per sq. ft. per day for a minimum of $1,000 per day, or as determined by the Town Council.

Ms. Close noted that the automatic 60 day extension would be expunged, as requested by the Committee.

Discussion took place. Town Attorney Randolph suggested that staff be provided with some discretion in granting extensions administratively. If a person could then not complete in that time, it would be referred to the Town Council.

David Rosow, 1460 North Lake Way, commented regarding the liberal time frame, expressing concern that it was too liberal. He noted that he had built a home in 17 months, with two hurricanes during that period, and that there were very few 10,000 square foot houses anywhere in the country that would take almost three years to build. He suggested that it would be more appropriate if Town staff came up with a proposal on how to help homeowners and contractors build homes in a faster time, rather than a longer time.

John Ripley, Preservation Foundation, commented that this was a quality of life issue. He recommended against any discretionary time from the staff, because it was unfair to the staff. There was absolutely no guarantee that at the end of this discretionary time that the project would be finished, and staff would then have been put in a position where they would have allowed 30 or 60 days, and the project could still not be completed and then needed to come to the Town Council. He suggested making the time frames very simple so that everyone working on a project would know exactly what the deadlines were, and extenuating circumstances could come before the Town Council.

Committee Member Kleid commented that there were lots of problems in town with getting things done within a particular time – no matter how well meaning the contractor was, many owners made changes as they were going along, which extended the time frame.

Committee Member Kleid made a motion to direct contractors to come back to the Town to explain why more time was needed, once the allowed time frame had expired; the Town Council could then determine whether additional time would be granted and could attach any conditions. The motion was seconded by Ms. Coniglio.

David Rosow suggested that the old time limits be used, but with a penalty fee that could go up to the new time limits. He pointed out that owners would react to money at some point. Anything that could be done to shorten the period of construction would be useful.

In response to Town Attorney Randolph, Ms. Close explained that if a person did not complete a job, under all of the scenarios, had an unsafe structure at the end, if they had no extensions or no permits to work on the structure, and there were any code violations on that property, they would be coming back to the Code Enforcement Board.

Town Attorney Randolph noted that one of the problems was that people did not come to staff to request an extension, but went directly to Code Enforcement Board to get an extension. If the new process was used, there ought not to be a simultaneous process allowing people to go to Code Enforcement to ask for an extension. It would be for a limited purpose and they would go to Code Enforcement for an unsafe structure.

Responding to Town Attorney Randolph, Ms. Close advised that he was correct, and if there were code violations on the property, after work ceased, they would come before the Code Enforcement Board, but it would not be related to extensions of time to work on the job.

Ms. Close commented that it was her understanding that the procedure now would be a single procedure: the contractor would come to the Town Council to get an extension, but once the extension was over or one did not request an extension, the permit would be cancelled; and the contractor would have to come back to the Town Council for further consideration.

On roll call, the motion to direct contractors to come back to the Town Council to explain why more time was needed, once the allowed time frame had expired; the Town Council could then determine whether additional time would be granted and could attach any conditions, carried unanimously.

Ms. Close added that the code currently allowed a period of time from three to six months to come back to the Town Council to request an extension. Staff recommended an expansion of the time a contractor would be allowed to come before the Town Council: up to forty-five days before a permit expired to request an extension.

Mr. Kleid made a motion to approve expanding the time a contractor was allowed to come before the Town Council to request a

time extension: up to forty-five days before the end of their allowed time frame. The motion was seconded by Chair Coniglio. On roll call, the motion carried unanimously.

Ms. Close advised that staff proposed to include the Right-of-Way Manual, by reference, into Chapter 18 of the Code Of Ordinances, in order that the conditions of the permit include the requirements of the "3 Strike Rule," or whatever might be adopted, along with the other provisions of the Right-of-Way Manual.

Mr. Kleid made a motion to include the Right-of-Way Manual into Chapter 18 of the Town Code, in order that the permit could be affected by violations of the Right-of-Way Manual. Chair Coniglio seconded the motion. On roll call, the motion carried unanimously.

Harry Ackerman, outside consultant, noted that he had not had the opportunity to view the exact verbiage of any proposed changes being considered today, which made it difficult to comment. Discussion ensued and Chair Coniglio and Committee Member Kleid responded to questions and concerns expressed by Mr. Ackerman relative to the motions made.

Robert Moore, retired Director of Planning, Zoning and Building Department, commented regarding whether the "3 Strike Rule" would fit the criteria set out in the Florida Building Code.

Attorney Randolph responded that no one had raised that with him; he was familiar with the fact that the State regulates the enactment of the Building Code and that he believed that care should be taken in the manner in which the Town implemented this. If it was in violation of State Law, the Town would have to look at another way of doing this.

Mr. Moore advised that he wanted to go on record that he favored this and was no longer acting in his capacity of a building official, but he believed that it was good for the Town, and providing more liberal time was a benefit to everyone, including the neighbors, to get the job done as fast as possible. He advised that he would not like to see the whole baby thrown out with the bath water in the event that a job was stopped under the revisions of a revocation of a Building Permit, when in fact there was no authority to do that.

In response to Chair Coniglio, Attorney Randolph advised that further research was needed to provide a legal opinion.

2. Parking Control at Construction Job Sites

Deputy Town Manager Thomas G. Bradford advised that at the August 1, 2007, O.R.S. Meeting, staff shifted gears and backed away from the "3 Strike Rule". Staff requested consideration be given to the "Task Force" concept, which was the application of many departments involved with construction and construction parking to be cross-trained, where required; and as a team, they would go into construction areas to regulate construction related parking. The Committee supported staff moving forward with the Task Force concept, but staff needed to review some of the legalities of the proposed Task Force.

Mr. Randolph had, subsequently advised, that some of the aspects of the Task Force concept were not legal. Staff had proposed for penalties three and four, a $750 fine and $1,000 fine for all incidents number 4 and beyond. Mr. Randolph advised staff that per State Statute, the Town could not exceed $500. Staff concluded that the penalty aspects of the "Task Force" concept would not work, but continued to move forward with that idea, and in fact, it was functioning now - the multi-departmental approach to enforcement in the field, but staff would like to come back and revisit details of the "3 Strike Rule" in addition to the Task Force concept.

Mr. Bradford advised that staff was considering the concept of allowing six strikes per calendar year and upon accumulation of the six strikes within one calendar year, the contractor would have to go to Council, but when the conclusion of the calendar year was up, their slate was wiped clean. It was believed that the six strikes within a calendar year would aid in keeping the work load of the Town Council at a minium.

Mr. Bradford advised that it was believed that the "3 Strike Rule" would be beneficial in gaining compliance because contractors and owners did not want a job to be stopped, even if only for a short period of time, and certainly did not want to read their names in the newspaper when there was a report relative to the actions of a Town Council Meeting. He noted that staff believed that it would have some beneficial effect.

In response to Chair Coniglio, Mr. Bradford advised she was correct in that the first violation could be one or multi violations. He clarified that when referring to right-of-way violations, staff was talking about issuance of a violation that required the payment of a penalty by the contractor. The way it stood today, if an employee of a contractor was legally parking on a street as an individual, then they would not get a ticket; but if the Police Department and Public Works could show a clear nexus or connection of that vehicle and the job site, i.e., that person worked for the contractor or a sub, then the contractor would get hit with the fine. The only way it was currently set up was that the employee would get a ticket if they were parked illegally in some fashion.

He clarified that it was not illegal in and of itself for an employee of a construction site to be parked there, but it was just that typically there would be a limit of three right-of-way permits to be parked in the street, but if the fourth, fifth and sixth employee do not have a permit, that would be a violation that the contractor would be fined for.

Committee Member Kleid noted that he was philosophically opposed to an extension of the "3 Strike Rule. It appeared to him that after three strikes, they should be out. Mr. Kleid advised that he was hearing complaints from residents concerned about construction parking and the Town now had a staff that could enforce this. It was a much larger staff, now incorporating the Police Department. He stated that once it has been violated three times, the Town should take a very tough stance.

Yvelyne D. Marix, 1570 N. Ocean Boulevard, commented that it was important to keep in mind the very concise letter sent out recently by Peter Elwell on this subject. She noted that the entire conversation related only to streets where one could park legally, and it did not relate to streets where most of the complaints have come from which had "No Parking" signs. It had nothing to do with permits. She did not believe that the message had gotten through as clearly as it should, but she was pleased that it finally had come through. There should be no permits on "No Parking" streets.

Ms. Marix commented that what they were discussing now was only right-of-way permits on streets where anybody was allowed to park, she presumed for as long as they want unless it had a "2-Hour" sign. If it had a "2-Hour" sign anybody could park there for two hours. If it was a contractor, obviously, who was working on the house next door, he was sort of at a disadvantage that he could not park there longer. She questioned that when it was <u>not</u> two hour parking, how could a contractor be stopped from parking on a street that allowed anyone to park unlimitedly. She questioned whether the Town was legal in applying the "3 Strike Rule". It was much simpler when construction vehicles or anyone related to that site, had to park on the site and now the Town was allowing some to park on the streets and some not on the streets.

Attorney Randolph advised that the difference was that it was a condition of their permit in going forward, and that they must abide by the conditions of the Right-of-Way Manual, and the Right-of-Way Manual was very specific in stating that all parking should be onsite or a contractor could receive up to three permits. If the contractor did not have the three permits, he was not allowed to park on the street.

Ms. Marix advised that she was against the three permits because of the enforcement of it. She commented that what was being said was that there were three construction vehicles allowed with, hopefully, a large permit sign on them and so the contractor could tell his people not to put a sign on your car, no one will know you were working on his project.

Attorney Randolph advised that it was subject to the discretion of Public Works in looking at the job, the contractor could apply for up to three permits, if they could show if they could not put everyone onsite or if they could not car pool. He advised that he had drafted some amendments to the Right-of-Way Manual and had incorporated that. He noted that it had not been reviewed as yet, but was something that they were considering.

Ms. Marix suggested that if a contractor violated what they were allowed to do and used more than three strikes, the Town should begin enforcing it at that point. If the Town wished to give them a warning, they should be given one warning and then a fine.

Chair Coniglio noted that at some point the Police Department, Code Enforcement and the Task Force would be ticketing for this, but the construction traffic would then just be moved to someone else's street.

Kirk Blouin, Police Captain, clarified that it was $75 on the first violation per vehicle; the second violation was $150 per vehicle. He noted that there were no warnings from the Police Department and they were cited immediately on a right-of-way violation, which were issued to the contractor. He advised that in the short time they have been assisting Public Works on this, they have issued close to 50 violations to contractors, general contractors, hundreds of vehicles, and approximately $10,000 in fines, as of today. He noted that would probably increase as the entire Police Department have been trained in how to enforce the right-of-way and Public Works has provided all the proper paperwork/booklets and all officers have the proper forms to issue to the contractors. He reiterated that there were no warnings and the contractor was cited immediately. He noted that what was being proposed was that the third time they were cited, they would then need to report to the Director of Planning, Zoning, and Building to discuss the issue with them because it was tied to the Building Permit.

In response to Chair Coniglio, Capt. Blouin advised that he had seen success and they were optimistic that during the course of the next month, word was getting out to the contractors, they were seeing more compliance on their part, they were policing themselves.

Chair Coniglio passed the gavel and **made the motion that the "3 Strike Rule" would remain as 3 strikes, but discretion would be given to the Planning, Zoning and Building Department to consider whether there was a particular problem or extenuating circumstance, because she believed that every contractor with 3 strikes coming to the Town Council would be overwhelming. The motion was subject to legal counsel.**

Ms. Close commented that stopping a job was the most serious thing that could be done to a contractor and an owner. Stopping a job was very, very serious and probably had a lot of legal ramifications.

Committee Member Kleid advised that he understood that, and the idea was to make this tough and they would have to have violated three times before this occurs and that was three times that they were caught. He believed that they would have been given a lot of warnings and the owners had to be cognizant of this as well as the contractors.

Attorney Randolph commented that as he understood the motion, it was that the staff would have the opportunity to make a determination on the fourth violation, but on the fifth one they would have no discretion and it would automatically come to the Town Council.

Chair Coniglio advised that was correct and they really only got three strikes, but PZ&B might decide that one of those was extenuating, so the contractor would get one more shot and on the fourth, it would go to the Town Council She advised that they needed to look carefully at stopping work.

Robert Moore raised the issue of the use of parking meters in commercial areas of Town, and whether contractors or their employees would be permitted to park at a parking meter. He noted that presently a contractor was not allowed even fifteen minutes at a parking meter. The question was whether the contractor's employees would be given the same ability to park at a parking meter as a business employee would be.

Mr. Brazil explained that it was just the same as if they were in a residential area. It was a condition of their permit that they take all their construction parking and keep it on the site. If they could not do that, they could be allowed up to three on-street parking permits. The cost of the permit from Public Works in a commercial zone was eight hours at the Town's current meter rate. It was just the same everywhere. It was a condition of the Building Permit, that the traffic associated with that construction had to be confined to the site unless they could show a need, and then a limited amount of spaces would be given.

Chair Coniglio noted that until Attorney Randolph gave his legal counsel, this was just discussion.

Chair Coniglio clarified that her motion was that it was a "3 Strike Rule" at which point, the PZ&B administrator could decide one of them was extenuating, so in actuality they would get a fourth. On the third strike, it would come to an end.

