MINUTES OF THE TOWN COUNCIL MEETING HELD ON NOVEMBER 8, 1993

Roll Call

I. CALL TO ORDER AND ROLL CALL - President Weinberg called the Town Council meeting to order at 9:30 AM on Nov. 8, 1993 in the Town Hall Council Chambers. On roll call, the following elected officials were found to be in attendance: Mayor Ilyinsky, President Weinberg, President Pro Tem Wiener, Councilwomen Douthit, Royal and Smith. Also attending for all or portions of the meeting were: Mr. Doney, Town Attorney Randolph, Chief Elmore, Chief Terlizzese, Mr. Dusey, Mr. Moore, Mr. Bowser, Mr. Elwell, Mrs. Peters and Mr. Jakubiak.

Invocation

II. INVOCATION AND PLEDGE OF ALLEGIANCE - Invocation was given by Rabbi Feldman. Pledge of Allegiance was led by Mayor Ilyinsky.

III. PRESENTATION

A. Recognition of E. Ben Walton, Jr., Building Board of Adjustments and Appeals - Mayor Ilyinsky presented Mr. Walton with a plaque for his years of service on the Building Board of Adjustments and Appeals.

Comments of the Mayor

IV. COMMENTS OF THE MAYOR - Mayor Ilyinsky quoted from a letter written by Mr. Bowser addressed to the Engineering Manager of the Utilities Department of the City of West Palm Beach: "The Town is very disappointed about the timing of this project as the plans were prepared in September of 1992 and we are concerned that if the project starts this late in the Season the work may not be completed before Dec. 1st."

Mayor Ilyinsky noted there is an old adage that the Season has started because everything is dug up and while the staff does the very best it can, in most cases it is beyond the Town's control and he wished everyone to know that.

Mayor Ilyinsky stated his second topic is the Ethics subject, noting there recently was an article in the newspaper stating that most ethics complaints are not substantiated and he read: "The dissatisfaction seems to be mostly with local officials said Edith Dunlap, a State House Analyst who worked on the study, however, based on the findings it doesn't seem to be that our local officials are as corrupt as we thought."

Approval of Agenda

V. APPROVAL OF AGENDA - Mr. Doney reported Item VIII.B.1 should be withdrawn; XII.C.1.b - will not be considered; XVII. Any Other Matters - add items (a) Schedule of upcoming hearings of Palm Beach County Delegation; (b) Appointment of M. William Weinberg by the Palm Beach County Municipal League to the Citizen's Committee on Airport Noise; (c) letter from John Maus with regards to construction on Worth Avenue; (d) evaluation of the Town Manager. Attorney Gary Lickel requested a withdrawal without prejudice of Item XVI.B.1, Variance No. 40-93, Howell Van Gerbig. Mrs. Wiener asked for consideration of the Linda Gary, 205 Worth Avenue situation under Any Other Matters. Mrs. Smith asked if the minutes of that subject be made available to the Mayor and Town Council prior to that discussion. Mrs. Peters requested authorization to remove from the Approved Agenda Charitable Solicitation No. 123-94, the Garden Club and add No. 60-94 Children's Home Society and No. 281-94 Armory Art Center and hear these items under X. A. 2, 3, and 4. Motion was made by Mrs. Wiener to approve the agenda with the changes. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Mrs. Wiener moved for approval of the Approved Agenda. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Licenses & Permits

VII. LICENSES AND PERMITS

Charitable Solicitations

A. Charitable Solicitations

1. Leukemia Society of America; No. 39-94
2. Society of the Four Arts; No. 62-94
3. Anti-Defamation League of B'nai B'rith; No. 83-94
4. American Friends of the Hebrew University, Inc.;
6. American Committee for the Weizmann Institute of Science; No.151-94
7. Women's American ORT of North Palm Beach Region; No. 167-94
8. Bascom Palmer Eye Institute; No. 213-94
9. Community Foundation for Palm Beach & Martin Counties; No. 221-94
10. St. Ann School; No. 306-94
11. Lt. Col. Netanyahu Unit #5470 B'nai B'rith; No. 309-94
12. Healthy Mothers/Healthy Babies of Palm Beach County; No. 323-94
13. YWCA of Palm Beach County, Florida, Inc.; No. 325-94

Beverage Licenses

B. Beverage Licenses

1. Application for Change of d/b/a on a 4COP-SRX Alcoholic Beverage License by Thomas Campaniello/Dohertys Restaurant and Bar, Inc. from LaTavernette to Emilio's at 288 South County Road.

2. Application for a Change of Corporate Name from Fine Restaurants of the Palm Beaches, Inc. to Bojodenk, Inc. d/b/a St. Honore on a 4COP-SRX Alcoholic Beverage License by Pierre Alfred Boutiron/Bojodenk, Inc., at 331 South County Road.

3. Application for a Transfer of Ownership of a 4COP-SRX Alcoholic Beverage License by Catherine Robin Nutter/Demcon Inc. d/b/a Town Tavern at 160 Royal Palm Way.

VIII. NEW BUSINESS

Bid Award

A. Bid Award

1. Sealed Bid No. 93-009 - Reconsideration of Award for Contract for Janitorial Services.

B. Other

1. Consideration of Request by Ms. Lorri Ann Mullen, Astrologist, for Occupational License to Conduct Business at 256 Worth Avenue - Letter dated November 5, 1993 from Lorri Mullen Withdrawing Application. Request by Ms.Mullen for occupa.license

2. Consideration of Agreement with Palm Beach Community College for Paramedic Training - Request for Authorization for Town Manager to Execute Agreement. Paramedic Training

REGULAR AGENDA

IX. PUBLIC HEARING Public Hearing

A. Consideration of Application by the Residences at Sloan's Curve, 2050 South Ocean Boulevard, townhouses and single family residences, for a Class 1 Dune Vegetation Permit pursuant to Town Code Section 6-36. Applicant requests approval to remove exotic weeds, trim native dune vegetation, and install additional dune vegetation providing irrigation, fertilization, and monitoring. Mr. Moore advised this is an application for a Class One Dune Vegetation Permit. He stated the applicant is here to request approval for the request which is somewhat similar to the request before the Council on the Sloan's Curve 2000 and 2100 buildings. Sloan's Curve Class 1 Dune Veg. Permit

Mr. Barron addressed the Council indicating the sea grape pruning issue is less than ten per cent of this particular project as there will be a dramatic substantial restoration of the dune which has been modified inappropriately over the years and they wish to restore the native plants mix. He advised the Association proposes to remove 1100 square yards of non-native material and replace it with native material and propose to add an additional 553 square yards of fore-dune as all of the fast growing deep rooted growing materials have been scoured away by storms and in the upland area adjacent to the pool area, they propose to prune down to the level as the Sloan's Curve Project. He advised they have discussed this with the Town's expert, Mr. Ganns-Matsen so it will be consistent with the Ordinance and this project will have a substantially dangerous and threatened component and all the exotics will be removed except for a few which are problematical.

Mr. Moore explained this project has been reviewed by the Town's consultant in this regard and with concurrence with Mr. Pine and staff recommends approval, as long as they obtain their other applicable permits from the County and the State of Florida. Mr. Barron advised they received approval yesterday from the Palm Beach County Beaches and Shores Council.

Mrs. Smith asked if when they received their approval from the County, did they state the Australian Pines could remain? Mr. Barron responded that three will remain.

Mr. Weinberg called for public comment and there was none.

Mrs. Wiener moved for approval of the application by the residents of Sloan's Curve, 2050 South Ocean Blvd., of their Class One Dune Vegetation Permit. Seconded by Mrs. Smith. On roll all, the motion carried unanimously.

X. LICENSES AND PERMITS Licenses & Permits

A. Charitable Solicitation Charitable Solicitations

1. Palm Beach Opera, Inc.; No. 68-94 - Mrs. Peters reported this is the fourth time that the Palm Beach Opera has not returned their Results Form on a timely basis. Dr. Ava Coleman addressed the Council apologized for the delay but pointed out that all the monies raised by this organization do stay in Palm Beach County. She advised she will make sure the Results Form is filed timely next year. Mrs. Wiener moved the Charitable Solicitation Permit No. 68-94 be granted with a slap on the wrists and encouraged Dr. Coleman to get after her people on this. Seconded by Mrs. Royal. On roll call, the motion carried unanimously.

2. Garden Club, No. 123-94 - Mrs. Peters advised the Garden Club wishes to hold a Christmas Boutique in December for a two day period and would like Council's consideration of that Boutique to be one event as their second event is the House and Garden Show. Mrs. Wynn Ballinger addressed the Council, noting that a few years ago, they started this Christmas Boutique for their own members, and it has been quite successful but word did get out and it has grown to be quite successful. She noted all the monies raised stay in the Town of Palm Beach and great improvements are made for the Town through the Garden Club. Mrs. Wiener moved that the Garden Club be granted permission to have their two day Christmas Boutique be considered as one event and the Charitable Solicitation Permit be granted. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

3. Children's Home Society, No. 60-94 - Mrs. Peters explained this application has been received late and it hasn't been circulated through all the Departments. Mrs. Smith moved for approval of the Charitable Solicitation Permit for the Children's Home Society conditioned upon it being approved by all of the Departments. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

4. Armory Art Center, No. 281-94 - Mrs. Peters explained this application has been received late and they wish to start their promotional activities and if this is granted it should be done with the provision that it be approved by all of the Departments. Mrs. Wiener moved the application be granted with the condition that all the Department Heads find everything in order. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

XI. COMMITTEE REPORTS

A. Ordinance, Rules and Standards Committee Report of October 22, 1993.

REPORT OF THE ORDINANCE, RULES & STANDARDS COMMITTEE MEETING
HELD ON OCTOBER 22, 1993 ORS MEETING 10/22/93

ORS MEETING 10-22-93 (cont'd)

Roll Call

I. CALL TO ORDER AND ROLL CALL: The Ordinance, Rules & Standards Committee Meeting was called to order by the Chairwoman on October 22, 1993 in the Town Hall Council Chambers. On roll call, the Committee members were found to be in attendance: Chairwoman Nancy Douthit and Committee Member Michele Royal. Also attending for all or portions of the meeting were other Elected Officials: Council President Weinberg, Mayor Ilyinsky and Council Member Smith. Others attending were Mr. Doney, Mr. Randolph, Mr. Dusey, Mr. Jakubiak, Mr. Moore and Mrs. Peters.