Mr. Bradford responded that what staff anticipated was that the PZ&B Director would not know that they had a "3 Strike Rule" until Public Works advised that person, and Public Works would allow the ten day appeal period to pass before they notified PZ&B.

Committee Member Kleid advised that during that ten day period, there would not be a stop work order.

Mr. Bradford replied that he did not believe so, and if that was the way it was wanted, it would not be that way.

Ms. Close added that what she expected would happen was that on the eleventh day, at 8:30 a.m., PZ&B would be notified by Public Works and at 8:45 a.m., the contractor would be in the PZ&B office.

Chair Coniglio commented that if the contractor had received three violations in a weeks time and it was found unacceptable, the contractor would be going before the Town Council, which could take another twenty days.

Committee Member Kleid advised that he did not find that a problem because they created the problem themselves, and obviously it was a very poor situation there, if they had gotten that many violations in that amount of time and the Director of PZ&B in consultation with Public Works, had determined that they really were causing a problem on that street(s).

Chair Coniglio noted that it was really loud and clear to the construction companies.

Committee Member Kleid seconded the motion made by Chair Coniglio that the "3 Strike Rule" would remain as 3 strikes, at which point the PZ&B administrator could decide if one of them was extenuating, so in actuality there was the possibility that there may be a fourth strike. The motion was subject to the review of legal counsel. On roll call, the motion carried unanimously.

3. Identification Requirements for Commercial Vehicles

Deputy Town Manager Thomas G. Bradford advised that at the August 1, 2007, O.R.S. Meeting, the issue of identification requirements for commercial vehicles was discussed. Staff wanted to tweak the ordinance related to that issue because the Police Department had an internal problem with the definition of commercial vehicles. The Police Department wanted a specific definition, basically stating that any vehicle, car, truck, etc., including trailers, that were used for commercial business type purposes was applicable and therefore, must have the proper identification placed on the sides of the vehicle. Currently, the ordinance was written to the effect that the identification needed to be painted on the side of the vehicle. He noted that he suggested that they also be allowed to affix the identification on the side of the vehicle with the hope that it would help in gaining more compliance because many people were not able to paint the vehicle, because it then makes it illegal for them to park that vehicle outside at their place of residence. He advised that if magnetic identification signs were used, for example, the Town would get the compliance wanted and at the end of the day when the worker left the Town, the sign could be removed from the vehicle and everyone was happy.

Mr. Bradford noted that the only other question that staff had related to identification of trailers being pulled by commercial vehicles.

Attorney Randolph remarked that it seemed that as long as they had the identification on either the car or the trailer that they would comply.

Committee Member Kleid advised that the only thing that concerned him was what happened if they took the trailer and parked it and it was standing by itself. He noted that he could see some of these construction companies leaving the trailer at the site for a given period of time while they were utilizing it.

Attorney Randolph advised that if a trailer was standing alone in the Town, it would have to have identification. He suggested that a trailer left on a construction site, however, would be allowed.

Committee Member Kleid advised that he could see a landscaper who had a two or three day job leaving his trailer with his equipment in the area, not having to bring it back and forth all the time.

Mr. Bradford noted that perhaps the words motor vehicles should be taken out and just make it very clear that a construction vehicle would be anything that was listed in the ordinance.

Committee Member Kleid advised that was what he was suggesting and noted that he had no objection to the magnetic attachments.

Committee Member Kleid made a motion relative to identification requirements for commercial vehicles: magnetic identification would be allowed, in addition to painting, and that the ordinance be redrafted to include a trailer but strike the word "motor." Chair Coniglio seconded the motion. On roll call, the motion carried unanimously.

In response to Ms. Zenko, Attorney Randolph advised that fines for unmarked vehicles would not fall under the "3 Strike Rule" but would fall under Section 1-14. He advised that they would have to look at that because normally, if an ordinance was violated, one was subject to being cited and have to go to County Court and could be penalized up to $500 or 60 days in jail. That was when it went to County Court, but if it was a matter that went before the Code Enforcement Board, then they had the ability to fine up to $250 per day for the first offense or $500 for the second. He advised that it might be included on the Citation Fine Schedule and it might have a set fine for first, second, third and fourth violations.

Chair Coniglio commented that the Police Department would now be strictly enforcing parking. She advised that she wanted everyone to think about the "what if" situations – if there was no parking on a street, – that it would now include all household personnel, pool and landscape personnel, and if the resident were to have a bridge luncheon or cocktail party, no one would be able to park on that street. She noted that everyone needed to be cognizant of the impacts, as the breadth and width of parking enforcement was increased.

IV. ANY OTHER MATTERS

There were none.

V. ADJOURNMENT

There being no further business, the Ordinances, Rules & Standards Committee Meeting of November 1, 2007, was adjourned at 11:10 a.m.

Gail Coniglio
Chairman

Richard M. Kleid
Committee Member

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End of O.R.S. Report

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Council Member Coniglio requested staff and legal counsel to formulate the proper documents for first reading at the December 11, 2007, Town Council Meeting following discussion and approval by the Town Council.

Chair Coniglio and Committee Member Kleid responded to questions and concerns of the Town Council relative to the following:

- Construction Time Line
- "3 Strike Rule"
- Fine Structure

- Stop Work Orders

After discussion, the following recommendations were made:

- President Pro Tem Coleman suggested the formation of a two person Committee consisting of the Director of Planning, Zoning, and Building and the Chairman of the Planning and Zoning Committee to function in the Sunshine for a contractor to explain the extenuating circumstance.

- Council Member Markin advised that one of the worst punishments a contractor could receive for either not abiding by the parking regulations or not finishing in the time frame indicated, would be to delay the job until the following season. It should be put in writing that the contractor would be shut down for the duration of the season subject to appeal to the Town Council.

After further discussion, **Council Member Coniglio made a motion, seconded by Council Member Brooks, to accept and adopt the report and recommendations of the Ordinance, Rules, and Standards Committee, and to include that the contractors and property owners would be told up front and put on notice that there was the possibility that they ran various risks, and the job could be stopped for the entire season, indefinitely, or for a shorter period of time if they went over their period of time. On roll call, the motion was carried unanimously.**

David Rosow, 1460 North Lake Way, noted at the November 1, 2007, O.R.S. Meeting, when this issue was discussed, he had commented that there were some fundamental flaws in the procedure. He discussed the following:

- The extension of time for the contractors had been decided on by the Planning, Zoning, and Building Department and the contractors without the presence of residents.

- It had been noted when the discussion of change orders took place, longer time lines for the completion of a project occurred..

- The issue of extending the period of time fell improperly in this case because what occurred was that people began to build homes without plans, noting that finished plans were not needed to start construction.

- The problem was that too many homes were being designed built rather than designed and built so that the burden was on the residents.

- He mentioned that the contractors were not under pressure to get the homes completed, and he stated that he found it difficult to believe that it took 30 months to build a 5,000 square foot house or 10,000 square foot house.

Mr. Rosow noted that he had commented at the O.R.S. meeting that he had built a home in 17 months, with two hurricanes during that period, and that there were very few 10,000 square foot homes in the country that would take almost three years to build.

In response to Mr. Rosow, President Kleid advised that a public meeting and public hearing had been held to discuss the issue of extending the period of time for contractors, noting that it would be discussed today as well.

Kathleen Wallace, 1472 South Ocean Boulevard, commented that the residents had not been made aware of these issues until it appeared in the newspaper.

In response to Ms. Wallace, President Kleid reiterated that there had been a public meeting of the O.R.S. Committee on November 1st.

Ms. Wallace commented on the following:

- A forum had been held for contractors on October 23, 2007, and Town residents would now like to have the opportunity to comment.

- The Town had given great consideration to the builder and the homeowner who was building the house, but not to the neighbors.

- Rather than increasing the time limit for construction and threaten the contractors with ubiquitous bureaucracy, the Town might be better served by allowing the contractors to finish the job rather than stopping it.

- Agreed with President Pro Tem Coleman that each violation should be greater than $150 with a maximum fine of $500.

President Pro Tem Coleman clarified that State Law limited the fines that the Town could impose. The only time the Town got leverage was when a contractor was in violation and could be closed down. He noted that, in this Town, fines up front were meaningless.

Council Member Markin commented that what was being heard was that there were two different approaches to an objective. The Town Council needed to recognize that the fix might not be the extension of time lines. She noted that there was no reason why construction time lines could not be adhered to and did not know why the decision was made to extend the construction times.

President Kleid respectfully pointed out that this had been voted on and that Ms. Markin had voted affirmatively.

Council Member Markin advised that she believed the vote was related to the fines.

President Kleid advised that the motion was for the entire report and part of the report was the construction time frame.

Council Member Markin advised that perhaps they might want to breakdown the report and discuss the items separately. She noted that she was under the impression that the discussion was on penalties related to construction vehicles and time lines.

In response to President Kleid, **Council Member Markin made a motion to reconsider the previous motion made to accept and adopt the report and recommendations of the Ordinance, Rules, and Standards Committee. The motion died for lack of a second.**

Henry McIntosh, 124 Via Bethesda, commented that he believed Ms. Markin was on the right track in wanting to penalize the contractor, but by closing down a job for the season or the remainder of that season spread the pain to the surrounding homeowners. He suggested suspending the issuance of the Certificate of Occupancy once the job had been finished. He noted that would put the property owner in the position of paying property taxes for another year of somewhat inflated values and it denied them the use of the property.

Jere Zenko, Tangier Avenue, commented that all members of the Town Council have shown very good judgement, when from time to time a subject had been revisited a month or so after the initial decision had been made. She noted that this was a subject of extraordinary controversy and suggested that the Town Council revisit the issue in a month or so.

President Kleid responded that this issue, in essence, would be revisited when it came before the Town Council in the form of an Ordinance. He noted, at that time, it could again be discussed.

Yvelyne D. Marix, 1570 N. Ocean Boulevard, noted that prior to passing the motion she did not hear a request for any comments from the public, and if that was the case, those who spoke after the motion were not really heard.

President Kleid responded that after the Town Council listened to what the citizens had to say, a motion to reconsider had been made, but there was no second. He noted that after continued discussion, another motion could be made to reconsider.

Council Member Coniglio supported the efforts of the police, noting that they were the most visible sign of parking violations enforcement. She requested that everyone be prepared for the continued enforcement requested by the residents of the Town.

President Kleid noted that it was his understanding that the Police Department had recently issued $10,000 worth of fines. He advised that the residents were seeing that this Town Council wanted to clear up the construction problems in Town, and they believed that by passing these Ordinances along with strict Code Enforcement a change would be made.

XI. REGULAR AGENDA

A. Old Business

1. Parking Issues

[Thomas G. Bradford, Deputy Town Manager]

a. Valet Parking Agreement for Worth Avenue

Deputy Town Manager Bradford summarized that the Town had embarked on a Townwide traffic and parking improvement program, beginning in January 2007. Valet parking had been approved as a strategy to be utilized wherever it was deemed to be appropriate. An RFP had been issued, a selection committee had reviewed the proposals, and Express Parking Inc., had been rated as the highest rating firm. The president of the company, Jeff Jennings, was present to respond to any questions. Mr. Bradford then summarized the content of the agreement. Insurance would be in accordance with the Town Code with one exception: the current Code requirement of the Town for a $1,000 maximum self insured retention or deductible; the Risk Manager had concluded that was no longer obtainable in this marketplace. A $10,000 maximum self-insured retention or deductible was available, and was included in the agreement. It was the intention to bring forward an Ordinance for first reading in December to address valet parking permit issues.

President Pro Tem Coleman expressed reservations regarding the space where the drop-off would occur.

Jeff Jennings, President, Express Parking, Inc., advised that the reason for the valet box in front of the Esplanade was to have a concierge point. It was difficult for visitors to find the parking lot, as well as the Apollo Parking lot, however, with the valet visible, people could ask about parking and what merchants were on Worth Avenue.

Mr. Jennings provided information regarding the number of spaces he was able to obtain at the Esplanade and the Apollo Parking lot. The valets would direct visitors into the Esplanade, rather than valet the cars.

Mr. Michael Page, 100 Worth Avenue commented regarding the staging east of the Esplanade, and expressed concern that cards would be stacked in front of the exit and entrance to 100 Worth Avenue.

Mr. Jennings responded that he did not believe that would be an issue; he had been involved with valet parking on Worth Avenue for 15 years.

Attorney Frank Chopin commented regarding the insurance requirements.

Town Attorney Randolph advised that the Ordinance in this regard would be subject to the change in insurance requirements.

Motion made by Council Member Brooks, seconded by Council Member Coniglio, to accept the staff report and approve the proposed Valet Parking Agreement with Express Parking, Inc., authorizing an expenditure of $2000 from the FY 2008 General Fund Contingency for valet parking signage, conditioned upon passing an Ordinance to meet the appropriate insurance requirements. On roll call, the motion carried unanimously.

Mr. Bradford commented that the target date for beginning the valet service was December 13, 2007, and he expressed concern with the current Code and the insurance requirements.

Town Attorney Randolph advised that the Ordinance presented at the December 11, 2007, Town Council meeting could be passed on an emergency basis.

b. Further review of Placard Permit Parking Program

Deputy Town Manager Thomas G. Bradford reported that there was an update to Royal Palm Way - 100 block. He had received a call indicating that the Palm Beach Day Academy would withdraw its request for 10 extra parking placards, which now made the waiting list a total number of 42. Mr. Bradford noted the there were currently five parking programs implemented in the Town, and the placard parking permit was the only program that had not yet been codified in some way. He also noted that the opinion of Town Attorney Randolph had been sought as to treating residents in a different manner than non-residents, relative to placard and/or other programs, and the Town Attorney was of the opinion that the issuance of placard parking permits could not be restricted to residents and those who work in the Town, but must be offered to the general public in the same manner that they are offered to others.

In response to Council Member Markin regarding the issue of other communities having residential parking only, Town Attorney Randolph advised that he had cited Federal case law, which applied nationally. He explained that the streets are dedicated to the use of the public, not simply to the use of the residents of the Town, and therefore, the Town could not discriminate between the two. He pointed out that some communities that restrict who might park, could own the property involved with dedicated parking spaces, rather than it being dedicated to the use of the public. He added that one of the cases he had reviewed did deal with a municipal parking lot where it was desired to reserve parking spaces for the residents, and in that case, the court held that it could not be done.

Town Manager Elwell pointed out that public access to parking spaces that were currently publicly available could not be restricted, as it would affect State funding provided for beach projects.

Further discussion took place regarding the use of the parking at Phipps Ocean Park.

Council Member Coniglio moved that the placard permit program at Phipps Ocean Park be offered at the discounted price of $140 for four months, and that the status quo be maintained with the rest of the placard permit parking program.

Town Manager Elwell requested clarification regarding renewals; staff had been directed last month not to renew anyone during the 30 days between last month and this month.

Council Member Coniglio clarified that the current renewal program would be continued until May 1st, at which time the Town Council would reconsider the policies and procedures related to placard parking.

Council Member Markin expressed concern regarding the employee parking situation in business areas of Town.

After further discussion, **the motion of Council Member Coniglio died for lack of a second.**

Council Member Coniglio then made a motion to offer the placard permit program at Phipps Ocean Park at the discounted price of $140 for four months. The motion was seconded by Council President Pro Tem Coleman. On roll call the motion carried unanimously.

Council President Pro Tem Coleman moved that the four existing programs would continue as they were now in place. The motion was seconded by Council Member Brooks. On roll call the motion carried unanimously.

John Maus, merchant at 312 Worth Avenue, commented that locating placard zones in areas where there was a need for employee parking was the best thing that could be done for businesses. He requested that an inventory be taken for merchant employee parking, before electronic chalking was implemented.

Patty Sans, Greater South County Road Association , commented regarding the Royal Palm Way placard parking spaces and suggested that having ten placard parking spaces allocated for the benefit of the northern end of S. County Road would benefit the business in that area.

Mr. Bradford reiterated the potential additional placard parking space inventory:

- 6 spaces on Hammon Avenue - south side of the street in the vicinity of the hotel.
- 4 spaces on Hibiscus Avenue - in the vicinity of Pan's Garden.
- 12 spaces on Peruvian Avenue - 200 block on the south side of the street.

President Pro Tem Coleman suggested that staff be given the discretion to allocate another 10 spaces in various places, out of the 22 spaces proposed as potential additional placard parking spaces, cherry picking one or two here, one or two there, getting the total up to 20 placards versus the 42 applications, then putting the placards out pro rata.

Patti Sans commented that the cherry picking would come into play as to the 10 spaces of the 22 spaces that would not impact current residents and current businesses. She suggested that it should be done in two steps: 1) Agree to find 10 additional spaces, for a total of 20 spaces available; 2) Determine how to allocate.

Police Chief Reiter advised that enforcement of spaces that were cherry picked would be confusing to both the permit holders and the enforcement officers.

Leslie Evans, 214 Brazilian, commented that the Palm Beach Day School had withdrawn their request for 10 additional parking spaces, however, he remained concerned about the 10 spaces that they received that no one else had a chance to obtain. He suggested that those 10 spaces should be put back in the pool. He also suggested considering 5 permits each in the 200-300 block of Australian, Brazilian, Chilean.

Amy Shaughnessy, President of the Royal Poinciana Way Association, commented regarding issuing placards for compact cars only for spaces where the line of sight was obscured.

Yvelene Marix, 1570 North Ocean Blvd., commented regarding the utilization of Town owned property in West Palm Beach, that is currently being used for a school playground.

Town Manager Elwell advised that the City of West Palm Beach had indicated that they would not allow a parking lot use as the sole use of the property.

President Pro Tem Coleman moved that staff cherry pick 13 spaces out of the available placard parking spaces, allocate those placards, plus the 10 placards for the spaces already set aside, with everyone on the list getting one, and picking from a hat for the others. The motion was seconded by Council Member Markin. On roll call, the motion carried unanimously.

Discussion took place regarding the seven spaces on the east side of Cocoanut, immediately adjacent to the Public School.

President Pro Tem Coleman moved that staff cherry pick 16 spaces out of the available placard parking spaces, with 3 spaces being taken from the east side of Cocoanut. Those parking placards, plus the 10 placards for the spaces already set aside, would be allocated with everyone on the list getting one, and picking from a hat for the others. The motion was seconded by Council Member Markin. On roll call, the motion carried unanimously.

Council Member Markin moved that the 10 parking placards received by Palm Beach Day School not be given those back automatically when they came up for renewal, and that the placards would go back into the lottery system, so that the Palm Beach Day School would not continue to get those placards in perpetuity. The motion was seconded by President Pro Tem Coleman. On roll call, the motion carried unanimously.

c. Authorization to Purchase Parking Kiosks

Deputy Town Manager Bradford provided information regarding parking kiosks, and recommended the purchase of Duncan Technologies kiosks in a not to exceed amount of $338,040, from funds allocated in the FY08 budget.

Town Manager Elwell noted that Duncan Technologies kiosks were the preferred machines, because it integrated with the existing system that was already in operation in the Police Department. He advised that the expectation was that there would be much greater yield out of the kiosk system than had been experienced with the parking meters, for a number of reasons.

Council Member Markin expressed concern with the use of the kiosks by older residents, and the possibility of doing a test area before allocating the entire sum.

Council Member Brooks moved approval of proceeding with a purchase order and a contract with Duncan Technologies for the purchase of kiosks in a not to exceed amount of $338,040, from funds allocated in the FY08 budget. The motion was seconded by Council Member Coniglio. On roll call, the motion carried unanimously.

Town Manager Elwell noted that there were a few locations where timed parking may be more suitable than the kiosks, and staff would continue with that implementation if there was no further direction in this regard. It was the consensus of the Town Council to proceed in that fashion.

2. Report Regarding Visibility at Lake Trail Accesses.
[Peter B. Elwell, Town Manager]

Town Manager Elwell referred to the memorandum from Director of Planning, Zoning and Building Veronica Close, to the Mayor and Town Council dated November 7, 2007, and included in the backup material, to provide a report regarding the upcoming Planning and Zoning Commission's consideration of the visibility at Lake Trail accesses, as well as two communications from Sergeant Hess regarding his field work at the specific locations that were of concern to the residents.

Town Manager Elwell advised that staff recommended that the Town continue to review and act upon this matter as currently scheduled, at the Planning and Zoning Commission Meeting on December 4, 2007, and the Town Council Meeting on February 11, 2008.

In response to Council Member Coniglio, Mr. Elwell advised that the new standard of what a site triangle was supposed to be at each of these intersections had been adopted a few years back by the Town Council. The question of whether all grandfathered hedges would need to be modified was left open for subsequent consideration by the Commission, noting that it would be considered this year. He explained that what would be considered was how to either encourage or require the compliance with the standard.

Sergeant Hess responded to the following questions and concerns of the Town Council:

- "Bike Stop" signs at the bike trail accesses;
- Intersection vision at street intersections was a minimum of two blocks, and in one case four blocks;
- The second property owner, as of late last week, had not trimmed their hedges;
- Staff would follow up on the trimming of hedges in that area.

3. Review of Ordinances Regarding Permitting and Other Types of Regulations for Rental Properties.
[John C. Randolph, Town Attorney]

Town Attorney John Randolph referred to his memorandum to the Mayor and Town Council dated November 2, 2007, and included in the backup material, to provide a report on Ordinances regarding permitting and other types of regulations for rental properties.

Attorney Randolph advised that the Code Enforcement Division of the Police Department had indicated to the Town Council at the September 11, 2007, Town Council Meeting that they were having some difficulty in enforcing the rental guidelines within the Zoning Code. He noted that a residential property could not be rented more than three times per calendar year. The Mayor and Town Council, at that meeting, requested staff to draft language relating to residential properties that would require a permit to be pulled for the rental of a property. He advised that he had prepared some language, which needed to be slightly amended to include not only the Building Official but the Director of Planning, Zoning, and Building or the Director's designee to be the person granting the permit for the rental of the property.

President Kleid informed the members of the Town Council that Mayor McDonald was temporarily away from the meeting, as he was attending Town business at another location.

Attorney Randolph advised that Mayor McDonald had requested, if this item came up while he was gone, to pass on his feeling that such language should be adopted to require a permit. The Mayor would like to see included, as well, within the Ordinance, if the Town Council chose to adopt one, language that would indicate, as part of the permit application, that the applicant would be required to designate a person who could be contacted on behalf of the owner.

Attorney Randolph explained the language he prepared for the proposed Ordinance. It would be part of the Zoning Ordinance because it was the Zoning Ordinance that dealt with the renting of properties three times a year. He noted that if the Town Council requested that an Ordinance be drafted, it might need to go before the Planning and Zoning Commission for their consideration. He also advised that such an Ordinance did not have to be part of the Zoning Ordinance, but could be part of a licensing Ordinance. He requested input from the Town Council as to whether they believed it would be wise to provide a system whereby a person would have to receive a permit in order to rent their property.

Attorney Randolph responded to questions and concerns of the Town Council.

Police Captain Blouin explained the difficulty of enforcing a rental Ordinance, noting that it would be difficult to prove that an occupant was actually renting and was not, for example, a friend of the owner.

Mayor McDonald advised that the issue was to have the ability to be able to contact the owner or the person responsible for the property.

After further discussion, it was the consensus of the Town Council that no further action would be taken at this time.

4. Status Report on Townwide Hiring Freeze.
[Peter B. Elwell, Town Manager]

Town Manager Elwell referred to his memorandum to the Mayor and Town Council dated November 7, 2007, and included in the backup material, providing a monthly status report on the Town hiring freeze.

Town Manager Elwell advised that before the next status report on the hiring freeze, he expected to approve some, but not all, of the six vacant Police Officer positions requested by Chief Reiter, noting that those positions would be filled by December 1st. He explained that his discussion with Chief Reiter had occurred within the last few days and that was the reason it had not been included in his report.

In response to Council Member Brooks, Town Manager Elwell advised that the written report of the Comprehensive Review of Town Operations would be presented by staff to the Mayor and Town Council, and it would be made available to the public, in mid-December. He explained that there would be a series of meetings held in the beginning of the new year; and at the December 11th Town Council Meeting, staff would provide information for the Town Council to consider at those meetings.

After discussion, the Town Council accepted the status report on the Townwide hiring freeze as presented by Mr. Elwell.

5. Approval of Consultant Selection Committee for the Peruvian Dock Expansion Project.
[H. Paul Brazil, Director of Public Works]
(Removed from Consent Agenda, and added to Regular Agenda as Item XI.A.5., Time Certain 4:00 p.m.)

Director of Public Works Paul Brazil advised that the Consultants Competitive Negotiation Act (CCNA) was a process the Town needed to conduct to select a consultant for the design and construction documents for the Peruvian Dock Expansion Project. He noted that it was a procedural issue requiring the Town Council's consent to move forward. He explained that the CCNA process included establishing a review team that evaluated the qualifications submitted by firms expressing an interest in the project. The Town Council, if they chose, could be that selection team, otherwise Public Works would propose the following for the selection team:

- The Chairman of the Public Works Committee: Susan Markin, Council Member.
- The Town Manager's designee: Jay Boodheshwar, Director of Recreation.
- The Public Works Director's designee: James Bowser, Town Engineer.
- Any other individual deemed appropriate by the Town Manager: Jonathan Luscomb, Dockmaster.

Motion made by Council Member Brooks to approve the proposed selection team and staff was directed to proceed with the Consultants Competitive Negotiation Act to advertise for a marina consultant. The motion was seconded by President Pro Tem Coleman.

Kathleen Wallace, 1472 South Ocean Boulevard, commented in opposition to the Peruvian Dock Expansion Project and the authorization of additional consultant expenditures.

Walter Ross, 456 Worth Avenue, noted that he believed the Town Council had a very full discussion and a full day had been devoted to this item on May 7, 2007. He commented in opposition to the expansion of the Peruvian Docks and the effect it would have on parking.

President Kleid reiterated that the Town Council had spent a great deal of time discussing this issue.

Council Member Markin commented on her reservations concerning the Peruvian Dock Expansion Project.

After further discussion, Council Member Brooks advised that he stood behind his motion, and President Pro Tem Coleman noted that he had seconded Council Member Brooks' motion.

On roll call, the motion to approve the proposed selection team and to direct staff to proceed with the Consultants Competitive Negotiation Act to advertise for a marina consultant carried 4/1.