Appr.of Agenda

II. APPROVAL OF AGENDA: Agenda was approved as printed.

Cable TV Consumer Protection & Competition Act of 1992

III. CONSIDERATION OF CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992 - REGULATION OF CUSTOMER SERVICE STANDARDS. After discussing this matter at length and hearing the comments of the Town Staff and the Town Attorney, as well as Diane Christie, Director of System Development of Comcast, it is the COMMITTEE'S RECOMMENDATION that the proposed Ordinance on the regulation of customer service standards be deferred for a ninety day period, during which time the Town Staff and Comcast will keep monthly logs of the calls received on Comcast's service, this matter will be revisited by the Committee at that time, and the Committee will make a recommendation as to whether or not an Ordinance with customer service standards should be implemented.

IV. CONSIDERATION OF ABANDONMENTS OF PUBLIC RIGHTS-OF-WAY -

Ord. 19-93

PROPOSED ORDINANCE NO. 19-93. After review and hearing the comments of the Town Attorney and the staff, it is the COMMITTEE'S RECOMMENDATION that the third version of Ordinance No. 19-93, (attached) be adopted, with modifications requested of the Town Attorney with regards to clarity.

Ord. re: Tax abatement for historic properties

V. CONSIDERATION OF ORDINANCE REGARDING TAX ABATEMENT FOR HISTORIC PROPERTIES. After discussion and hearing the comments of the Town Attorney, Mr. Doney, Mr. Moore and Mrs. Earl of the Preservation Foundation, it is the COMMITTEE'S RECOMMENDATION that an Ordinance be prepared for adoption to proceed with this subject, noting the assurances from Mr. Moore and Mrs. Earl that the tax abatement for the landmarked properties would be for the renovation work only and there would be a minimal reduction in tax revenue.

VI. ANY OTHER MATTERS:

Workshop Meeting

A. THE COMMITTEE FURTHER RECOMMENDS TO THE MAYOR AND TOWN COUNCIL that a Workshop Meeting be held with Town Staff and Town Attorney the week following the November Town Council Meeting to hear an update from the Town Attorney on recent legislation on ethics, Sunshine Law, zoning, and other judicial matters.

Adjournment

VII. ADJOURNMENT: There being no further business, the meeting was adjourned at 11:45 AM.

SIGNED BY NANCY S. DOUTHIT, CHAIRMAN AND MICHELE CLARKE ROYAL, COMMITTEE MEMBER

Mrs. Douthit explained the Committee recommends that the Ordinance on the regulation be deferred for a ninety day period during which time the Town staff and Comcast keep monthly logs of the calls received on the service rendered by Comcast. She advised that the Committee will then make a recommendation as to whether or not an Ordinance regulating customer service standards should be implemented. Motion was made by Mrs. Royal to approve the recommendation of the Committee on Comcast. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Mrs. Douthit stated the second recommendation is the Council approve the third version of Ordinance No. 19-93 with regards to abandonments of Public Rights-of-Way.

Mrs. Douthit reported the next item is the Ordinance with regards to tax abatement for historic landmarked properties and the Ordinance will be heard later in the meeting.

Mrs. Douthit stated the last recommendation is the Town have a Workshop meeting to be held with the Town Staff and Town Attorney prior to the 16th of November to have an update on the recent legislation on Ethics and other judicial matters. Motion was made by Mrs. Douthit that this Workshop be held. Mrs. Wiener recalled all of that information is normally furnished each member and if they read it, she didn't believe there needed to be a workshop as all of this information is printed and available.

Mrs. Smith recalled Mr. Randolph suggested that a Workshop be held and she had no objection. The motion was seconded by Mrs. Royal. On roll call, the motion carried 3-2 with Mrs. Wiener and Mr. Weinberg voting against the motion.

Mrs. Wiener suggested that everyone read the information in the small booklet put out by the Florida League of Cities and if there are any questions, then they could hold the meeting.

Mr. Weinberg asked each person to review their calendars over the lunch break and this matter will be considered later in the meeting with the nailing down of a date for this Workshop.

B. Public Safety Committee Report of October 25, 1993

Public Safety Meeting Report Mtg. of 10-25-93

REPORT OF THE PUBLIC SAFETY COMMITTEE MEETING HELD ON

OCTOBER 25, 1993

Roll Call

I. CALL TO ORDER AND ROLL CALL: A meeting of the Public Safety Committee was called to order by the Chairman at 10 AM on October 25, 1993 in the Town Hall Council Chambers. On roll call, Chairman M. William Weinberg and Committee Member Nancy S. Douthit were found to be in attendance. Also attending for all or a portion of the meeting were Mayor Ilyinsky, Mr. Doney, Mr. Dusey, Mr. Bowser, Mr. Elwell, Mrs. Peters, and Chief Elmore.

Appr. of Agenda

II. APPROVAL OF AGENDA: Agenda was approved as printed.

South-Fire Rescue Sta.

III. CONSIDERATION OF CONSTRUCTION ALTERNATIVES FOR PROPOSED REPLACEMENT SOUTH FIRE-RESCUE STATION: After hearing the input of Mr. Doney, Mr. Dusey, Chief Elmore and the architects, and after considering the attached copy of the six page exhibit from Mr. Dusey entitled "South Fire Station - Cost Reduction Alternatives", the COMMITTEE RECOMMENDS the following:

South Fire-Rescue Sta.

1. The roof tile should be the flat tile with a good color mix, rather than the "S" barrel tile.

2. The building should be one story, rather than the two story design which was previously recommended. The architects noted that there would be an approximate three per cent increase in lot coverage to accommodate the rooms which were to have been located on the second floor. It also was noted the elevator and stair wells would be eliminated. (With the changes noted in 1 and 2 above, there will be a cost savings of approximately $200,000).

3. The all purpose meeting room should not be eliminated. This room will be used for two voting precincts and for training of Fire-Rescue personnel, and it could be rented out for community functions (similar to the Town's Recreation Center).

4. The maintenance bay should not be eliminated.

5. If feasible, a cupola should be provided, with same to be bid as an alternate.

   (It was noted that the carpeting and appliances are included in the budgeted figures; however, furniture is not included. Donations will be sought to pay for the furniture. If not enough donations are received, funds for this purpose will be requested in the FY95 General Fund Operating Budget.)

6. Funding for the construction of the new South Fire-Rescue Station should come from the amount previously budgeted for this project ($1,275,000) in the Capital Improvement Fund, with an additional amount of $320,000 to be borrowed from the Oceanfront Roadway Protective Seawalls designated reserves. The borrowed funds shall be repaid through General Fund additional appropriations to the Capital Improvement Fund Oceanfront Roadway Protective Seawalls reserves in FY95 and FY96.

7. Sealed bids for the new South Fire-Rescue Station should be received in time for a bid award recommendation to be offered at the March 8, 1994 Town Council Meeting. Construction work is to commence by April 15, 1994, with a projected completion date of February, 1995 (not including demolition of the existing building and site restoration).

IV. CONSIDERATION OF RECOMMENDATION FOR FIRE-RESCUE DEPARTMENT TO ASSUME THE EMERGENCY TRANSPORTATION OF ALL PATIENTS FROM THE TOWN OF PALM BEACH. After hearing the comments of Chief Elmore and Mr. Doney referring to the attached copy of the memorandum (with attachments) dated October 6, 1993 from Chief Elmore, it is the COMMITTEE'S RECOMMENDATION that the contract with the Atlantic Lifefleet Ambulance be cancelled and the Fire-Rescue Department be authorized to commence the transportation of Basic Life Support patients from the Town of Palm Beach to area hospitals.

Emergency Transportation of patients

V. ANY OTHER MATTERS: None.

VI. ADJOURNMENT: Meeting was adjourned at 11:06 AM.

Adjournment

SIGNED BY M. WILLIAM WEINBERG, CHAIRMAN AND NANCY S. DOUTHIT, COMMITTEE MEMBER

Mr. Weinberg reported the Committee has made several recommendations as outlined in the report with regards to the South Fire Rescue Station.

Mrs. Wiener asked how much money would be saved to use the flat tile rather than the "S" tile? Mr. Mark Marsh, the Architect addressed the Council advising the amount to be saved would be between thirty and forty thousand dollars and it has a life of approximately thirty years. Mrs. Douthit pointed out the flat tile is far stronger and storm resistant than the "S: tile. Mr. Marsh stated that is correct, pointing out this tile is much stronger and the possibility of the tile lifting up during a storm is less than it would be for the "S" tile. He stated the recommendation is for a flat terra cotta mixed blend of tile for the flat tile as it is far superior.

South Fire-Rescue Sta.

Mr. Dusey reported the Architectural Commission recommended the flat tile in lieu of the "S" tile when this project was reviewed by ARCOM. Mrs. Smith stated the recommendation was on the cost savings which they thought was around sixty thousand dollars. Mr. Marsh pointed out the cost was based on the tile necessary to cover the roof area as the second story plan had more roof than the single story plan. Mrs. Douthit wanted to go along with whatever would hold up the best.

Mr. Dusey responded based on the original estimates they received, he believed the savings would be roughly $60,000 and the bidding process will establish exactly what those savings are and he is recommending the flat tile. Mrs. Smith asked if they had samples of the teracotta tile as she knows there are buildings in this Town which have been through many hurricanes and have the "S" tile. Mr. Marsh clarified that the material they are proposing could stand for fifty to eighty years but the manufacturer will only guarantee thirty years.

Mr. Doney recalled the staff reviewed this quite thoroughly after the bids came in so high . He stated they are trying to get back to a figure that has been budgeted.

Mrs. Smith suggested they go on with the other recommendations and come back to the roof.

Mr. Marsh stated the Chairperson of the Architectural Commission was very reluctant to go along with the "S" tile and recommend it and they can proceed with the building and this can be discussed later, but he believed the ARCOM suggested the flat terra cotta as their preference over the "S" tile.

Mrs. Smith asked for Chief Elmore's comments on the one story building.