Council Member Brooks:	**Yes**
President Pro Tem Coleman:	**Yes**
Council Member Coniglio:	**Yes**
Council Member Markin:	**No**
President Kleid:	**Yes**

B. New Business

1. Presentation of Preliminary Par 3 Master Plan.
[Jay Boodheshwar, Director of Recreation]
TIME CERTAIN: 10:30 A.M.

Director of Recreation Jay Boodheshwar referred to his memorandum to the Mayor and Town Council dated November 2, 2007, and included in the backup material, to discuss the preliminary Par 3 Golf Course Master Plan completed by Sanford Golf Design.

Mr. Boodheshwar advised that Town staff members as well as representatives of the Par 3 Group would present the results of the plan to obtain feedback and conceptual approval from the Town Council. He recognized the following parties involved along with the staff of the Recreation Department and Public Works Department:

- Chairman of the Recreation Advisory Commission Michael Spaziani,
- Steve Hall, Par 3 Group
- Floyd Wideman, Par 3 Group
- Lee Goldstein, Palm Beach Citizens' Association
- John Sanford, Sanford Golf Design

Mr. John Sanford, Sanford Golf Design, referred to the Master Plan Narrative for the Palm Beach Par 3 Municipal Golf Course, and included in the backup material, to provide an overview of the proposed Master Plan.

Mr. Steve Hall, Co-Chair of Par 3 Group, explained that this group had been formed to encourage approval of a Master Plan for the Par 3 Golf Course. He noted that, at one time, the Par 3 Golf Course was ranked as one of the best little courses in the United States. It had now been shown what could and what needed to be done to bring the course back to its original beauty. He noted that as the Par 3 Group took shape, many citizens strongly endorsed this project and many indicated a serious willingness to help contribute to its cause. The strong sentiment was that the Town had to take on the financial stewardship itself and start to set aside funds to accomplish what should have been occurring all along. He advised that it was not the desire of the Par 3 Group to bail the Town out, but to significantly help once the Town had shown its willingness to restore the Par 3.

Mr. Hall explained that today was the first report on the future of the Par 3 Golf Course and that John Sanford and Sanford Golf Design had created a comprehensive and realistic plan, which the Town should strive to complete. He commented that the project could become a public/private enterprise, noting that the brochure put together by Mr. Boodheshwar stated that the Par 3 Golf Course was a community asset worth investing in. He advised that Mr. Boodheshwar had also pointed out that the costs were very preliminary and very conservative and covered all possibilities.

Mr. Hall, on behalf of the Par 3 Group, recommended that they work with Recreation Director Jay Boodheshwar, the Chairman of the Recreation Advisory Committee Michael Spaziani to continue the project in order to establish hard cost estimates, set priorities and develop a financial plan and time line consistent with budget cuts and restrictions that might occur and then report back to the Town Council.

Mr. Hall commended Jay Boodheshwar for his creative leadership and his enthusiasm.

The Town Council discussed the following points regarding the report of Jay Boodheshwar, Director of Recreation, John Sanford of Sanford Golf Design, and Steve Hall, Co-Chair of the Par 3 Group:

- The Par 3 was another jewel in the crown of Palm Beach and there was no greater cause than maintaining the beauty and greenspace in Town.

- The suggestion that the Town solicit donations for the renovation.

- The request that Finance Director Jane Struder review the Enterprise Fund to determine if there was any money available for this project.

- The Par 3 should not be allowed to fall into disrepair any more than it already had.

- The Par 3 Group wanted to determine what the harder costs would be.

- Establishment of a financial plan by the Par 3 Group to bring to the Town Council for approval.

- A Reverse Osmosis Plant.

- The South Florida Water Management Program that enabled the Town to receive up to a 40% rebate on the capital costs of the irrigation project.

President Pro Tem Coleman commented on the following two interrelated issues:

1. Capital costs of building the project
2. Ongoing costs of maintenance

President Pro Tem Coleman commented on the Par 3 Golf Course Project and the Peruvian Dock Expansion Project, as they related to the Enterprise Fund. He noted that the Peruvian Dock Expansion Project would be discussed at a time certain of 4:00 p.m.

Council Member Markin commented that the upgrade of the Par 3 Golf Course was long overdue in every capacity.

In response to Council Member Markin, Mr. Sanford responded that the details of a Reverse Osmosis plant had not yet been worked out and a location had not been selected.

Council Member Markin advised that if the Town did not have control of their own water supply, she would not want the Town to spend the money, whether it was Town money and/or a combination of private and Town money to redo the golf course. She commented that a Reverse Osmosis plant should be part of the plan and that she saw this project as a true community public/private funded event. She recommended that a Plan B should be put together in case the monies did not come through as hoped.

Mr. Sanford advised that they did have a Plan B for a water source by going with deep wells directly into the reservoir. He noted that Plan B greatly reduced costs, but it was not the best plan. It would not provide independence from future water restrictions.

Mr. Sanford, responding to President Kleid, commented that he was correct and the con to Plan B was that the Town would be subject to South Florida Water Management restrictions.

Council Member Brooks requested that Town Manager Elwell allow the Committee to proceed with their work, which should then be submitted by him to the Town Council for their review; and at the same time, staff should attempt to come up with a plan to pay for it. He noted that he believed the Town could not duck this issue as it was very important to the beauty of the Town.

In response to President Pro Tem Coleman, Mr. Hall advised that ocean water was much saltier than the water obtained from a deep well, and as a result the capital cost of a Reverse Osmosis plant became significantly higher. The best alternative was to go as deep as possible to get the cleanest water as possible, which would be brackish, but it would be much closer to potable water than it would be to sea water.

President Pro Tem Coleman commented that he accepted that as a likely alternative, but his fear was that the Town would have creeping regulations and what was allowed today would not be allowed tomorrow. He requested that the Town not limit themselves.

Norman Goldblum, 109 Everglade Avenue, commented that there were three golf courses in Town, which used the Florida aquifer, saving a great deal of money. He advised that the Town needed to free themselves from the City of West Palm Beach. He explained that the three wells supplying the Town with water had a surplus of water, and only needed to have a chlorination system. He suggested adding a fourth well on the south end. He advised that the Town had to keep in mind that it had the source through the Florida aquifer and that would be part of the Town's freedom of having their own water for the Town. It would take a great deal of investigation and study but he recommended it.

Council Member Markin questioned whether serious consideration had been given to putting in a saltwater tolerant irrigation system.

Mr. Hall responded that with Paspalum grasses that were salt tolerant, brackish water could be used, but the problem that remained was that they had to be rinsed with potable water periodically, approximately every two weeks. He explained that the Town would still have to maintain their source of water coming from West Palm Beach, even if saltwater was used to water.

The consensus of the Town Council was to continue the study of the costs and establish a financial plan to submit to them for review.

2. Annual Report on Unpaid Assessments, Fines, and Fees and Authorization to "Write Off" Certain Monies Deemed Uncollectible. [Jane Struder, Director of Finance]

Finance Director Jane Struder referred to her memorandum to the Mayor and Town Council, dated November 2, 2007, and included in the backup material, to provide a status report on unpaid assessments, fines, and fees.

In response to President Kleid, Ms. Struder advised that she was uncertain why some of the $150 Code Enforcement fees levied against residents at Code Enforcement Board Meetings were not being collected.

Police Captain Blouin clarified that the information was turned over to the Finance Department, but essentially what occurred was a lien would be placed against the property, and after 90 days, if the lien had not been satisfied, the Code Enforcement Board could recommend to the Town Council foreclosure of the property if it had not been homesteaded. He noted that if it was a homesteaded property, the lien would remain for twenty years.

Ms. Struder explained that the request was to write off EMS and parking fees, not Code Enforcement fees.

Motion made by Council Member Brooks, seconded by Council Member Coniglio, to approve the Annual Report on Unpaid Assessments, Fines and Fees and to authorize staff to "write off" certain monies deemed uncollectible.

In response to President Pro Tem Coleman, Town Attorney Randolph advised that the Town had to follow the State Statute in regard to the filing of a lien. The State Statute only provided for recording of the lien. It did not provide penalties for non-payment. The Town's lien was for the amount of the fine as it accumulated.

In response to President Pro Tem Coleman, Ms. Struder explained that if a person with three or more parking tickets was caught, they would be booted.

Chief Reiter advised that the current ticketing system was electronic and it housed the boot list, which notified an officer when they were writing a third ticket, but tickets could be written to those individuals already on the boot list, if it was not a parking enforcement officer issuing the ticket.

In response to Council Member Coniglio, Town Manager Elwell advised that the Finance Department and the Police Department would work together to develop a better policy.

On roll call, the motion to approve the Annual Report on Unpaid Assessments, Fines and Fees and to authorize staff to "write off" certain monies deemed uncollectible carried unanimously.

3. Medical Insurance Premiums for 2008.
[William C. Crouse, Director of Human Resources]

Town Manager Elwell referred to the memorandum to the Mayor and Town Council, dated November 6, 2007, and included in the backup material, to provide a report on medical insurance premiums for the calendar year 2008. Staff recommended the following:

- The Town Council approve the medical insurance premium rates for calendar year 2008 as established by the actuarial rate-making report completed by the Actuarial Services Division of Gallagher Benefit Services, Inc.

- The cost sharing of retiree and retiree dependent medical premiums for calendar year 2008 increase from the current 48% retiree and 52% employer cost sharing split, to the target goal of a 50%/50% cost sharing split. This would fully implement in four years the Town Council's 2004 directive to achieve a 50%/50% cost sharing split within 10 years following that decision.

Town Manager Elwell advised that these recommendations were consistent with the Town Council's review of the Town's health insurance benefits during the FY-08 Budget Meeting held on August 6, 2007. He noted that staff would provide additional information during the upcoming Comprehensive Review of Town Operations to assist the Mayor and Town Council for future consideration of these issues.

Motion made by Council Member Coniglio, seconded by Council Member Brooks to approve the medical insurance premium rates for calendar year 2008. On roll call, the motion carried unanimously.

4. Water Planning Issues [Jack McDonald, Mayor]

Mayor McDonald advised that he had just come from a round table discussion where the Speaker of the House had reported that Florida would be running out of water in eight years. He noted that this problem was a Statewide problem. He explained that he would like the Town Council to discuss what they saw as the Town's limitations on water and what actions could be taken in the future.

President Pro Tem Coleman commented that an examination of alternatives had to include a Reverse Osmosis system using the ocean, which by definition was a lot more expensive. He noted that other systems would be subject to creeping regulations, and that the Town would only have water independence when they were out in the Atlantic.

Council Member Brooks commented on the following:

- Article on desalination in the May issue of Florida Trend.
- Strategic Planning Board relative to the Town's water supply.
- Contract with the City of West Palm Beach to provide water to the Town.

Mayor McDonald noted that this was a multi-faceted issue and requested that the Palm Beach Civic Association appoint a Water Planning Committee to assist the Town in developing an independent water supply.

Mayor McDonald referred to the earlier discussion of the use of a Reverse Osmosis system to irrigate the golf course, noting that the Town could build a plant under their contract with the City of West Palm Beach, if there were emergency restrictions, for 8 million gallons a day.

Council Member Markin advised that she supported the need for the Town to become more aggressive in looking at how they could fix this problem to become more independent. She commented on the following:

- The conversation at last month's Town Council Meeting by the City of West Palm Beach Mayor Frankel along with West Palm Beach Assistant City Administrator Ken Rearden relative to what the City was doing to expand the capacity of the Town's water supply.

- The Town should start creating a legal paper trail on the City of West Palm Beach for all the times water had to be rationed; the number of times the Town has had to boil water, etc.

- The Town should, when reviewing all the different options relative to desalinization for the golf courses, look at how to make the Town more self-sufficient and independent from what they were currently experiencing with West Palm Beach.

Ned Barnes, Palm Beach Civic Association, noted that the Association had heard the Town's concerns last spring on this issue and decided, on their own, this summer to create a Water Planning Committee. He advised that the first exploratory meeting would be held tomorrow, and they hoped to provide a report in the future. He thanked the Town Council for this opportunity.

Council Member Coniglio commented in support of the Civic Association's formation of a committee to review the Town's water issues.

Yvelyne D. Marix, 1570 N. Ocean Boulevard, commented that the Town's files contained research conducted by Ionics, Inc. that might assist the Town in their current study of this issue.

Town Manager Elwell advised that the research was done throughout most of the 1990's. The result of the work conducted by Ionics, Inc. and several consultants hired by the Town, was that the Town Council decided in earnest to negotiate contract renewal with the City of West Palm Beach, and that came to fruition in 1999.

The consensus of the Town Council was to make the research information available to the Civic Association and others.

David Barton, 216 Jamaica Lane, commented that the Strategic Planning Board did not devote enough to this issue, which was the biggest threat to the Town. He noted that at that time, he had recommended that the Town form a Water Board to study all of the Town's water needs, and recommended that serious consideration be given to the creation of a permanent Water Board. It was essential that the Town had an adequate water supply and that the Town put restraints on building and on use of water.

The consensus of the Town Council was to begin planning for independent water facilities with reliance on the Water Planning Committee appointed by the Palm Beach Civic Association.

5. Discussion of Landmarking Options.
[Susan Markin, Town Council Member]
TIME CERTAIN: 11:30 A.M.

Council Member Markin advised that she had requested that this item be placed on today's agenda due to a seminar she attended on landmarking options. She noted that she requested Gene Pandula, Chairman of the Landmarks Preservation Commission (LPC), to address the Town Council regarding some of the following options discussed at the seminar:

- The landmarking of a vista.
- The landmarking of a use of a facility.
- An adaptive reuse after having landmarked a facility within reason.
- Declassify landmarked property for financial reasons.
- Tax abatements and advantages of landmarking.

President Kleid noted that Jane Day, Historical Preservation Consultant, would be making a presentation with respect to landmarking in the Town, right after the Landmarks Preservation Commission Meeting on November 28, 2007, at 11:00 time certain.

Gene Pandula, Chairman of the Landmarks Preservation Commission, explained that he would provide broad outlines on the possibilities and possible hindrances that landmarking might propose or imply to certain properties. He commented briefly on the unanimous vote of the Landmarks Preservation Commission to recommend to the Town Council the designation of the Royal Poinciana Plaza. He presented a report on the following:

- Was it possible to landmark the use of the Royal Poinciana Plaza and Theater?
- Did landmarking the Royal Poinciana Plaza restrict the owner's future plans?
- What tax benefits might be available for preserving the Royal Poinciana Plaza?

    - Property Tax Abatement Program for ad valorem taxes
    - Rehabilitation tax credits
    - Preservation easements
    - Grants and aids available from the Historic Preservation Office.

President Pro Tem Coleman clarified that the Royal Poinciana Plaza Project did not fall under ARCOM and would have to appear before the LPC.

Mr. Pandula responded that his comment was intended to advise the Town Council that if the property was not landmarked or did not fall under LPC jurisdiction, it would then come before ARCOM.

President Pro Tem Coleman advised that he advocated deferring this conversation relative to landmarking of the Royal Poinciana Plaza.

Discussion ensued regarding Royal Poinciana Plaza and Council Member Markin advised that she had not placed this item on the agenda to discuss Royal Poinciana Plaza, but to increase awareness and have some specific conversations on landmarking.

In response to Council Member Markin who questioned whether it was possible to partially landmark certain aspects of a site, Mr. Pandula responded that it could be done.

In response to Council Member Coniglio, Town Attorney Randolph advised that a public hearing was to be held as to whether the Royal Poinciana Plaza met the criteria for landmarking. He stated that he did not want to breach that by discussing it at this particular time.

President Kleid commented that this conversation was regarding the options of landmarking and any conversation with respect to the criteria of landmarking, etc. of Royal Poinciana Plaza should not be heard at this time.

John Ripley, Executive Director of the Preservation Foundation, advised that the Preservation Foundation had held a seminar in which Florida Trust discussed all landmarking issues, including a discussion of income producing properties. He noted that there were no Ordinances or any way for the Town to restrict an owner from demolishing the property if it was not landmarked. The approval for demolition was not tied to approval of a new plan.

President Pro Tem Coleman advised that the Royal Poinciana Plaza could not be demolished or touched at present.

Patrick Flynn, 44 Cocoanut Row, President of the Palm Beach Theater Guild, advised that the Guild was standing ready to lease or buy the Royal Poinciana Theater. He requested that the Town provide them with a reasonable designation of the project so they could move ahead.

President Kleid responded that the Town would discuss landmarking in April, which would then be the time to address this issue. The only point of this agenda item was for discussion/education on landmarking options.

XII. ORDINANCES

A. Second Reading

None

B. First Reading

1. ORDINANCE NO. 21-07 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, Article X, On-street Parking Permits, Division 2, Residential Districts, at Section 134-2296, So as to Provide for Business Visitor Permits; Amending Section 134-2298 Relating to False Representation; Amending Section 134-2299 Relating to Revocation; Deleting Section 134-2300 Relating to Temporary Visitor Permits in its Entirety; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.
[Thomas G. Bradford, Deputy Town Manager]
Deferred from the October 4, 2007, Town Council Meeting.

Town Manager Elwell explained that the Town Council had been informed by staff, when considering this Ordinance, that it had to be reviewed by the Planning and Zoning Commission. The Planning and Zoning Commission did consider this Ordinance, but had some concerns and questions, and requested that staff address those issues in order to bring the Ordinance back to their next meeting. Staff recommended that the Town Council allow them to continue working with the Planning and Zoning Commission to further review this Ordinance.

The consensus of the Town Council was to request further review of Ordinance No. 21-07 by the Planning and Zoning Commission, with a report back to the Town Council.

2. ORDINANCE NO. 22-07 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, at Article X, On-street Parking Permits, Division 3, Residential Districts Adjacent to Commercial Districts, Providing for the Issuance of Special Parking Permits upon

Application; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.
[Thomas G. Bradford, Deputy Town Manager]
Deferred from the October 4, 2007, Town Council Meeting.

Town Manager Elwell explained that the Town Council had been informed by staff, when considering this Ordinance, that it had to be reviewed by the Planning and Zoning Commission. The Planning and Zoning Commission did consider this Ordinance, but had some concerns and questions, and requested that staff address those issues in order to bring the Ordinance back to their next meeting. Staff recommended that the Town Council allow them to continue working with the Planning and Zoning Commission to further review this Ordinance.

The consensus of the Town Council was to request further review of Ordinance No. 22-07 by the Planning and Zoning Commission, with a report back to the Town Council.

3. ORDINANCE NO. 24-07 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 2, Administration, to Include a New Article IX Titled Right to Indemnification; Creating a New Section 2-616 Relating to Sovereign Immunity; Creating a New Section 2-617 Relating to Right to Indemnification; Creating a New Section 2-618 Providing Indemnification Not Exclusive Right; Creating a New Section 2-619 Relating to Criminal Cases; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.
[John C. Randolph, Town Attorney]

Town Attorney Randolph read Ordinance No. 24-07 by title, as printed above. He advised that the Town Council had directed staff to draft an indemnification Ordinance. The Ordinance before the Town Council had been prepared with the assistance of William Guttman and others, and that he along with Mr. Guttman recommended the adoption of this Ordinance.

Attorney Randolph noted that the Ordinance did exempt criminal cases, violations of the Sunshine Law, and violations of the Ethics Code. He explained that he prepared some language for consideration today to include a new Section 6-620 for violations of the Sunshine Law and the Ethics Code, which had not been seen previously. The document before the Town Council had been vetted by the Civic Association, but they had not had an opportunity to vet the language relative to a new Section 6-620. It was his recommendation that the Town Council move forward with this language on first reading and possibly on second reading; and at a later time, if the Town Council agreed with this language, the Ordinance could then be amended.

Council Member Coniglio moved adoption of Ordinance No. 24-07, on first reading with the knowledge that at a later date the Town Council could review possible amendments to it. The motion was seconded by Council Member Markin. On roll call, the motion carried unanimously.

XIII. DEVELOPMENT REVIEWS

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

A. Appeals

None

B. Time Extensions

1. Request for Extension of Work Hours at 2 Via Mizner per Letter Dated September 11, 2007, from Brian Lee, South Ocean Builders, Inc. *Deferred from the October 4, 2007, Town Council Meeting.*

Ex-parte communication was declared by President Pro Tem Coleman.

Ian Kean, Island Drive, owner of 2 Via Mizner, addressed the Town Council. He explained that the property was formerly Addison Mizner's working space/studio. The property had been undergoing renovation for approximately 18 months, and the reason that it had taken so long was that the work had been under very strict limitations throughout last summer, so that neighbors would not be disturbed.

He noted that the property was surrounded by operating businesses, and there were significant limitations on deliveries, ingress, egress, noise, etc. He requested a second extension of work hours to work during the season. The alternative would be to stop work and recommence starting in May.

Veronica Close, Assistant Director, Planning, Zoning & Building, reported that the initial permit had been received on July 20, 2006, for a 31,000+ sq. ft. project. Because the Town did not allow construction in the Worth Avenue District in the season, the applicant was returning to the Town Council to request that work continue on this renovation. Staff recommended approval with a number of condition, as set forth in the memorandum from Ms. Close to the Mayor and Town Council, dated November 13, 2007.

Mr. Kean objected to the condition of quite work between 8:00 a.m. and 9:00 a.m., and noted that there were no residential neighbors there, and the condition should be from 8:00 a.m. to 10:00 a.m., when the stores open. Ms. Close agreed with those hours.

Mr. Kean expressed concern with the financial penalty of $2,000 per day, starting each day after January 15, 2008.

Council Member Markin commented that residents had the right to have peace and quite and enjoy the season, and expressed concern regarding the extension of time.

Brian Lee, South Ocean builders, Inc., advised that he was fairly confident that he could meet the January 15, 2008, deadline.

After discussion, President Kleid explained that the applicant had the choice to accept an extension with the conditions, including the penalty, or stop the job and resume it after the season.

Mr. Kean suggested that he would like to discuss a reasonable time period in which to close the job down. He advised that he would need ten (10) days to close the job down, following this Town Council meeting.

Ms. Close considered that ten (10) days was a reasonable amount of time.

Mr. Kean requested that there be an automatic extension to the building permit, which would expire in May 2008.

Mr. Kean requested that he be given a choice – either close down AND have an extension of the building permit, or accept the extension of work hours with conditions. He stated that he would notify the Building Department within 48 hours.

President Pro Tem Coleman moved that Mr. Kean be given the option to either close the job down within 10 days or elect to go forward with the job for a completion

date of January 15, 2008, with the conditions as outlined by staff, including the penalty of $2,000 per day. The motion was seconded by Council Member Coniglio. On roll call, the motion carried unanimously.

2. Request for Extension of Work Hours at 23 Via Mizner, per Letter Dated October 25, 2007, from Alan Tobin, Alan Tobin Construction, Inc.

Alan Tobin, Alan Tobin Construction, Inc., addressed the Town Council, requesting an extension of work hours until November 16, 2007.

Assistant Director of Planning, Zoning & Building Veronica Close accepted that Mr. Tobin was fully aware of all of the conditions outlined in her memorandum dated October 25, 2007, included in the meeting back-up material.

In response to Council Member Markin, Assistant Director of Planning, Zoning & Building Veronica Close advised that the conditions would apply to both requests for extension of work hours (23 Via Mizner and 28 Via Mizner) and that each request would be treated separately.

Council Member Brooks moved approval of the extension of work hours at 23 Via Mizner and 28 Via Mizner until November 16, 2007, with the conditions as outlined by staff. The motion was seconded by Council Member Coniglio. On roll call, the motion carried unanimously.

3. Request for Extension of Work Hours at 28 Via Mizner per Letter Dated October 25, 2007, from Alan Tobin, Alan Tobin Construction, Inc.

Please see Item #2 above.

4. Request for Extension of Work Hours at 301 Worth Avenue per Letter Dated October 22, 2007, from Dan Harrington, Chanel Inc.

Assistant Director of Planning, Zoning & Building Veronica Close reported that the work had been completed and an extension of work hours was not needed.

5. Request for Extension of Work Hours at 214 Worth Avenue, Cartier, per Letter Dated October 15, 2007, from John Schaub, Cartier.

Wayne Klein, Superintendent, Dickinson Cameron Construction Company, addressed the Town Council, requesting that work be allowed to continue until November 28, 2007, as there had been numerous difficulties with deliveries from France and Italy.

Assistant Director of Planning, Zoning & Building Veronica Close reported that staff recommended an extension of work hours until November 30, 2007, with te conditions as outlined in her memorandum dated October 25, 2007, included in the meeting back-up material.

Council Member Brooks moved approval of an extension of work hours at 214 Worth Avenue, until November 30, 2007, with the conditions as outlined by staff. The motion was seconded by President Pro Tem Coleman. On roll call, the motion carried unanimously.

6. Request for Extension of Work Hours at 232 Worth Avenue per Letter Dated November 5, 2007, from Christopher Kaufmann.

Christopher Kaufmann, owner of Kaufmann de Suisse, 210 Worth Avenue, addressed the Town Council. He explained that he had signed a lease two weeks ago at 232 Worth Avenue to open another jewelry store, and requested an extension of work hours at that location.

Assistant Director of Planning, Zoning & Building Veronica Close reported that the space at 232 Worth Avenue had been recently vacated, and the Worth Avenue Association had communicated concern about being sure that Worth Avenue was as fully leased as possible. Mr. Kaufman had been asked to request an extension, even though he had come to the Building Department on October 29, 2007, which was too late for the issuance of any permits. Staff was in agreement with the request for extension of work hours until December 7, 2007, with the conditions as outlined in the memorandum of Ms. Close, dated November 7, 2007, included in the meeting back-up material.

Discussion took place regarding the penalty/fine associated with not completing the work in the time provided.

Council Member Brooks moved approval of the extension of work hours at 232 Worth Avenue until December 7, 2007, with the conditions as outlined by staff. The motion was seconded by President Pro Tem Coleman. On roll call, the motion carried unanimously.

C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business- Less Than 15 Minutes

None

2. New Business- Less Than 15 Minutes

a. VARIANCE #31-2007 The application of Paul Benk; relative to property described as lengthy legal description on file; commonly known as 202 Seaspray Avenue; located in the R-B Zoning District. The applicant requests a variance to construct a 25 square foot one story addition to an existing non-conforming residence with a side yard setback of 9.8 feet in lieu of the 12.5 foot minimum required in the R-B Zoning District. Also, a variance is requested to construct a 45 square foot one story addition to an existing non-conforming residence with a side yard setback of 6.4 feet in lieu of the 12.5 foot minimum required in the R-B Zoning District.