Chief Elmore advised the one story building is perfectly satisfactory to him and his staff. Mrs. Wiener thought this would be a serious cost saving as there won't be an elevator which is a costly item. Mrs. Smith asked if the design with the four doors facing the west and asked why one door was recessed on the north side. Chief Elmore explained that is the maintenance bay and a

South Fire-Rescue Sta. (cont;d)

little less room is needed there than the other bays. Mrs. Smith noted this one story design must be approved by the Architectural Commission.

Mrs. Royal asked why they started off with a two story? Mrs. Wiener noted there was a conversation about green space and that's what it was all about and it was a philosophical thing that got carried away. Mrs. Wiener moved that the basic building be one story. Mrs. Smith asked if her motion was to approve the recommendation of the Committee to be a one story? Mrs. Wiener agreed. Mrs. Smith seconded the motion. The motion carried unanimously on roll call.

Mr. Weinberg asked if anyone had any problem with the continuation of the all purpose meeting room? Mrs. Wiener moved that the All Purpose Meeting Room be retained as an element of the building. Mrs. Smith seconded the motion. On roll call, the motion carried unanimously.

Mr. Weinberg noted the next item was to retain the maintenance bay and Mrs. Wiener so moved. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Mr. Weinberg noted the next item is whether or not there should be a cupola. Mrs. Smith suggested that item be left up to the Architectural Commission. Mrs. Wiener moved that the cupola be a part of the Council's recommendation until they hear further from the Architectural Commission and until the actual price of what it will cost is received but the cupola stay in the plan for the moment. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Mr. Doney pointed out this could be bid as an alternate bid.

Mr. Weinberg noted the next item is the funding. Mrs. Wiener thought it is great to pay the bills as they come in but on the other hand when something is being built with a 50 year lifetime, it makes fiscal sense to let those people who will benefit from the building pay for it. Mrs. Douthit pointed out if she is talking about a bonding process, they would wind up spending a third more for it. Mrs. Wiener noted they are building this for a couple of generations to come and they should be a part of the payment. Mrs. Douthit noted they are short approximately $400,000 and the cost of floating a bond for that amount of money would be prohibitive. Mrs. Wiener did not think putting up a fifty year building is not a normal expenditure and she thought the whole thing should be a package put together and looked at to see if it should be paid for in the matter that it is used over a period of time. Mrs. Douthit pointed out a little over one million has been budgeted so the shortage would be only around four hundred thousand.

Mrs. Wiener pointed out if there is an emergency or if it is needed for something else, they will be short of money and she did not view that as being a sound fiscal way to move forward.

Mrs. Smith made a motion that the subject of the financing for the Fire Station go to the Finance & Taxation Committee for discussion at that time. Seconded by Mrs. Royal. Mrs. Wiener stated she did not second that motion as she wanted to be sure that somebody other than the members of the Finance & Taxation Committee felt that way.

On roll call, the motion carried unanimously.

Mr. Weinberg stated the next item is that the construction work be commenced by April 15, 1994 and the completion date would be February, 1995 and Mrs. Douthit so moved.

Mr. Weinberg noted the next item is the emergency transport of all patients be by the Fire-Rescue Department. Chief Elmore advised there would be 300 patients per year and the additional cost would be for fuel to transport to the hospitals and perhaps a little more bandaging, but that is usually done for the patient to be transported by the ambulance, so the cost will be minimal. Mrs. Wiener moved that the Town of Palm Beach assume the emergency transportation for all patients from the Town of Palm Beach. Seconded by Mrs. Smith.

Adrian Winterfield addressed the Council believing there is a problem with the definition of basic life support and he thought they needed to be careful that people don't call up with a stomach ache and ask to be transported to the hospital and there should be some limitations. Mrs. Wiener did not believe that would be happening as people have not taken advantage. Mrs. Douthit thought if it is found to be expensive, they can always take another look at it and perhaps initiate a minor fee.

On roll call, the motion carried unanimously for approval of the recommendation.

Mrs. Smith asked if the architect for the Fire Rescue Station would appear before the Architectural Commission as soon as possible as she wanted them to have the plans ready and she would like the minutes to reflect that he will speak to each Architectural Commissioner prior to the meeting and the plans not be deferred for further study as they want to move ahead with this project.

Mr. Marsh stated he will try to make the next meeting and will meet with each member of the Architectural Commission.

Mr. Bowser addressed the Council indicating they intend to advertise for the project in January and they are well on their way to having the information before ARCOM in December.

Mrs. Wiener asked if the rendering before the Council was the rendering they would be taking to ARCOM to which Mr. Marsh responded affirmatively. Mrs. Wiener asked the other members of the Council and the Mayor if anyone had a problem with the rendering to which Mrs. Douthit responded she had no problem with the building but thought it should have more landscaping.

Mrs. Smith asked if it was to scale to which Mr. Marsh responded affirmatively. Mr. Weinberg stated it does meet his requirements as he wished to have the best in that area and this looks good to him. Mrs. Wiener stated the reason she asked the question is if ARCOM understands where the Council is coming from, and the concern about time, there be a basic unanimity on the Council's part.

C. Finance and Taxation Committee Report of October 28, 1993.

Report of the Finance & Taxation Comm. Mtg. of 10-28-93

REPORT OF THE FINANCE & TAXATION COMMITTEE MEETING OF

OCTOBER 28, 1993

Roll Call

I. CALL TO ORDER AND ROLL CALL. The Finance & Taxation Committee meeting was called to order by Chairwoman Wiener on October 28, 1993 in the Town Hall Council Chambers at 10:03 AM. On roll call, the Committee Members were found to be in attendance: Chairwoman Hermine L. Wiener and Committee Member Lesly Smith. Also attending were Council President M. William Weinberg, Mr. Doney, Mr. Randolph, Mrs. Crozier, Mrs. Peters, and Mrs. Kelly.

II. APPROVAL OF AGENDA: Agenda was approved as printed.

Gen. Discussion of Investment Management Services & Consideration of proposed agreement with First Union

III. AND IV - GENERAL DISCUSSION OF INVESTMENT MANAGEMENT SERVICES and CONSIDERATION OF PROPOSED AGREEMENT BETWEEN THE TOWN AND FIRST UNION NATIONAL BANK FOR INVESTMENT MANAGEMENT SERVICES FOR FY94 - REFERRED BY TOWN COUNCIL AT ITS MEETING ON OCTOBER 12, 1993 AND.

Mrs. Wiener advised that anyone in the audience who wished to comment on the proposal will be given an opportunity to do so at the end of the presentation by First Union.

Mr. Doney reviewed the history of why this issue was before this Committee today and previously before the Mayor and Town Council. He stated the issue was brought up at a staff level by Mrs. Crozier and he agreed that the Town's funds should continue to be invested in a secure manner, but Mrs. Crozier was attempting to increase the interest earnings. Mr. Doney advised that currently all of the Town's funds (except the Retirement System) are invested through the State Board of Administration and all of the Town's investing of funds are regulated by the Town Charter and Code and also by Florida Statutes.

Mr. Doney reviewed the Town's objectives as contained in the proposed Investment Policy:

(1) Preservation and security of investment principal.
(2) Maintain sufficient liquidity to meet daily operating requirements.
(3) Attainment of a market rate of return throughout budgetary and economic cycles, taking into consideration the Town's investment risk constraints and cash flow requirements.

Mr. Doney reported that another reason the staff recommends the Town enter into an addendum with First Union is because all of the day-to-day banking services and activities are currently handled by First Union. Mr. Doney believed that the interest earned in the upcoming months until the general banking services contract expires, would be substantial and also, by utilizing First Union, this procedure would eliminate wire transfers, which he believes is very important and would further ensure the security of Town Funds. He believed this addendum with First Union would bring in more non-ad valorem revenue, which would reduce the amount of tax revenue required to balance the operating budget. Mr. Doney advised that the personnel in the Finance Department and other Town staff do not have the expertise to actively manage an investment management program. Mr. Doney advised that to his knowledge, the Town has never used outside investment manager services for the Town's General Fund and other Funds, except for the Retirement Fund.

Mrs. Wiener advised that she felt very strongly that the Town's day-to-day banking services and investment management services should be with one well-qualified commercial bank for safety reasons, which would include the ability to preclude wire transfers and the ability to have a better paper trail.

Ann Caner, Vice-President and Trust Officer and Sandra Brown Fleming, Senior Investment Professional from First Union National Bank of Florida Capital Management Group gave their presentation proposing their investment management program for the Town of Palm Beach which covered:

A. Safety of Investment Program
B. Investment Management Process
C. Strict Adherence to Investment Policy
D. Individually Managed Portfolio
E. Benefits of Investment Management Program

Mr. Weinberg noted the First Union people were projecting a 5.65% return for an actively managed portfolio and asked if that figure was based on the past six month experience or were they projecting it into 1994-95. Ms. Caner responded nobody knows what will happen with interest rates and this is an estimate of how much could be made. They used six months of actual returns and annualized that return. She recalled at the September Town Council meeting, they showed them actual returns of some of their clients. Mr. Weinberg commented the 5.65% figure is then subject to revision to which Ms. Caner agreed.

Comments were received from the audience from Mr. Adrian Winterfield who suggested that the wire transfers be done on a weekly basis, rather than daily. Mr. Spencer Webster of Barnett Banks addressed the Committee noting he has submitted a proposal for short term investment of funds and would like the opportunity to bid. Mr. Ralph Schenck of Merrill Lynch addressed the Committee advising he has submitted information and also would like an opportunity to bid. Mr. Christopher Sessel, Manager of Brown Bros Harriman & Co. addressed the Committee and requested the opportunity to bid.

After hearing all of the comments, Mrs. Wiener asked Ms. Caner if there would be any possibility of First Union's fee being reduced. Ms. Caner responded they have reviewed the fee schedule published for the Town of Palm Beach and that she knows there are performance based fee schedules. Ms. Caner advised that the way they charge on this particular service is on a market value basis and that First Union started out at 25 basis points, which is an aggressive bid for First Union and this is less than their standard fee schedule. Furthermore, First Union has reduced their proposed fee by an additional ten per cent and that fee would be guaranteed for two years from date of acceptance. Mrs. Smith and Mrs. Wiener agreed that this should not be recommended to the Town Council for a two year period, as they have heard from competitors who wish to bid. Ms. Caner responded the goal of First Union is to earn additional revenue for the Town on its invested funds, and she was confident that they could perform well and increase the revenues earned by interest on Town investments, net of fees.

Gen.Discussion of Investment Management Services & proposed agreement with First Union

This matter was thoroughly discussed by the Committee Members, Mr. Weinberg, Mr. Doney, Mr. Randolph and Mrs. Crozier, and after hearing the comments of all, it is the COMMITTEE'S RECOMMENDATION that in order to ensure the safety of the Town funds involved, the noted Town funds be authorized "on a trial basis" to be invested by First Union National Bank for a six month period (December 1, 1993 through June 1, 1994) with the bidding process for the whole banking package to begin in early summer of 1994, through the Request for Proposal (RFP) process, and with the intent of having a contract in place by November 8, 1994 (Town Council meeting day). Additionally, the COMMITTEE RECOMMENDED that there be two proposals, one for the daily banking services and the other for investment of idle funds, and preferably the total banking services would be provided by a local bank, with the Town Council making the final decision as to whether these services should be centralized in a single bank or divided between a bank and an investment management service organization. THE COMMITTEE FURTHER RECOMMENDS that the fee for the six month period for First Union shall be 25 basis points minus ten per cent or approximately $14,000.

Mr. Doney generally described the RFP process and noted there will need to be a Selection Team to review the proposals received and to short list those companies which will be interviewed and to fulfill other activities in order to offer its recommendations to the Town Council.

V. ANY OTHER MATTERS: None.

Adjournment

VI. ADJOURNMENT: The meeting was adjourned at 11:29 AM.

signed by Hermine L. Wiener and Lesly S. Smith

Agreement with First Union

Mrs. Wiener explained the Committee had a presentation by First Union National Bank and heard Mr. Doney's statements as outlined in the report as to the Town's objectives. She felt strongly that all the banking services and investment management services should be with one well qualified commercial bank for safety reasons.

She stated there were also a number of comments from the public. She noted the Committee's recommendation is that the Town funds be invested "on a trial basis" by First Union National Bank for a six month period (Dec. 1, 1993 through June 1, 1994) with the bidding process for the whole banking package to begin in early summer of 1994 through the Request for Proposal process and with the intent of having a contract in place by Nov. 8, 1994. Mrs. Douthit wondered if the date should be the beginning of the fiscal year to which Mrs. Wiener and Mrs. Smith responded it has the approval of Mr. Doney and Mrs. Crozier as the bank contract expires in November.

Mrs. Royal stated she did not believe they could produce the interest rate they are saying they will produce, if indeed the investments are done with strict adherence to Fl. Statute 166.261 and Chapter 280. Mrs. Douthit thought that was their problem but any increase would be most welcome. Ms. Sandra Fleming addressed the Council stating she strongly believed the return they promised can be achieved and within the State Statutes as well as the Committee's regulations. She recalled the funds are currently with the State Board of Administration and are a money market instrument and they do go sixty to ninety days within that money market, which is a short term time period. She proposed to leave a five months of reserve with the SBF so the day-to-day cash needs are met and they are talking of investing the 12.6 million which are the funds that are needed on a day-to-day basis and those funds would go out a year or two years and allow those to go a little farther on a yield curve which will give them the ability to pick up the basis points to make that return and maintain the safety of the assets.

Mrs. Royal stated her concern as to how this could happen if First Union was not the chosen bidder for the banking services next year. Ms. Fleming explained that will be no problem and there will be no penalty as the actual assets are simply transferred to the new bank.

Mrs. Royal wondered why they couldn't do it in-house. Mrs. Smith responded they have a fully qualified staff who could do it, but they don't have the time.

Mrs. Wiener believed the people we have on staff are good but they are not top notch investment officers and she moved that the Town Council authorize First Union National Bank to start this new investment program for the Town for a six month period beginning Dec. 1, 1993 through June 1, 1994 and the second part of the motion being that the bidding process for the entire banking package will begin in the early summer of 1994 through the RFP process. Seconded by Mrs. Smith. On roll call, the motion carried 4-1 with Mrs. Royal voting against the motion.

Mrs. Wiener stated the second recommendation of the Committee is that there be two proposals, one for the daily banking services and the other for investment of idle funds and preferably the total banking services would be provided by a local bank with the Town Council making the final decision as to whether these services should be centralized in a single bank or divided between a bank and an investment managed service organization. Mr. Doney suggested the draft RFP be brought back to the Finance & Taxation Committee along with a calendar of events and other details so the Committee can recommend to the Council. Mrs. Wiener moved that there be two proposals in the RFP, one for daily banking services and one for investment of idle funds. Seconded by Mrs. Royal. On roll call, the motion carried unanimously.

Mrs. Wiener stated the last recommendation is that the fee for the six month period for First Union shall be 25 basis points minus ten per cent or approximately $14,000.00. Ms. Fleming stated it would be twenty two and one half basis points with the discount. Mrs. Wiener recalled there was discussion that part of the fee should be a service charge and the rest should be connected to performance, but the Council was not successful and that is why they have the recommendation as stated. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Mr. Doney indicated he has three related items and within their packet is a Proposed Investment Policy which the Council should address. He recalled at the Finance & Taxation a memorandum dated Oct. 27, 1993 was distributed by Mrs. Crozier to Mr. Doney that further specifies and restricts the proposed investment policy dated October 1, 1993 to be revised with further restrictions as outlined in that memorandum. Mrs. Wiener noted the restrictions are a tightening of what is permitted under the Florida Statutes. Mrs. Smith noted the Investment Policy was reviewed by the Committee .

Motion was made by Mrs. Smith to approve the Investment Policy which would include the recommendations as contained in Mrs. Crozier's memorandum of October 27, 1993. Seconded by Mrs. Douthit.

Motion was made by Mrs. Wiener to authorize the Town Manager to execute the proposed Corporate Agency Agreement with First Union for the period of time from Dec. 1, 1993 through June 1, 1994. Seconded by Mrs. Royal. On roll call, the motion carried unanimously. First Union Agreement

Mr. Doney suggested that they continue with First Union so there would be no transition period between them and the awarded bid. Mrs. Wiener did not agree and requested that this come before the Town Council at their April meeting. Mrs. Smith noted staff is going to review the bank's performance monthly and she thought they would have a track record and the Council could review it in April. Mrs. Wiener moved that this subject come up at the April meeting of the Town Council. Mrs. Royal suggested the Finance & Taxation Committee review the performance of the Bank monthly. Mr. Doney reported there will be monthly reports to go to the Mayor and Town Council. Motion was seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Mr. Winterfield understood there is a six month period on the contract which will be extended depending upon the satisfaction of the Town Council with the results. He suggested that bids be invited so other proposals can be considered at the end of the six month period.

A short break was taken. Mr. Weinberg reconvened the meeting.

XII. OLD BUSINESS

A. Ordinance - First Reading

1. Ordinance No. 19-93 - Proposed Abandonment of Easements and Rights-of-Way. Ord. 19-93

Attorney Randolph read the Ordinance No. 19-93 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH PALM BEACH COUNTY, FLORIDA, PRESCRIBING REGULATIONS GOVERNING THE VACATION AND ABANDONMENT OF RIGHTS-OF-WAY AND EASEMENT WITHIN THE TOWN; PROVIDING FOR PURPOSES AND METHODS, PROVIDING FOR AN APPLICATION; PROVIDING FOR AN APPLICATION FEE; PROVIDING FOR A PRIVILEGE FEE; PROVIDING FOR APPLICATION PROCEDURE; PROVIDING FOR REVIEW PROCEDURES; PROVIDING FOR A PUBLIC HEARING; PROVIDING FOR RECORDATION OF RESOLUTIONS; PROVIDING FOR SEVERABILITY;PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Mrs. Wiener noted on Page 4, it states: "The privilege fee shall be determined and fixed by computing eighty percent (80%) of the total land value of the petitioned site." She thought it was discussed that the people already owned the property and what was really happening that for reasons of mutual interest, the citizens are being permitted to have the land free and clear and she thought to pay 80% for something that they already own she had a real problem with that, as they would never abandon any property that they had an interest in.

Mrs. Douthit believed each one was a different situation.

Attorney Randolph advised that one of the options presented to the Committee was to eliminate the 80% figure and go with an Ordinance which would treat each parcel separately and he didn't believe the ownership issue was as clear as one of the persons represented to the Council at the Bertles/Roddy abandonment issue was being discussed. He recalled he disagreed with the applicant that the person adjacent to a public right-of-way necessarily owned it and that is the case when there is an easement over a fee simple, such as a utility easement, but it is not necessarily the case for a public right-of-way which is adjacent to a parcel. He recalled there were three alternatives proposed to the Committee and the one chosen was to leave the 80% in with the opportunity for the persons to come in and show a hardship under the circumstance. Mrs. Weiner stated she could not vote for it.

Mrs. Royal referred to page five, which talks about the privilege fee and it states "it may be reduced by the Town Council" so by leaving it in the Council will have the opportunity if ever it is appropriate of raising some funds or a vehicle for removing it. Mrs. Wiener notes it could be reduced which tells her that each case will be treated individually. She thought they may come into a situation where they could be difficulty if one person is charged one figure and someone else another figure, and she didn't like to see them put themselves in that position.

Mrs. Douthit believed the situations could vary. Mrs. Royal believed it gave the Council some latitude.

Mrs. Douthit moved for approval of Ordinance No. 19-93. Seconded by Mrs. Royal.

Adrian Winterfield addressed the Council stating his confusion over the method of determination since it will not appear in the property appraiser's records, as if it is going to be the same square foot value as the remainder of the property, there could be problems. He suggested language be put in that would indicate it would not be more than eighty per cent.

On roll call, the motion carried 3-2 with Mrs. Wiener and Mr. Weinberg voting against the motion.