Ex-parte communication was declared by Council Member Markin, President Kleid, President Pro Tem Coleman, and Council Member Brooks with Attorney Maura Ziska.

Attorney Ziska, on behalf of the property owner at 202 Seaspray Avenue, provided an overview of the request. Hardship runs with the land; the zoning code had changed since the house was originally constructed in the 1930's; the property was nonconforming in size and width, in that only 2900 square feet existed and 10,000 square feet was required in the R-B district, and 42 feet in width existed and 100 feet for width was required in R-B district.

Staff Comments:

Zoning Administrator Castro made the following comments:

- It was a very small lot, and a small home;

- The hardship was related to the size of the lot, and what was being requested was diminimus in nature as it related to making the house more usable; and

- The hardship criteria was addressed.

Motion made by President Pro Tem Coleman, seconded by Council Member Brooks to approve Variance #31-2007. On roll call, the motion carried unanimously.

b. SPECIAL EXCEPTION #13-2007 The application of 350 Realty Corp., a Florida Corporation (Burt Handelsman); relative to property described as Lots 11 through 17, Block 7, of REVISED MAP OF ROYAL PARK ADDITION TO PALM BEACH, FLORIDA according to the Plat thereof recorded in Plat Book 4, Page 1 of the Public Records of Palm Beach County, Florida; commonly known as 350 South County Road; located in the C-TS Zoning District. The applicant requests a special exception to allow a restaurant with a floor area of 4,980 square feet. The restaurant is being proposed in the existing space of "Island Palm" restaurant which is in excess of 2,000 square feet. Town Council approval and a finding that the proposed use is town serving is required. The applicant is proposing to operate a restaurant "The Beach Shanty" which will serve moderately priced American cuisine for lunch and dinner. The hours of operation will e: Monday through Saturday: Lunch 11:30 to 2:30 p.m. and dinner menu thereafter until 10:00 p.m. The restaurant will follow the condition of the prior restaurant's approval (see attached) and the request is to operate under the previous approvals for seating, with a total of 154 seats proposed. Also, a special exception is requested for outdoor seating to allow twenty (20) of the 154 seats to be outside on the north side of the building and under umbrellas as was previously granted to prior restaurant owner.

Ex-parte communication was declared by Council Member Markin, Council Member Coniglio, President Kleid, President Pro Tem Coleman , and Council Member Brooks with Attorney Maura Ziska.

Attorney Ziska, on behalf of the proposed tenant at 350 S. County Road, and Cindy Rosa, provided an overview of the request.

Staff Comments:

Zoning Administrator Castro made the following comments:

- Staff's major concern was the Town Serving issue, as there was no Town Serving documentation that was presented as part of the evidence for approval of the application. It was stated in the application that the applicant would be willing to come back later to demonstrate Town Serving, which was a concern for staff, as it related to demonstrating that all of the criteria was met for the Special Exception;

- The applicant would have to agree to live with all the previous conditions of approval as it related to previous restaurants, which included Galaxy Grill, the existing "Island Palm" restaurant, and many of the conditions related to the impacts that may occur on the properties as it related to the neighbors and the residential properties.

- The existing clothing shop that was part of the restaurant now would be removed and some of the seating would be redistributed into that space;

- Concern was related to the Town Serving Documentation and if it was to be considered tonight, the applicant would be required to come back within six months to demonstrate the Town Serving documentation.

Motion made by Council Member Markin, seconded by Council Member Coniglio to approve Special Exception #13-2007 with requirement to return in six months with Town Serving documentation. On roll call, the motion carried unanimously.

c. SITE PLAN REVIEW #19-2007 WITH VARIANCES The application of 311 Cocoanut Row Homeowners Association; relative to property described as the south 80 feet of Lot 1, Block #, REVISED MAP OF ROYAL PARK ADDITION TO PALM BEACH FLORIDA; commonly known as 311 Cocoanut Row; located in the R-C Zoning District. The applicant requests a site plan review to allow the relocation of an air conditioning cooling tower from the roof top to the northeast corner of the property. A variance is also requested to allow a side yard setback of 2 feet in lieu of the 15 foot minimum required and a rear yard setback of 17 feet in lieu of the 30 foot minimum required in the R-C Zoning District for an air conditioning cooling tower.

Ex-parte communication declared by Council Member Coniglio, President Kleid, Council Member Brooks with Attorney Maura Ziska.

Attorney Ziska, on behalf of the property owners at 311 Cocoanut Row, provided an overview of the request. Hardship, which runs with the land, was that the property was nonconforming in size and width, and that it was 7800 square feet in lieu of the 20,000 required for a multi-family residence, and 75 feet wide in lieu of 100 feet.

Staff Comments:

Zoning Administrator Castro made the following comments:

- The air conditioning unit had been very problematic for the building, had been there for a long time, and the applicant was in dire need of a new system.

- Staff agreed with the applicant that it was inappropriate to put a backup unit on the roof;

- The only location on the ground that made sense to locate the unit was on the north side of the property, up against the parking lot;

- Variances were necessary for the side yard as it related to the coverages; and

- Staff did agree that there was a hardship.

Motion made by Council Member Markin, seconded by Council Member Coniglio to approve Site Plan Review #19-2007 with Variances. On roll call, the motion carried unanimously.

3. Old Business- More Than 15 Minutes

a. VARIANCE #22-2007 The application of Elizabeth B. Lowe, relative to property described as Lots 47 and 49, POINCIANA PARK, Plat Book 6, Page 1, Public Records of Palm Beach County, Florida; commonly known as 400 Seabreeze Avenue; located in the R-B Zoning District. Sec. 134-326 - Site Plan Review to construct a new two-story house (2,293 square feet) and two-story garage/guest house (845 square feet) on two non-conforming platted lots which total 50 feet in width in lieu of the 100 foot minimum required and 6,125 square feet in area in lieu of the 10,000 square foot minimum required. Sec. 134-1576(a) - Corner Lots - Request a variance to allow a street side yard set back of 9 feet in lieu of 30 foot minimum required for a new house, and 5 feet in lieu of 30 foot required for a garage/guest house. Sec. 134-893(a)(9) - Rear Yard - Request a Variance to allow a rear yard set back of 5 feet in lieu of 15 foot minimum required for a new garage/guest house. Sec. 134-893(a)(13)a.1 - Cubic Content Ratio - Request a Variance to allow a CCR of 4.7 in lieu of 4.0 maximum allowed for lots under 10,000 square feet. Sec. 134-891(b)(1) - Accessory Structures - Request a Variance to allow a two-story unattached garage/guest house in lieu of one-story required for lots under 20,000 square feet. Sec. 134-1757 - Swimming Pools - Request a Variance to allow a street side yard set back of 10 feet in lieu of the 15 foot minimum required. *Deferred from the July 10, 2007, August 14, 2007, and September 11, 2007, Town Council Meetings.*

Ex-parte communication was declared by Council Member Coniglio , Council Member Markin, President Kleid, President Pro Tem Coleman with Attorney Peter Broberg, and Council Member Brooks with Attorney Broberg and Architect Patrick Segraves.

Attorney Broberg, on behalf of Mr. and Mrs. Lowe, provided an overview of the request. He indicated that because of the lot size, width, square footage, changes in the code, and that a house was allowed to be built on the lot, but with permission, the hardship criteria in the code had been met.

Architect Segraves displayed the architectural renderings and pointed out the specifics of the design and how the home fit within the neighborhood.

Staff Comments:

Zoning Administrator Castro made the following comments:

- The project appeared before the Architectural Commission (ARCOM) several times, as ARCOM was concerned regarding of the size of the house as it related to the size of the lot;

- The original plans had a second-story over the garage, which was a guest quarters, and the applicant compromised at the ARCOM stage, by removing the second floor;

- ARCOM recommended that variances were necessary in order to build a house, with the architecture in keeping with the Town;

- When the project came to the Town Council last month, concern was raised by the neighbors as it related to the existing location of the home, and the loss of air and light;

- The applicant had compromised at ARCOM, the lot was very narrow, they were meeting the side yard setback of 15 feet from the neighbor, and it was necessary in order to do the side-loaded garage off the street to the back of the house, in order to have the driveway, to have the 15-foot setback;

- The safe site visibility triangle as required by code was provided;

- The applicant was being sensitive to certain issues relative to the location of the house, swimming pool, loggia, and the garage;

- The Council had concern over the scale of the project in terms of the location of the house, and its proposed placement as it related to what was existing today, which was situated further back on the property;

- The Town Council deferred the project, asking the applicant to go back and study, and revise the plans to be more sensitive to the neighbor; and

- Staff had not received revised plans, and wondered as to how the revisions occurred in terms of what was revised from the last meeting, and did question the hardship somewhat as it related to some of the variances being requested, specifically on the garage itself.

Architect Segraves noted that he had discussed the garage with Mr. Castro and that the client preferred to have the garage at the back of the property like the houses on the "Sea" streets. One minor change, requested by ARCOM, was a window on the east side of the house, which was made smaller.

Attorney Broberg added that the house was only 26 feet wide, and if the garage was situated in the middle of the property, variances would be required on the east and west side of the property. In deference to the neighbor to mitigate any problems in increasing air and light, the garage was pushed as far to Cocoanut Row as possible and met the setback on the neighbor's side. The only encroachment was against the road.

Public Comment:

John Blades, neighbor to the west, commented that the problem could be solved by switching the position of the garage and the house. ARCOM had approved multiple houses with garages on the street.

Responding to Council Member Brooks , Mr. Segraves noted that the reason for keeping the garage was to provide for two legitimate off-street parking spaces; it would require an additional variance to remove the garage.

Council Member Brooks noted that it was a zoning requirement, presently, that was not followed. Over the years, the garages had been turned into apartments, workshops, offices, and playrooms and many cars were parked in the front yards of the properties, as mentioned in his memorandum to Assistant Planning, Zoning, and Building Director Close.

Attorney Broberg indicated that ARCOM heard the same arguments from Mr. and Mrs. Blades, regarding the concerns with size of the garage, the two-story addition on the garage, the Cubic Content Ratio variance requested. The house was revised and ARCOM passed it 5-0, recommending that the variances be granted. He noted that the neighbor to the west currently had a borrowed view over the property. Their second story was unimpeded. Florida law stated that a neighbor did not have a legal right to view over somebody's property. The applicant had pushed the building away so that there was a legal setback on the neighbor's side, with 20 feet between the buildings.

Council Member Markin commented that a person had the right to have a garage, and that it was an architecturally enhanced solution over what was currently there. She said she did not think it was attractive to have cars parked in the front of everyone's lots, even in the small lots.

Motion made by Council Member Markin, seconded by President Pro Tem Coleman to approve Variance #22-2007. On roll call, the motion carried 4/1, with Council Member Brooks dissenting.

b. <u>SITE PLAN REVIEW #14-2007 WITH VARIANCES & SPECIAL EXCEPTION</u> The application of The Villas, Inc., Leo Albert, President, relative to property described as Lots 12 through 25 inclusive, a portion of Lot 26 and a portion of

Lot 29, Block 13 of Royal Park Addition, as recorded in Plat Book 4, Page 1 of the Public Records of Palm Beach County, Florida; commonly known as 425 Worth Avenue; located in the R-D(2) Zoning District. Request a modification to the Villas' site plan to construct a 515 square foot building located at the northeast corner of the subject property to house a 350 kilowatt generator. The proposal includes the elimination of two (2) off-street parking spaces The applicant seeks a variance to eliminate two (2) required off-street parking spaces. The applicant requests a special exception to provide two (2) supplemental off-street parking spaces located on a property approximately 75 feet west of the subject property. The applicant seeks a variance to locate an enclosed building and 350 kilowatt emergency power generator within the street rear yard setback. The applicant seeks a street rear yard setback of 5.4 feet in lieu of 30 foot minimum required by code for an enclosed building and 350 kilowatt emergency power generator. *Deferred from the August 14, 2007, September 11, 2007, and October 4, 2007, Town Council Meetings.*

Site Plan Review #14-2007 with Variances & Special Exception was deferred to the December 11, 2007, Town Council meeting.

c. SITE PLAN REVIEW #15-2007 WITH VARIANCES The application of Villa D'Este Condominium Association, Inc., relative to property described as Lots 7 and 8 and the east 22 feet of Lot 9, Block 5, H. W. Robbins Addition, Ocean Park, in the Town of Palm Beach, Florida, according to the records on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida as recorded in Plat Book 6, Page 78; commonly known as 230 Everglades Avenue; located in the R-C Zoning District. The applicant requests a modification to the Villas D'Este site plan to place a 100 kilowatt emergency power generator and a 9.72 foot tall wing wall located at the Northeast corner of the existing site. Applicant seeks three (3) variances to construct the wing wall (three-sided wall) and emergency power generator (100 kilowatt) within the font yard setback, side yard setback and exceeding maximum wing wall height; a variance to locate a

100 kilowatt emergency power generator and wing wall within the front yard setback requirement. The applicant seeks a front yard setback of 4.58 feet in lieu of 25 feet minimum as required by code; a variance to locate a 100 kilowatt emergency power generator and wing wall within the side yard setback requirement. The applicant seeks a side yard setback of 3.58 in lieu of 20 feet minimum as required by code. The applicant seeks a variance to construct the wing wall at a height of 9.72 feet in lieu of the six foot maximum allowed by code in the front setback. *Deferred from the August 14, 2007, September 11, 2007, and October 4, 2007, Town Council Meetings.*

Site Plan Review #15-2007 with Variances was deferred to the December 11, 2007, Town Council meeting.

d. VARIANCE #30-2007 The application of Marion Hugh and Penelope F. Antonini; relative to property described as Lot 4, Plan of Golf View, according to the map or plat thereof as recorded in Plat Book 7, Page(s) 69, Public Records of Palm Beach County, Florida; commonly known as 4 Golfview Road; located in the R-A Zoning District. The applicant requests a variance to allow the placement of a swimming pool with a front yard setback of 18.58 feet in lieu of the 35 foot minimum required. *Deferred from the October 4, 2007, Town Council Meeting.*

Attorney Frank Chopin, on behalf of Marion Hugh and Penelope F. Antonini, provided an overview of the request; Architect Jeff Smith displayed the architectural renderings.