B. Ordinances - Second Reading

1. Ordinance No. 25-93 - Amendments to Dune Removal and Alteration Ordinance - Attorney Randolph read the Ordinance by title: Ord. 25-93

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING ARTICLE IV,DUNE REMOVAL OR ALTERATION, SECTION 6-36, BEACHES, SUBSECTIONS (d) (1) (a) APPLICATION REQUIREMENTS; (g)LICENSED PROFESSIONAL; (i) SETBACK LINES; (j) (1) (a) WAIVERS AND VARIANCES PROCEDURES; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR A REVISION DATE.

Motion was made by Mrs. Douthit to approve Ord. No. 25-93. Seconded by Mrs. Royal. On roll call, the motion carried unanimously.

Ord. 27-93

2. Ordinance No. 27-93 - Cable TV Regulation of Rates - Attorney Randolph read the Ordinance No. 27-93 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, PROVIDING FOR THE REGULATION OF BASIC SERVICE TIER RATES AND RELATED EQUIPMENT INSTALLATION AND SERVICE CHARGES FOR CABLE TELEVISION SERVICE; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Mrs. Douthit moved for approval of Ordinance No. 27-93. Seconded by Mrs. Royal. On roll call, the motion carried unanimously.

Ord. 28-93

3. Ordinance No. 28-93 - Authorization to Sign Telecommunications License Agreement with AT&T to Install Underground Fiber Optic Cable Equipment in Public Rights-of-Way Within the Town of Palm Beach - Attorney Randolph read the Ordinance No. 28-93 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, GRANTING A LICENSE TO AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC. (AT&T)TO INSTALL UNDERGROUND CABLE EQUIPMENT WITHIN CERTAIN PUBLIC RIGHTS OF WAY WITHIN THE TOWN; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Mr. Randolph explained this Ordinance was drafted to accommodate their schedule to install cable under Clarke Avenue. He stated the terms in this Ordinance are not acceptable to AT&T and he recommended that this not be approved on second reading as it doesn't accomplish the goals. Mrs. Douthit felt they needed to communicate with AT&T and this be deferred for a month until it is seen what progress can be made and she so moved. He recalled the figure of $15,000 was the figure received from the appraiser and it was raised to $20,000 by the Town Council last month, however, AT&T did not agree to either figure. Mrs. Wiener recalled the letter from the attorney of AT&T was insulting and rude as it threatened a lawsuit over the monies, since he felt we were not within our rights and when he straightens out his schedule, he will let us know what he thinks they should pay when he has time to look at this.

Mrs. Wiener suggested a letter be sent to the attorney for AT&T advising of our astonishment that AT&T would send a letter threatening a lawsuit without first finding out what the figures were based on and since we were accommodating them, we find it amazing that he didn't have time for this, which she thought should be a priority.

Mrs. Smith recalled this was heard at the last Council meeting as a courtesy to AT&T as they have a boat sitting out there with the cable and we were trying to accommodate them. She didn't think there was any reason to defer the passage of the Ordinance just because the Senior Attorney for AT&T doesn't find the Town of Palm Beach's position compatible with his position and she didn't see any reason to give them any further accommodations.

Mrs. Douthit stated they were trying to accommodate them because the Season is upon us and the traffic, etc. would be a problem.

Mayor Ilyinsky felt they should be negotiating this with AT&T and we should write them a letter stating our position and we should keep a cool head and have the Town Attorney write the letter. Mrs. Smith did not agree they were negotiating with AT&T.

Mrs. Douthit recommended Attorney Randolph write an appropriate letter expressing the Town's feelings on this subject and tell them they can't come during the Season and dig up our roads and now nothing can be done until the first of May.

Mrs. Douthit restated her motion to defer the passage of the Ordinance for one month.

Mrs. Wiener suggested the time frame be put in the letter and they were sorry that the AT&T's time frame was so busy, and they could not be accommodated and if they can't do it this year, it will be next year. Mrs. Royal seconded the motion.

On roll call, the motion carried unanimously to defer the Ordinance No. 28-93 with Mr. Randolph writing a letter to the AT&T attorney mentioning the timing.

C. Other

PEP Reef Project

1. Mid-Town PEP Reef Project

a. Consideration of Authorization of Funding for Extended Liability Insurance Coverage for a Period of Three Years Following Final Payment - Mr. Doney explained a memorandum dated Nov. 3, 1993 to the Mayor and Town Council, it is the staff recommendation that in the Capital Improvement Fund for the project, there is $12,331.05 remaining from the appropriation of $60,000 for the test plan development and pre-installation surveys, and staff recommends $6000 be authorized of the remaining balance to be expended for this extended liability insurance policy. He recommended this be for one year and this item will be revisited in October or November of 1994. Mrs. Wiener so moved. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

b. Request by American Coastal Engineering, Inc. for Release of Contract Retainage - Appealing Administrative Decision of Town Staff to Require Certain Documentation Prior to Releasing Retainage - Mr. Doney explained Mr. Dotterer will not be here to speak on this subject.

2. Consideration of Proposal to "Storm Proof" the Public Works Facility - Request for Town Council Workshop Meeting. Mr. Doney indicated he has sent a memorandum dated Nov. 3, 1993 to the Mayor and Town Council, noting the Town staff has been in touch with Mr. B. T. Kennedy, County's Director of Emergency Management, recalling the County is planning an Emergency Operating Facility, but it would only include the County's staff. He thought the practicality of working with 37 municipalities in Palm Beach County, and other Districts and in addition to the County Government, would be difficult and to make a program work countywide, as the County is 50 miles north to south and 50 miles east to west was not very practical.

Storm Proof Public Works Facility

He recommended the Town Council consider holding a workshop on this subject, recalling the Public Works Committee discussed this issue back in June, and considered the report by Digby Bridges on the preliminary costs estimates on either stormproofing the existing Public Works facility or have a new facility built.

Mr. Doney suggested since this is complex issue, a Workshop be set to discuss this in detail. Mrs. Wiener recalled the State of New York built underground in the event of an enemy attack and she thought there were a lot of things that could be done on a facility of this type short of spending lots of money as she didn't believe that putting up a six or seven million dollar facility was the answer to the problem. She wouldn't mind if the staff put together a feasible plan but for the Council to start picking at things, she didn't agree.

Mr. Weinberg recalled he had expressed his opinion previously and he doesn't know how they could cope with an Act of God. Mr. Doney reported from a staff perspective, he believed a Workshop Meeting should be set as a decision needed to be made as to whether or not individuals should be on-island or off-island in order to be responding to a certain point in the storm, or whether the Town Council wished to evacuate the island of Town personnel at a certain time in the storm preparedness procedure and that is the important issue.

Mrs. Wiener asked how they have been handling this in the past to which Mr. Doney responded much has been learned from Hurricane Andrew and if the Town staff will actively provide services post storm, there needed to be a facility where the employees could ride out the storm safely and also protect the equipment needed to clear the roadways and it is a matter of a judgment call, whether or not from a policy perspective at what point it is permissible that all employees including himself would evacuate the Island, as right now the plan is to ride out the storm, no matter what the category is and if it gets beyond a certain point, they would be here and ride out the storm.

Mrs. Smith knew there was a Hurricane Preparedness Plan and asked what would be the provisions put in place for the Public Works Facility and then the Town Council should discuss whether or not the Town's staff and employees are free to go and leave the residents of the Town on their own, and this would have to be a policy decision of the Town Council.

Mrs. Wiener recalled there have been natural disasters from the beginning of time and handling the disasters has become quite sophisticated and more and more products are sold to handle the storms and more and more monies are spent. She thought the most dangerous problem during a storm are the live electrical lines which are all over the place and that would harm people the most, and she thought they are way off when they talk about having a facility when there would be live wires hanging all over the place.

Mrs. Smith advised she didn't see the point in spending six million dollars for a storm proof facility in West Palm Beach, when underground wiring would take care of major problems. She asked Mr. Dusey what happened in previous storms to which Mr. Dusey responded there is a Plan for all of the Departments in the Town and there are a number of volunteers who will be in the Town Hall facility and equipment would be on the Island and after the storm, they hoped to be able to respond and clear the streets. He believed that Hurricane Andrew taught them that this particular Plan was not necessarily practical as a facility such as the Town Hall in that kind a storm would probably not withstand a storm such as Andrew.

Mr. Dusey believed that the Public Works Facility would probably not withstand a Category 2 storm, as it is an old metal building. Mrs. Douthit believed a Workshop meeting should be held to discuss this in great detail, as if everyone leaves, it would be an opportunity for looters. She wondered if the hurricane storms of the forties were categorized as Category 4 or 5 or whatever.

Mrs. Wiener indicated she does not have a problem in having a workshop meeting, as she believes there are a majority of the Council who are not in favor of storm proofing the Public Works facility.

Mr. Doney agreed this was a very broad issue as there is a Plan for all types of emergencies which will eventually come to the Town Council for their action, but the issue of storm preparedness and all that has been learned from past storms and a lot of improvements have been already made in the Storm Preparedness Plan.

Mr. Weinberg suggested there be two workshops, one for the staff alone to study the circumstances and come up with a full agenda and then the Council meet to study the staff's recommendations and the information they would have on hand would be helpful for the Town Council to make some hard decisions.

Mrs. Wiener thought there needed to be some alternatives, as she would never go along with a program which demands an employee put themselves in jeopardy.

Mayor Ilyinsky agreed with what has been said and they keep talking about what has been learned and he asked if perhaps a delegation be assembled and sent to Charleston, S. C., and ask them what they are doing. Mr. Dusey recalled there was a delegation from Charleston who went on tour and did educate the rest of the country on their experiences. Mr. Doney recalled information has been received from that part of the country as well as from the survivors of Hurricane Andrew, and in terms of post storm assessment and all of the information was taken and one of the things the Town will do under any circumstances, is be a part of the Carenet association and that was a major lesson learned from Andrew. He noted if there are 37 cities calling Mr. Kennedy, there would be a lot of mixed messages as people are in a panic and they now have a system which would simultaneously broadcast the information on evacuation to all municipalities.

He believed there were many other learning experiences which they factored into the Departmental Operations Plan, as there are pre-storm and post-storm operations.

Storm Proof Public Works Facility

Mayor Ilyinsky stated he was not referring to communications but he is talking about the armoring of the building in West Palm Beach and he was asking what did they do in the City of Charleston? Mrs. Smith recalled the City of Charleston has not yet rebuilt and they were not prepared for this particular storm. Mrs. Smith thought the staff needed to accumulate all of this information and then make it available to the Council and to the public and it could be studied prior to the discussion.

Mr. Dusey reported he and Mr. Elwell have assembled lots of information on this. Mrs. Royal suggested that Mr. Dusey and Mr. Elwell look again at what the Town can do together with the FEMA folks and the County and if the County is putting in resources, perhaps the Town could have a place in the County's building. Mrs. Douthit did not think that was feasible as they wouldn't be able to get off the island. Mrs. Royal indicated she was talking about a command center.

Mrs. Wiener asked that the staff prepare a package of information for each member of the Council which will lay out all of the items that are recommended by the staff and also that the armoring of the building be at the bottom of the package.

Mr. Doney stated this was only one issue to be considered. Mrs. Wiener stated she knew that but after the Council has an opportunity to digest the information which will be brought to them, then a workshop should be held.

Mr. Doney advised he will provide that information to the Mayor and Town Council, noting the bottom line issue is personnel and how long they would be allowed to stay on the Island.

Mrs. Wiener asked if perhaps this should be considered by the Administrative and Personnel Committee to which Mr. Doney did not agree. Mrs. Smith recalled a lot of people do leave the island but a lot of people do stay on the Island and she wouldn't tell an employee that they had to stay on the Island at the risk of their life, to which Mrs. Wiener totally agreed.

Mayor Ilyinsky did not believe they could let all of the policemen leave the Island because they want to be with their families. Mrs. Smith stated she would not tell them what they can or cannot do.

Mrs. Wiener moved that the staff prepare the documents talked about and see that the Town Council and Mayor are provided with these documents as soon as possible and once they have had a chance to digest the documents individually it would then be time for the Council to set a date for a Workshop. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Interlocal Agreement re: water supply with WPB

3. Status Report on Proposed Interlocal Agreement Regarding Potable Water Supply with the City of West Palm Beach - Attorney Randolph recalled the Council asked him to move forward on this and he wrote the City Attorney for West Palm Beach and expressed the concerns of the Council that the negotiations were not proceeding and requested the matter be taken back before the West Palm Beach City Commission. He has received a letter from Mr. Patrick N. Brown, the City Attorney from West Palm Beach and the City Commission is now willing to recommence the negotiations to address the issues. He pointed out there was no official vote taken, but Mr. Brown feels the City Council is now willing to proceed.

Mrs. Wiener recalled during the negotiations the Town Council had a certain level of comfort as the City of West Palm Beach had made some comments during those negotiations of two years that they would not leave the Town high and dry and now they seem to be backing away from. She felt it was incumbent upon them to follow through on their promises and she asked the Town Attorney indicate to them that the Town was relying on their presentations and the fact that somebody new has been hired by the City does not change their word. Mr. Weinberg thought they should also be reminded the Town is one-third of their business.

Mr. Doney thought it might be helpful to go back to the results of the water study and staff could make some recommendations and strategies could be formulated and presented to the Council and consider with West Palm Beach as part of what needs to be done and he will report to the Council what legally the staff believes is the best course of action and this can be done in December or January.

Mrs. Smith believed they were playing games as the attorney states in his letter that they would recommence the negotiations and asked Mr. Randolph how close did he think they were in these negotiations to reaching some type of an agreement?

Mr. Randolph responded he did not think they were close at all as those things that were accomplished over the two year period are not there. He believed they would be looking at a Franchise Agreement which will be quite similar to the Franchise Agreement the Town had before with the City of West Palm Beach with some modifications in the language to address some of the concerns, but not the substance of those concerns.

Mrs. Smith noted they were talking "Franchise" and the Town Council was talking "Inter-Local" and asked if the Town Attorney was going to be able to put it all together? Mr. Randolph did not think franchise versus Interlocal was a big deal, as he thought the surcharge issue was an important issue and that is a matter of substance. He thought the cap on the rate making authority was also a matter of substance and there were other items which the Council thought were extremely important and those are the things that will not be contained within the Draft.

Mrs. Smith asked if there was any point in writing another letter stating we want to negotiate? Mr. Randolph believed it did make sense to advise him that if they are planning to come back with something they do so soon.

Mrs. Royal stated she felt strongly that the Town needed an oar and if they don't come through, what actually will the Town be doing? She thought they needed some kind of a back-up position. Mrs. Wiener did not think so as they have gone through all of that. She believed the Town was relying on all of the things that the City of West Palm Beach has said to the Town over the two years and had they not had those assurances, the Town might have moved forward with the other options that were available to them. She thought it was incumbent upon the City of West Palm Beach to move forward with this in a way that has been discussed. Mayor Ilyinsky agreed.

Interlocal Agreement re: water supply with WPB (cont'd)

Mr. Weinberg asked what was the attitude of the water experts who have represented us over the years? Mr. Randolph advised they have not been involved in these negotiations. Mrs. Douthit recalled they were dismissed. Mr. Weinberg pointed out they are the experts. Mr. Randolph understood that but because of the request of the Council, they have not been involved but they could ask them their direction. Mrs. Wiener stated they are not talking about water expertise at this point, but the contract itself.

Mr. Doney suggested they break it down into the pieces as they have the Water Supply Study from James Montgomery, Engineers; and also the consulting services for William Sundstrom and where it was left off previously with the Town Council is that on a limited basis, they would use the consultants with bridging information to take them forward with the negotiations with the City of West Palm Beach.

Mr. Doney believed that staff wise and with the Town Attorney, they can come up with some strategy and bring it back to the Town Council and if necessary, will consult with Mr. Osterman and come back with a recommended course of action.

Mrs. Wiener suggested they move on as the staff knows what the Council wants.

XIII. NEW BUSINESS

New Business

A. Ordinances - First Reading

1. Ordinance No. 29-93 - Amendment to Building Code Based Upon Hurricane Andrew Report by Building Code Advisory Board of Palm Beach County - Attorney Randolph read the Ordinance No. 29-93 by title:

Ord. 29-93

AN ORDINANCE OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 5, ARTICLE IA., "BUILDING CODE",OF THE TOWN OF PALM BEACH CODE OF ORDINANCES SECTION 5-22"AMENDMENTS" TO THE ADOPTED 19 STANDARD BUILDING CODE; PROVIDING FOR ADDITIONS, CHANGES, AND DELETIONS TO ADOPTED AMENDMENTS, INCLUDING A NEW SECTION ON "STORM SHUTTERS"; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Mrs. Wiener moved for adoption of Ordinance NO. 29-93. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Mrs. Smith asked if there were any requirements for storm shutters on new construction? Mr. Moore responded the standards would need to be developed in accordance with the wind loads of the Building Code, which will eventually require a flying debris or missile test, which has not yet been established.

2. Ordinance No. 30-93 - Amendment to Plumbing Code - Mr. Randolph read the Ordinance No. 30-93 by title:

Ord. 30-93

AN ORDINANCE OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 5, ARTICLE IV., "PLUMBING" OF THE TOWN OF PALM BEACH CODE OF ORDINANCES SECTION 5-165 AMENDMENTS TO THE 1991 STANDARD PLUMBING CODE; PROVIDING FOR ADDITIONS, CHANGES AND DELETIONS TO THE ADOPTED AMENDMENTS, INCLUDING A REQUIREMENT TO SIGHT-SCREEN BACKFLOW PREVENTION DEVICES; PROVIDING FOR SEVERABILITY;REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Mrs. Wiener moved for adoption of Ord. No. 30-93. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

3. Ordinance No. 31-93 - Tax Abatement for Historic Properties - Mr. Randolph read the Ordinance by title:

Ord. 31-93

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH,PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 16 OF THE TOWN CODE OF ORDINANCES AT ARTICLE III RELATING TO LANDMARKS PRESERVATION SO AS TO PROVIDE A NEW SECTION 16-49 TITLED "TAX EXEMPTIONS FOR HISTORIC PROPERTIES";AUTHORIZING AD VALOREM TAX EXEMPTIONS FOR HISTORIC PROPERTIES; ESTABLISHING REQUIREMENTS AND PROCEDURES; DESIGNATING THE LANDMARKS PRESERVATION COMMISSION TO REVIEW AND REPORT ON APPLICATIONS; ESTABLISHING PENALTIES; REPEALING ALL ORDINANCES OR PART OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

Mrs. Douthit moved for adoption of Ordinance No. 31-93. Seconded by Mrs. Wiener.

Mr. Adrian Winterfield addressed the Council wondered if the Palm Beach County Property Appraiser would be adjusting the taxes in the other districts, such as School Board and County taxes, and presumably the Town would make a rebate to those who merit exemption and asked if that was the procedure to which Mr. Randolph responded they do not yet know how the Property Appraiser's Office will be handling this matter. Mr. Winterfield asked since the Property Appraiser has discretion to allocate the assessment to land and building values, they will run into a strange situation as when the land value is raised considerably and the building value is diminished, there will be a deduction in the building value and asked how that would be handled to which Mr. Randolph responded the Town is actually providing the vehicle for a homeowner to have the ability to have the tax abatement and how this will be handled at the Appraiser's Office is not known.

On roll call, the motion carried unanimously for approval.

4. Ordinance No. 32-93 - Amendments to Ordinance Regarding Newsracks - Attorney Randolph read the Ordinance No. 32-93 by title:

OPD. 32-93

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES AT CHAPTER 10, ARTICLE VII, DIVISION 2, RELATING TO NEWS RACKS, SO AS TO PROVIDE A NEW SECTION 10-171, PROVIDING THAT NEWSRACKS LOCATED WITHIN AREAS OF THE TOWN DESIGNATED AS HISTORIC DISTRICTS SHALL BE ENCASED WITHIN STRUCTURES PROVIDED BY AND APPROVED BY THE TOWN; PROVIDING THAT FORMER SECTION 10-171 BE RENUMBERED TO SECTION 10-172; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Motion was made by Mrs. Wiener to approve Ord. No. 32-93. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Mrs. Wiener moved Ord. No. 32-93 be approved. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Ord. 33-93

5. Ordinance No. 33-93 - Amendments to Ordinance Regarding Historic and Specimen Trees Attorney Randolph read Ord. No. 33-93 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN AT CHAPTER 23, ARTICLE II, RELATING TO PRESERVATION OF HISTORIC AND SPECIMEN TREES,SO AS TO AMEND SECTION 23-15 THEREOF RELATING TO PROCEDURE FOR DESIGNATION AT SUB ITEM (b), SO AS TO PROVIDE FOR THE RECORDING IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, DESIGNATIONS OF HISTORIC TREES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Mr. Doney asked for Council direction on this with regards to the public hearing. Mrs. Smith understood that when this was discussed, it was decided there would be a public hearing and the trees to be designated would be advertised.