Attorney Chopin noted that the hardship was that it was a landmarked property, platted at 75 feet, and zoned R-A; the lot was situated on a private road in the back and the location could not be used to place a swimming pool, which caused restriction at all angles.

Staff Comments:

Zoning Administrator Castro made the following comments:

- The project was originally before the Town Council slightly different that it was today;

- The applicant had requested a nine-foot setback, in lieu of the 35-foot required.

- The pool was in a similar situation as it was in August, except it was twice the distance back, at 18.5 feet in lieu of the 35 feet required. Attorney Chopin mentioned the hardship on the lot width, but the hardship should have to do with the depth of the property. Staff still questioned the hardship as it related to the variance request.

- The existing pool on the property was 25 feet back from the street, off the property line, and was configured in such a way to request the minimum variance necessary when it was brought before the Council previously.

- The Landmarks Preservation Commission recommended that this project would not be a detriment to the landmarked house.

Motion made by Council Member Brooks to approve Variance #30-2007.

Mr. Castro indicated that if the project were approved, the Public Works Department recommended that, as a condition of approval, the applicant either build their own retaining wall on the east side of the property or obtain the neighbor's consent to allow the use of their wall as a retention wall.

Amended motion made by Council Member Brooks to approve Variance #30-2007 with the condition that the applicant either build their own retaining wall on the east side of the property, or obtain consent of the neighbor to the use the neighbor's wall as a retention wall. Council Member Coniglio seconded the motion. On roll call, the motion carried unanimously.

e. <u>SPECIAL EXCEPTION #10-2007 REVISED</u> The application of Island Hotel, Inc., by Brad Bleefeld, Vice President and Treasurer; relative to property described as Palm Beach Hotel Condominium. Commercial Unit C-22, Per Condominium Declaration of 2/12/81; commonly known as 235 Sunrise Avenue, Unit C-22; located in the C-TS Zoning District. The application requests a special exception for a

200 seat synagogue on the top floor of the Palm Beach Hotel where a function room exists.

Ex-parte communication was declared by Council Members Markin, Coniglio, and President Kleid with several people; President Pro Tem Coleman and Council Member Brooks with Attorney James Brindell and a significant amount of written communication;

Attorney Brindell, on behalf of the new synagogue of Palm Beach, provided an overview of the application. He requested that the application, as revised, with all of the supporting documents presented to the Town, and the related Town application review sheets be made part of the record. He indicated that an expert witness, Ken Tuma, Urban Design Studio, had written a report to be submitted for the record. Attorney Brindell introduced the following Exhibits for the record:

1. Analysis by Urban Design Studio;
2. Town Approval Letter of Town Council Minutes of June 13, 1995;
3. Composite Exhibit of Town Approvals of the Palm Beach Orthodox Synagogue at 120, 122, and 126 N. County Road; and
4. Copy of the Rampell Letter.

Staff Comments:

Zoning Administrator Castro made the following comments:

- The burden was on the Town to demonstrate that the applicant was not meeting the criteria in the code;

- As a grandfathered use, the specific tenant space, C-22, and accompanying men's and ladies rooms, which was a function type room, had historically operated as a catered party room, with a live band, catered food, and alcoholic beverages;

- The preparation of food upstairs was not allowed, as part of an agreement several years ago;

- The Fire Marshal stated that the function room was grandfathered for a 200 occupancy limit;

- The applicant stated that they were not willing to compromise the issue related to the parking, as it was vested for the function of 200 seats/people;

- The applicant was willing to allow the congregation the use of a parking lot on Sunset Avenue on an informal basis;

- Staff recommended a Declaration of Use Agreement, as it related to the actual use of the synagogue at this location so that it was clearly spelled out for everyone, not only for the applicant, but for the Town.

Council Member Brooks commented that the synagogue was a house of worship, in which the congregation would be harmonious and tranquil, however the neighbors in the hotel had sent many letters indicating that they were not in favor of the applicant's request.

Attorney Brindell responded that the letters did not reflect all of the hotel unit owners. He said that after reading the neighbors' letters, the issues of concern fell into two categories; the first one was parking and traffic. He indicated that there would not be an increased impact on parking and traffic, which was physically outside of the hotel. The other category was noise from children, noise in the hallway, use of the elevator, and the bathrooms. The unit owners were subject to that currently, because of the kinds of activities that were permitted in the unit. The Hotel Condominium Association had a Declaration of Condominium, rules and regulations, which governed the commercial and residential uses. The synagogue had been in operation for several weeks and he did not know of any complaints regarding their conduct.

Austine Stitt and Cathleen Noland commented in opposition to the applicant's request.

Dick Spilberg, Ronald Schram, and Michael Resnick commented in favor of the request.

Responding to Council Member Markin, Mr. Spilberg indicated that subsequent to the previous synagogue, years ago, the Association board would have had to obtain 100% of the unit owners approval in order to change the use of the facility.

Attorney Brindell made the following responses to comments by the public:

- With respect to the wall between Penthouse 12 and the Ballroom, the synagogue would be willing to build a sound dulling wall on the Ballroom side;

- The main sanctuary and the hallway to the kitchen would be carpeted;

- Issues inside the hotel were governed by the Condominium/Hotel Association, and the unit owners would need to address their concerns with the Association;

- The synagogue was entitled to use the elevators, just as the other units in the building.

President Pro Tem Coleman stated, that it was not the Town's job to inject itself into the operations of a building. The unit owners had recourse to their board and to courts of equity.

Motion made by President Pro Tem Coleman to approve Special Exception #10-2007 Revised.

Council Member Coniglio suggested that a Declaration of Use Agreement be provided in order to bring a comfort level to the neighbors. She made several suggestions to be included in the Agreement.

Attorney Brindell noted that the synagogue did not have a problem with the Declaration of Use Agreement, and that it would be addressed and brought to the Town Council for approval.

Council Member Coniglio requested that a defined time be set to revisit the issues, in the event there was some shifting.

Council Member Markin indicated that, as this had been a commercial space, there was the potential to have parties every night, and it was fortunate to have this type of application. The synagogue showed good faith by making a compromise of 125 of the grandfathered 200 seats.

Council Member Markin seconded the motion to approve Special Exception #10-2007 Revised.

Council Member Brooks commented that legally, the petition could not be denied. He noted that Attorney Brindell specified the grandfathering clause and the special status that was awarded to a religious institution.

Responding to Council Member Brooks, Attorney Brindell noted that the operation of the service elevator would be looked into, agreed to have carpet installed, and would have sound deadening material installed on the other side of Mrs. Stitt's wall, to reduce any noise impact.

Amended motion by President Pro Tem Coleman to approve Special Exception #10-2007 Revised, based upon the finding that such grant would not adversely affect the public interest and that the applicable criteria set forth in section 134-229 of the Town code had been met, subject to the Declaration of Use Agreement, and with the condition that the Fire Code had been met. The seconder agreed.

Mr. Castro indicated that the Palm Beach Hotel did meet the fire code with the conditions indicated by the Fire Marshal that the occupant owner comply with NFPA 101, Life Safety Code Section 13.2.

Responding to President Pro Tem Coleman, Mr. Castro indicated that the elevators worked, but were slow, the hallways were clear and free, and that the building had been inspected for many years, which was the only way in which it could be occupied.

Upon roll call, the motion carried unanimously.

4. New Business- More Than 15 Minutes

a. VARIANCE #32-2007 WITH SITE PLAN REVIEW The application of William Hersey Hamm III, Trustee; relative to property described as Lot 2 Palama Estates, according to the map or plat thereof as recorded in Plat Book 62, Page 172, Public Records of Palm Beach County, Florida; commonly known as 3 La Costa Way; located in the R-B Zoning District. The applicant requests a variance to allow the construction of two new one story additions totaling 1,037 square feet onto a non-conforming structure resulting in a lot coverage of 32.2% in lieu of the 33.3% existing and the 25% maximum allowed for R-B lots over 20,000 square feet in area. In addition, a variance is requested to allow the construction of those same two one story additions resulting in an overall Cubic Content Ratio of 3.84 in lieu of the 4.06 existing and the 3.79 maximum allowed. Also, a variance is requested to allow the conversion of the attic space over the existing garage into a second floor with dormer windows with a front yard setback and building height plane setback of 25.02 feet in lieu of the 40.44 foot minimum required. In addition, a variance is requested to allow the second story dormer windows on the west side of the house with a side yard setback of 15.24 feet in lieu of the 22 foot minimum required.

Ex-parte communication was declared by Council Member Coniglio with Architect Jeff Smith; President Kleid with Architect Smith and Attorney Frank Chopin; and President Pro Tem Coleman with Architect Smith.

Attorney Chopin, on behalf of Mr. and Mrs. William Hamm, III, provided an overview of the request. Architect Smith displayed the architectural renderings. Attorney Chopin noted that the non-conformity was being reduced. The hardship was that the property was on a cul-de-sac and runs with the land, had a double frontage, and because of the size of the lot, it was considered under R-A zoning requirements.

Staff Comments:

Zoning Administrator Castro made the following comments:

- At the time the house was built, it conformed with the code;

- In 1992 the Cubic Content Ratio was 44.5 and there was a floor area ratio in the R-B district of 45%;

- The one-story home was allowed at 35% lot coverage and 30% for a two-story home;

- In 1996 and 1997, the Town Council adopted a provision whereby the larger the lots the smaller the Cubic Content Ratio was permitted on the property, which was part of the issue today in the relief the applicant was requesting in cubic volume;

- The lot coverage was conforming to the code, but the application of the second story over the garage, rendered the house not conforming to the code that was in place today, which was the reason the variance was needed;

- There were trade-offs relative to what was being requested;

- The large lot was over 30,000 square feet, the house was more than 10,000 square feet, and staff did not understand the hardship relative to an existing one-story home and the second-story element being proposed on the house, as well as the setback issues;

- If the additions were permitted, because of the threshold and size of the house, it would have to be sprinklered with any improvements that were made, per the Fire Marshal's recommendation; and

- Staff questioned the hardship.

Council Member Brooks asked if there was a domino effect in how the variances fell into place, if it was sprinklered, and would the two-inch retention apply?

Attorney Chopin responded that he neglected to mention that the footprint was not being changed when the garage was being added to the space; it did become a two-story house, and had to meet all the setbacks for a two-story house. The two additions did not have that effect, as they were one-story. The use of the space above the existing garage, without changing the garage, did not require a variance because of turning the property into a two story as opposed to one. The applicant had requested a variance as it related to the current attic space, in order to prevent meeting the requirements of the second story setbacks and other rules that were applicable to a second story.

Motion made by Council Member Brooks to approve Variance #32-2007 with Site Plan Review.

Responding to Council Member Markin, Attorney Chopin noted that the existing house was 9,344 square feet, and the addition and offset of square footage that was being eliminated would reduce the size of the house by 344 square feet.

Zoning Administrator Castro added that the dormer windows were required in habitable spaces, such as a bedroom, but even if dormer windows were not required, it would be considered a second floor by the zoning code, as it related to meeting the lot coverage requirements in the Town's code. He also indicated that the house was over 10,000 square feet, which required sprinkling.

Attorney Chopin corrected his earlier statement by saying that the existing house was 10,528 square feet, in which 344 square feet was deducted.

Discussion occurred between President Pro Tem Coleman and Attorney Chopin regarding the amount of square feet that would be gained by the variance.

Mr. Castro indicated that the attic would not have been included as floor area, only habitable space, such as the garage.