Motion was made by Mrs. Smith to approve Ord. No. 33-93, seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Mr. Winterfield thought it might be a good idea to specify that those trees which have been designated are still designated until the new hearing is held. He hoped that a decent data base be prepared as he believed it was done by the name of the plant and it should be by address and legal description as well as the name of the plant.

Mr. Doney advised the public hearing will not be held in February or March. Mrs. Wiener felt it should be sooner. Mrs. Smith noted the list is already compiled and the trees are inspected once a year and this is not a big problem.

B. Resolution

Res. 42-93

1. Resolution No. 42-93 - Establishing Commercial Solid Waste Collection Fees - Mr. Randolph read Res. No. 42-93 by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, ESTABLISHING COMMERCIAL SOLID WASTE COLLECTION FEES TO BECOME EFFECTIVE JANUARY 1, 1994.

Mr. Dusey recalled this was authorized several months ago. Mr. Weinberg asked if there were any difficulties with it to which Mr. Dusey responded not this part of it, no, but the transfer from contracted services to sole provider which will be charged to the owners of the properties for solid waste collection and disposal.

Mrs. Wiener moved Res. No. 42-93 be adopted. Seconded by Mrs. Royal. On roll call,the motion carried unanimously.

Victor Sanelli with Florida Sanitation addressed the Council indicating he has been servicing the Town since 1980 and possesses an occupational license. He had a question as to whether these rates were for all garbage service seven times a week and for trash pick-up. Mr. Dusey responded these rates are for levels of service which have been in effect for many years. Mr. Sanelli commented if a property owner could have the garbage picked up less times a week, it could be substantially cheaper for the property owner, recalling he has an account which he collects twice a week and now they are going to pick up five days a week and he thought was a lot of effort on the Town's part to pick up five days when they actually only need service twice a week.

Mrs. Wiener stated this is a policy set by this Council and the reason it has been changed so everyone in the Town is uniform. Mrs. Smith asked if the Town was contracting out part of the collection? Mr. Dusey stated they did bid for the compact services as they can't handle it with the Town's equipment.

C. Bid Award

Bid Award

1. Sealed Bid No. 94-002 - Contract Collection of Compacted Garbage - Mr. Dusey noted the bids were opened last week for the collection of compacted garbage with the Town being the contracting agent and five bids were received and they were for the level of service the Town currently requires by Ordinance. He stated there were concerns expressed by a number of the contract haulers and Mr. Randolph and he met with them last week and believed they came to an amicable solution to a conflict which may exist with the existing contracts in the Town taking over the services, and believed it has been rectified and what he is recommending that the contracts be allowed to continue until they expire at which time the Town will take over. He noted the contract services will have to meet their service level requirements and the major contractors have agreed to that but he was not sure if Mr. Sanelli was willing to agree to that.

Mr. Senelli noted he has a hardware store as a customer and he only has a collection twice a week and under the new Ordinance, he would have to go there five times a week and he thought it was senseless for his truck to go there and he wondered if he could work out the contract at the two pick-ups a week and when the contract expires, they can go on the five day a week. Mr. Dusey stated they could not do that as it is a public service they are trying to maintain here for all in the Town.

Mrs. Wiener was sure there was a cancellation clause in the contract, indicating there has to be uniformity and that is what the Ordinance is all about. Mr. Senelli felt they were eliminating private enterprise in the Town. Mrs. Wiener noted he was the only one here to talk against this and he evidently was not in a majority and the Council believes this Ordinance is for the benefit of the health and welfare of the residents of this Town.

Mr. Dusey asked that all bids be rejected as they are looking at alternatives.

Larry Marchbanks on behalf of Palm Beach County Sanitation, Inc. encouraged the Council to follow the recommendation of Mr. Dusey to reject all bids as they have negotiated an agreement and they do believe the resolution is a good one but they be allowed to finish out the terms of their contracts.

Mrs. Royal asked before they move on, she would like to review the Ordinance 31-93 on the abatement of tax for historic properties, and it is not that she is against the Ordinance but hoped that this would generate a lot of interest of property owners in Palm Beach and more people would want to have the Landmarks Preservation Commission review their properties. She asked if they could look at the possibility of charging a fee to have the properties reviewed. Mr. Weinberg noted they have gone past this Ordinance and have approved it on first reading. Mrs. Royal commented they went past it so fast before she had an opportunity to bring this suggestion to the Council. Mrs. Wiener suggested it be brought up under Any Other Matters. Mr. Weinberg indicated he wished to return to the agenda.

D. Other

Banking Services - First Union

1. Consideration of Renewal Agreement with First Union National Bank for Banking Services for FY94 from December 1, 1993 to November 30, 1994 - Mr. Doney advised this is for the day-to-day banking services which are handled by First Union and there is an option to renew for one year, and there is a thirty day cancellation clause if services are not satisfactory. He reported they have had good experience with First Union National Bank and he recommended the Town Council authorize the Town Manager to execute an Agreement with First Union for an additional year with the period running from Dec. 1, 1993 through November 30, 1994 for the banking services as outlined in attachment to Mrs. Crozier's memorandum dated 11-3-93. Mrs. Wiener moved to renew the agreement with First Union National Bank for banking services for FY93-94 from Dec. 1, 1993 to November 30, 1994 in accordance with the conversations the Council had earlier today. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

XIV. APPROVAL OF WARRANT LIST AND FUND EXPENDITURES FOR OCTOBER 1993 - Motion to approve the Warrant List and Fund Expenditures for October, 1993 was made by Mrs. Wiener, seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

XV. COMMUNICATIONS FROM CITIZENS - Mr. Winterfield addressed the Council asking about the Mar-a-Lago Agreement noting this has been recorded with the page on which the mortgagee's signature should appear left in blank. He thought it was irrelevant that the applicant is purchasing other properties in the area and wondered how much more comfortable would the Town's position be if the applicant's attorney was told that the mortgagee sign the Agreement.

XVI. DEVELOPMENT REVIEWS

Dev.Reviews

Major Matters considered by Architectural Commission

A. Major Matters Previously Considered by the Architectural Commission at Their Meeting of October 27, 1993 - Excerpt Available in Town Manager's Office - Motion was made by Mrs. Wiener, seconded by Mrs. Douthit to approve the Major Matters considered by ARCOM on 10-27-93. Motion carried unanimously.

The major matters were:

B60-93 - New residence for Dr. Michael and Virginia Longo, 210 Colonial Lane - Deferred.
B69-93 - New residence for Solcon, 3000, 1332 N. Ocean Blvd. Approved conditionally
B72-93 - New residence for James H. Kimberly & First National Bank in Palm Beach as Trustees, 1330 N. Lake Way. Deferred.
B74-93 - New residence for Mr. & Mrs. Irwin H. Kramer, 1295 S. Ocean Blvd. - Approved conditionally.
B75-93 - New residence for Renate and Thomas McKnight, 310 Clarke Avenue - Deferred.
B66-92 - Driveway revision for Sandy Pam Beach Property, 248 Bahama Lane - Approved conditionally.
B34-93 - Revised Landscaping for Mr. & Mrs.Boutell, 240 Tangier Avenue - Approved.
B49-93 - Revisions to a previously approved renovation for Mr.. & Mrs. Robert DeMario, 275 N. County Rd. - Approved with conditions.
B34-93 - Landscape Plan for Robjo, Inc., 125 El Mirasol. Approved.
B54-93 - Change to windows for Palm V. Associates, c/o Love Realty, 239-240 Worth Avenue - Approved.
B69-92 - Revisions to landscaping for Malcolm Healy, 1341 S. Ocean Blvd. - Approved.
B31--93 - Revisions to entry for Gilbert Thompson, 109 El Mirasol. Approved.
B77-93 - Demolition and new residence for Mr. & Mrs. Engelstein, 102 Banyan Rd. - Deferred new residence. Approved conditionally the demolition request.
B78-93 - Additions to residence of Mr. & Mrs. Sam M. Fleming, 365 N. County - Approved.
B79-93 - Demolition of residence at 300 Tangier Avenue for Mr. & Mrs. Robb Alan, Approved conditionally.
B80-93 - New residence for Mr. & Mr. Harding Willinger, 324 El Bravo Way. - Approved conditionally.
B81-93 - New Studio for Mr. & Mrs. Stephen Levin, 446 N. Lake Way - Approved.
B82-93 - Addition to residence of Mr. & Mrs. Robert Wyner, 250 Country Club Rd. - Approved.

Arch.Comm. Major Matters (cont'd)

B84-93 - Addition to residence of Carol Martino, 144 Seminole Avenue - Deferred.
B85-93 - Carport Awning for Joyce and John Alban, 422 Australian Ave.
B86-93 - Demolition and new residence for Sidney Kimmel, 1236 S. Ocean Blvd. - Approved conditionally.

1. Appeal

Appeal of Arch. Comm. decision - Sandy Pam Beach

a. No. B66-92 - Appeal of Architectural Commission's Decision to Deny a Second Driveway Cut by Sandy Pam Beach Property, Inc. - Mr. Moore noted this is an appeal and the request by the property owner is to have an additional driveway. Attorney Randolph advised the alternatives available to the Council on this matter, reporting there was a letter appealing this matter dated Nov. 7, 1993, noting under the Ordinance it is required that when an appeal is filed a decision be rendered within 30 days of the Notice, unless the applicant agrees to extend that time. He advised the Council may either:

1. Hear the appeal today;
2. Hear the appeal within thirty days of the notice of the appeal, at a special Town Council meeting;
3. Hear the appeal at the next Town Council meeting, if the applicant would agree to waive the thirty day regulation.