Amended motion made by Council Member Brooks to approve Variance #32-2007 with Site Plan Review with the condition that the two-inch retention standard was met and the house would be sprinklered. Motion seconded by Council Member Coniglio. On roll call, the motion carried 4/1 with Council Member Markin dissenting.

b. SPECIAL EXCEPTION #14-2007 WITH SITE PLAN REVIEW AND VARIANCES The application of Janina Radtke Revocable Trust; relative to a property described as the northerly 100 feet of Lot 1, Singer Addition to Palm Beach, according to the plat thereof on file in the office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, as recorded in Plat Book 8, Page 81, together with the land lying directly east; commonly known as 476 S. Ocean Blvd.; located in the R-A Zoning District. The applicant requests special exception with site plan review to allow a single-family structure on an existing nonconforming lot of 15,001 square feet in area in lieu of the 20,000 square foot minimum required, and 100 feet in width in lieu of the 125 foot minimum required. In addition, a variance is requested to permit lot coverage of 29.12% in lieu of the maximum 25% allowed for the construction of an 8,556 square foot single family home. A variance is also requested to have a building height plane setback of 42.92 feet in lieu of the 58.67 foot minimum setback required. **Request for Deferral to the January 8, 2008, Town Council Meeting Per Letter Dated October 25, 2007, From Ronald K. Kolins.**

Special Exception #14-2007 with Site Plan Review and Variances was deferred to the January 8, 2008, Town Council meeting.

c. SITE PLAN REVIEW #20-2007 WITH VARIANCES

i. The application of 215 Brazilian Holding, LLC (Aby Rosen, Manager); relative to property described as Lot 5 and the west 85 feet of Lot 6, Block E, REVISED MAP OF ROYAL PARK ADDITION TO PALM BEACH, FLORIDA, according to the plat thereof as recorded in Plat Book 4, Page 1 Public Records of Palm Beach County, Florida; commonly known as 215 Brazilian Avenue; located in the R-C Zoning District. The applicant requests a site plan review to modify the previously approved site plan (SPR#7-2005) as follows: (a) add a 424 square foot porte-cochere to the front entrance of the hotel for passenger drop off and pick up; (b) expand the previously approved third floor footprint by 905 square feet on the west side of the hotel building; (c) relocate previously approved pool 47.8 feet to the north and reduce size from 1,032 square feet to 906 square feet, add bathroom pavilions, and add pool cabanas to the proposed new pool area on the west side of the property; (d) increase size of previously approved loggia and second floor balcony on the west side of the previously approved hotel building from 147 square feet to 642 square feet; reduce the amount of balcony space frm 1,653 square feet to 842 square feet; (e) reduce and reconfigure the number of condominium hotel units from 50 (the number the was previously approved) to 24; (f) reduce and reconfigure the number of required parking spaces in the sub-basement/garage from 59 (the number that was previously approved) to 34 spaces (g) relocate 16 indoor restaurant seats to the outdoor patio on the east side of the hotel building; (h) eliminate the previously approved combination "function room" and restaurant/bar area and utilize the area for a restaurant dining and bar area with seating for 134 patrons (as previously approved); (I) add administrative offices, traditional "back of house" functions, a generator room and storage areas in sub-basement/garage. In addition, the variances requested are to accomplish the modifications to the site plan area as follows; (a) a front yard setback of 4.5 feet for the porte-cochere in lieu of the 28.4 feet minimum required and the 25 feet previously approved in SPR#7-2005; (b) three story additions on the east and west side of the proposed building in lieu of the two story maximum allowed; (c) to allow the proposed third story changes with a height of 28.4 feet in lieu of the 25 foot maximum allowed; (d) to allow an overall height of 36.5 feet in lieu of the 35 foot maximum allowed; (e) east side yard setback for the third floor addition to be 20 feet in lieu of the 28.4 feet minimum required; (f) lot coverage of 39.4% in lieu of the 30% maximum allowed and the 38.09% previously approved in SPR#7-2005; and, (g) a variance to allow outdoor seating (16 seats) on the east side of the hotel restaurant and building.

ii. Continuous Pour Request.

Ex-parte communication was declared by Council Member Markin, President Kleid, and President Pro Tem Coleman with Attorney Maura Ziska, Council Member Coniglio with Attorney Maura Ziska and Bob Moore. Town Attorney Randolph noted that a neighbor, Mrs. Wiggins, spoke during Communications from Citizens in opposition to the Site Plan Review indicating that she felt that this was being changed from a hotel to a bar and restaurant facility with no parking. President Kleid commented that Mrs. Wiggins was unable to be here for the presentation. *(Public Comments heard earlier in the meeting regarding Site Plan Review #20-2007 located at end of item.)*

Attorney Ziska provided an overview of the request.

Staff Comments:

Zoning Administrator Castro made the following comments:

- The original hotel, Plaza Inn, came under provision several years ago to redevelop under a provision in the variance criteria that allowed a hotel in existence for a previous 15 years to request expansion or modification of various approvals. At that time, in 2005, staff felt that the approval the hotel received to rebuild was very intense.

- The applicant wanted to reduce the previously approved number of 50 rooms to 24 rooms, but also there would be 59 parking spaces, 44 seats in the dining room, with an additional 90 seats for functions only.

- There were 13 conditions of approval to the original application that dealt with the impacts that may occur with this type of use next to residential use and there was a 25-foot wide buffer between the residential units to the west and the actual hotel proper as well as the exterior amenities to the hotel.

- Staff's concern was related to the parking and use inside the hotel, specifically going from 44 dining room seats to 134 dining room seats and reducing the parking by 25 parking spaces in the garage. With the valet parking, there could still be 59 spaces in the garage and other valet services could be provided.

- The applicant needed to demonstrate the location of the employee parking;

- 134 seat dining room and outside amenities with the number of employees necessary to operate the full service condominium hotel would be a substantial impact in the parking;

- Staff was concerned with the construction and met with the applicant several times relative to initiating a construction agreement that would address all the impacts relative to the excavation of the site, the dewatering 24/7 to build a sub-basement, the hotel, and third story addition;

- Staff was concerned about the proposal and the variances;

- The applicant had an approved proposal, and did not believe that there was a hardship on the variances because they had an approved project that could be built;

- The purpose of moving the wall of the sub-basement in 10 feet was to keep the basement out of the easements and protect the utilities in the back; and

- The sub-basement should be built as originally designed and approved to maintain the 59 parking spaces. If the applicant wanted more back of the house service for their function room and the 44 dining room seats it could be provided on the first floor by eliminating more rooms.

Attorney Ziska indicated that by reducing the number of rooms from 50 to 24, it was logical that the parking would be reduced. She commented that they were in the process of looking for employee parking, and mentioned several options. Regarding the restaurant, they were considering possibly shared parking at a business that was not operating at night, and valet parking.

Council Member Brooks commented that the Town Council spent an inordinate amount of time previously regarding the hotel, the impact on the neighbors to the west, and developing a Declaration of Use Agreement. The new owners were aware of the previous approval and completely ignored the agreement of the Council. He agreed with staff regarding the impact on the parking, and indicated that he was not in favor of approving the request.

Architect Ed Oliver, Oliver Glidden Spina & Partners, noted that when looking at the condominium project to the west and the commercial projects immediately to the east and adjacent to the hotel, that the hotel's classically inspired architecture was more appropriate than a Mediterranean style architecture within the context of this block on this lot.

Council Member Markin commented that she was not in favor of the design, the sub-basement parking, and the third floor addition, or of approving the plan, until there was a specific parking plan worked out ahead of time.

Architect Oliver presented elevations and provided an overview of the design of the hotel, including the parking and the third floor addition. He provided comparisons of the 2005 approval and the proposed plan.

Council Member Brooks pointed out that the plan was an entirely different presentation and that the issue was that there was a major problem with parking.

Council Member Coniglio commented that the project would be intensifying the use and would impact the neighbors. She noted that she had a problem with the parking, and that changing the function room to a dining room would increase the intensity of the use; she indicated that she was not in favor of the plan.

Bud Munro, 226 Brazilian Avenue, and Louis Pryor, 227 Brazilian Avenue, spoke in opposition of the plan.

Attorney Ray Royce requested that the application, prior approvals referred to in the application, and the Declaration of Use Agreement would be made part of the record. He asked that, in the Declaration of Use Agreement, Articles four (listed protections regarding late night noise) and seven (remedies for the Town and apartment owners), never be changed. Regarding the seven foot wall, the neighbors would like it stuccoed on their side and the south 50 feet, the fence was preferred over the wall.

Council Member Brooks interjected and asked that Attorney Ziska work with Attorney Royce.

Motion made by Council Member Brooks, seconded by Council Member Markin to approve deferral to an indefinite time. On roll call, the motion carried unanimously.

Council Member Coniglio added that the original plan of 44 dining seats and 90 seats in the function room did not equal a 134 seat restaurant.

Council Member Markin expressed concern that construction was moving forward in the prime of season with a plan that would be changed.

Zoning Administrator Castro indicated that the work being done was under the previously approved plans as it related to the sub-basement.

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PUBLIC COMMENT:

Sharon Wiggins, 228 Brazilian Avenue, questioned whether she could address Site Plan Review #20-2007, at this time, as she might not be able to address it at its appropriate time.

President Kleid advised that Ms. Wiggins she could explaining to the Town Council that Ms. Wiggins had a personal problem and had to leave by 4:00 P.M.

Town Attorney Randolph noted that this was a public hearing. Ms. Wiggins comments should be passed on to the applicant, if they were not present, at this time, in order that they be allowed to respond to comments.

Ms. Wiggins commented that they recently purchased a home after having rented in Town for a year, noting that they had learned about the community and had been impressed with the planning of the Town and the work of this Town Council. She noted that presently there were concerns in the neighborhood regarding Item C.4.c., Site Plan Review #20-2007 with Variances, 215 Brazilian Holding, LLC, The Brazilian Hotel and she commented on the following:

- The two major issues concerning her neighborhood: noise and lack of parking.
- The use of property, which had originally been zoned residential; subsequently given a variance to become a small hotel with twenty to thirty seat dining, with a parking ratio for the hotel rooms.
- An additional variance recently given the applicant to operate a fifty room hotel with 134 seat dining and function room, with a ratio of approximately 2.3 seats per hotel room and a reasonable ratio with 59 parking spaces.
- The neighbors were led to believe that it would be a condominium hotel with a small dining room for hotel guests and a function room.
- The variance request today was to change the hotel from 50 rooms to a 24 condominium hotel room business, which now would have a ratio of 4.5 dining seats per room as opposed to 2.1.
    - The neighborhood believed this had crossed the line from the principal operation of the hotel, turning it from hotel site to a bar and restaurant operation.

    - The developer had taken half of the parking spaces from the basement converting them for additional support for a bar and a restaurant.
    - The use of this property had turned from a condominium hotel to a bar and restaurant facility with no parking.
    - The key to the solution was not the zoning, which had been grandfathered, but to focus on the restrictions of the operation of this business.
- Questioned where 134 dining room guests, the support staff, and people going to the bar would park.
- The number one concern was the potential restaurant and bar party scene.

Leslie Evans, 214 Brazilian Avenue, advised that he lived in the neighborhood and did not agree with Ms. Wiggins statements relative to the concerns of the neighbors. He commented that he believed she should speak for herself.

5. Other

a. Zoning in Progress

i. Royal Poinciana Area Planning Study:
RESOLUTION NO. 64-07 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Declaring Zoning in Progress in Regard to Those Commercial Districts of the Town Located Within the C-TS, C-PC and PUD-A Zoning Districts Located Within the Boundaries Described on the Attached Map; Directing That While Zoning in Progress Is in Effect That No Permits Be Granted for Demolition, Construction Which Adds Additional Square Footage, or Renovations of Exterior Facades; Providing a Procedure for Waivers for Zoning in Progress for Permits Which Are Proven Not to Be Contrary to the Purpose of the Zoning and Land Development Regulations under Study; Providing an Effective Date.
[Veronica B. Close, Assistant Director of Planning, Zoning, and Building]

Town Attorney Randolph read Resolution No. 64-07 by title, as printed above.

Motion made by Council Member Brooks, seconded by Council Member Markin to approve Resolution No. 64-07. On roll call, the motion carried unanimously.

ii. Zoning Season Study Items:
RESOLUTION NO. 69-07 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Declaring Zoning in Progress Relating to Zoning Items under Study by the Town as Enumerated on Exhibit "A" Attached Hereto; Requiring that no Building Permits be Issued by the Department of Planning, Zoning and Building During the Period that Zoning is in Progress for any Project Which is in Contravention of any Proposal under Study; Providing an Effective Date. [Veronica B. Close, Assistant Director of Planning, Zoning, and Building]

Town Attorney Randolph read Resolution No. 69-07 by title, as printed above.

Motion made by President Pro Tem Coleman, seconded by Council Member Markin to approve Resolution No. 69-07. On roll call, the motion carried unanimously.

b. Consideration of Proposed Changes in Town Council Meeting Dates in 2007-2008 Zoning Schedule. [Veronica B. Close, Assistant Director of Planning, Zoning, and Building]

Planning, Zoning, and Building Director Close indicated Council approved a Special Town Council meeting to discuss the Zoning Schedule on January 7, 2008. Staff had reviewed the agenda items and proposed that an additional Special Town Council meeting be held on February 11, 2008. She suggested that the two meetings could be combined into one on Thursday, February 7, 2008.

Motion made by Council Member Brooks, seconded by President Pro Tem Coleman to approve one Special Town Council meeting to consider Zoning Study Items on Thursday, February 7, 2008. On roll call, the motion carried unanimously.

XIV. ANY OTHER MATTERS

There were none.

XV. ADJOURNMENT

There being no further business, the November 13, 2007, Town Council meeting was adjourned at 8:40 p.m.

APPROVED:

Richard M. Kleid
Town Council President

ATTEST:

Susan A. Eichhorn
Town Clerk