Attorney Robert Deziel addressed the Mayor and Town Council explaining he is representing Sandy Pam Beach Property, whose principals are Sandy Weinstock and Pamela Dunston and he would like to proceed today with this appeal.

Mrs. Wiener asked if all of the neighboring property owners have been advised of this matter to which Mr. Moore responded he has advised those he could reach by phone. Mr. Weinberg did not think that was enough notice. Mrs. Douthit noted there was only one objector. Mrs. Smith asked if this was the procedure applied by the Town for all appeals and did the neighbors have to be notified within a certain period of time. Mr. Randolph responded that is not a requirement. Mr. Weinberg asked Mr. Deziel to proceed with his presentation on the appeal.

Mrs. Douthit thought this was being carried a bit far to hear the appeal at this time.

Mrs. Royal asked if everything has been done to give everyone ample notice about this appeal? Mr. Randolph responded there is nothing in the Ordinance which requires notice be given to the neighboring property owners. Mr. Weinberg asked Attorney Deziel to proceed.

Attorney Robert Deziel addressed the Council noting this is an appeal of the Architectural Commission's denial of the applicant's request for a curb cut on October 22, 1993. He asked the Council to overturn that Architectural Commission decision.

He wished to present the following elements in support of this:

1. The request is consistent with the purposes and goals of the Architectural Commission;
2. The house that was razed on the property had three curb cuts;
3. Nine of the twenty homes on the street have at least two curb cuts and two have three curb cuts;
4. Twelve of the twenty-one houses on the street have a front loading garage;
5. The requested curb cut will be only 11' in width which is three feet less than the standard 4';
6. The house across the street has 30' of curb cut and the subject property will have only 25', which is 40% less than the house across the street and 80% less than previously existed at the same property;
7. The Town authority which approves curb cuts has no objection to the applicant's request;
8. No criteria has been found under Section 5.387 of the Architectural Commission Ordinance pursuant to which the application has been denied;
9. The applicant is sensitive to the neighbors' concern about the request, however, the current situation would not allow enough room for a smooth flow of vehicular traffic from the street to the garage and from the garage to the street.
10. The policy on this issue as discussed at the Architectural Commission's meeting was:

    a. Public Works is the appropriate authority to issue the approval for the curb cut; and
    b. Ninety-nine out of one hundred curb cuts are approved.

He requested the Town Council overturn the Architectural Commission's decision of Oct. 27, 1993 when the applicant was denied an additional curb cut.

He confirmed that the applicant's garage was the only front loading garage in this area which had sightscreening. He noted the neighbor across the street who has objected is the only resident on this street who does not have a garage.

Mr. Moore reported his recollection of the Architectural Commission's proceeding is there was no formal denial of the application, but a compromise was worked out by the Architectural Commission with the architect, Mr. Smith, and it was that there be a modification of the existing driveway. He advised it has been the goal of the Architectural Commission that every new home contemplated to be built in the Town have a side loading garage and in lieu of that, oft times sight screening would be provided. He noted this is not a criteria written anywhere in the Ordinance, but is referenced in the fact that ARCOM tries to review each application as to how it would relate to the existing homes within 200'. He noted the handout distributed by Mr. Deziel does show there are front and side loading garages.

Mr. Moore stated the appeal is to have two driveway cuts, recalling there are several homes along this street which have two or more driveway cuts and a determination must be made as to whether that would be appropriate or not. He believed there was some advantage to hear from the people who objected to this at the Architectural Commission meeting.

Joanna Frost-Golino, Chairman of the Architectural Commission, addressed the Council, noting when ARCOM reviewed the plans on 8-26-92, the minutes state the garage door faces the street but

Sandy Pam Beach Prop. (cont'd)

the front motor court has a center entrance and the garage doors are sightscreened from the street. She recalled the newer projects before ARCOM recently have not been approved if there were garage doors facing the street. She recalled the applicant's proposal was almost a hardship situation as the lot is very narrow and the house was pushed towards the street and appeared very tall and ARCOM felt strongly that it should have only one center cut and that would be it, and the garage doors would be screened. She stated this motion carried unanimously with conditions.

She recalled the landscape plan was approved in the Spring of 1993 and it was her recommendation that there be additional sightscreening. She stated now the applicant comes before them with this request which she finds unacceptable because of all they had gone through to sightscreening the property. She stated this is a difficult decision since the lot is narrow and it faces the golf course and it is a tight situation. She requested the Council to uphold the Architectural Commission's decision.

Mrs. Smith asked if the landscaping plan could be discussed as she was the Chairwoman of the Architectural Commission in 1992 when this project was approved originally. She recalled one of the problems the Commission faced was this was a substandard lot and ARCOM at that time was trying to discourage front loading garages, although at that time there could have been a circular driveway put in front of the house, but that was not the Plan submitted to the Architectural Commission. She advised the landscaping plan approved is not the landscaping that now is in place and she wondered if there was a new landscaping plan submitted when they came in to put in a second driveway. Mr. Deziel did not recall but felt if they agreed to a landscaping plan that was approved, that landscaping plan will be implemented.

Mrs. Wiener asked how they got to the point where they are now? Mr. Deziel responded that the homeowner found when building this home that the way this was originally designed needed to be revised as a practical matter, as it would not work as originally designed. He advised they are not coming in to make a ruckus but they wanted to make a change since the original plan did not work. He didn't believe they were asking for anything that they were not entitled to as they felt this revision would help the home work and for that reason they are before the Council today.

Mr. Deziel recalled the request by Mrs. Golino that there be additional landscaping provided was not approved, and it is not the case that every one in Town has sightscreened garages. He advised the applicant has a hedge which screens out the garage and that has been the standard applied by ARCOM in the past, and he wanted to be clear on the point they are not coming before Council asking to bend the rules to get something that they need to make the house work better, but are coming before the Council following all the rules and now wish to a change which will follow the rules and which would allow the home to work better.

Mrs. Royal asked if the second cut were allowed, would they still have the garage entirely screened? Mr. Deziel responded affirmatively.

Mr. Richard Cahall, 249 Bahama Lane, addressed the Mayor and Council, indicating he and his wife live directly across the street from the project and they are in support of the ARCOM decision. He noted a letter has been sent from several of the neighbors who also support the ARCOM decision and requested the Council to support that decision.

Mrs. Wiener noted the letter which has been sent had a statement in it which states the house occupies an enormous percentage of the lot and asked Mr. Moore if this was more than what was allowed? Mr. Moore responded the lot has a 28% lot coverage and 30% would be permitted under today's Ordinance, however, the landscaping provided is what is required.

Mrs. Wiener announced she normally does not make site visits on matters that are coming before the Council, but she did drive by this one and she thought it stood out like a sore thumb and was not similar to anything in the neighborhood. She believed it must have been a major compromise for ARCOM to initially approve this. Mr. Deziel responded there was no compromise at the ARCOM meeting of 10-27-93. Mrs. Wiener stated she was not talking about that meeting but past compromises in order to get this house built. Mr. Deziel pointed out that is not an issue before the Council today and the issue before them today is the limited scope of the additional curb cut and he didn't believe the word "compromise" belonged in this conversation. He believed a compromise was an understanding between the two parties and that was not the case here.

Pamela Dunstan, one of the principals of the corporation, addressed the Council advising that originally when this went through the Architectural Commission, it was approved unanimously with all of the neighbors present who applauded the design as although it is not the Bermuda design of the street, it is a traditional design. She advised there was no compromise initially and the neighbors were very happy with the design. Mr. Weinberg noted the original design had a single entrance to which Mr. Moore and Mr. Deziel agreed. Mr. Weinberg stated that evidently is where the error lies. Mr. Weinberg noted Mr. Deziel stated that ARCOM stated what they would give the applicant and asked Mr. Deziel what that was. Mr. Deziel responded it was a single curb cut and he did not accept it as it did not mitigate the problem.

Mrs. Joanna Frost-Golino again addressed the Council recalling there was a compromise and it did not sail through ARCOM, noting this is a narrow lot and ARCOM does not approve front loading garages. She stated it was ARCOM's understanding that they would screen this lot heavily and the compromise was to allow it with the landscaping.

Mr. Moore requested permission to correct something for the record, noting it has been referred to as a narrow lot and it is 113' wide which is thirteen feet wider than the minimum lot. He noted it is 90' in depth.

Mr. Weinberg asked if a wider single driveway would take care of the problem to which Mr. Moore responded it would not necessarily. Mrs. Smith believed if it had been laid out differently in the initial presentation there could have been a circular driveway, but because it is a narrow lot north-south, the pool had to be placed on the east side of the house. Mrs. Smith asked what landscape plan had been approved for this house as she didn't believe it was the one before them today. She knows they are not discussing the house, which she thinks is massive but she did not think an 18' wide drive would be attractive and it would look like a parking lot.

Mrs. Douthit thought perhaps they could narrow the central opening and then possibly permit the 11' westerly opening. Mrs. Smith did not agree as she thought 11' was too wide.

Sandy Pam Beach Prop. (cont'd)

Mr. Deziel recalled the house which previously existed had three curb cuts, one of which was exactly where the new one was requested to be installed. Mrs. Douthit did not believe it was the same footprint. Mr. Deziel agreed, but noted it would still have the same number of cars coming and going.

Mrs. Royal asked Mr. Dusey if he thought there would be a problem with regards to the safety of children playing in the area if the two driveway cuts were allowed and would it compromise safety? Mr. Dusey responded he did not believe so. Mr. Deziel asked if Mr. Dusey could answer the question whether or not the two driveway cuts would actually be safer as he thought it was. He stated his client would be willing to enhance the already approved landscape plan and the additional landscaping could be the compromising factor and they would be glad to proceed on that front.

Mrs. Smith was not sure that "enhance" was the word as the photographs show the landscaping is in place and she thought there was a lot of confusion and she didn't believe a wider central opening was the answer, and she moved that this be sent back to the Architectural Commission and let them work this out. She did not believe it was up to Mr. Dusey to decide whether or not a side entrance was appropriate or not appropriate and there seemed to be too many elements which went unanswered.

Mrs. Smith noted the Architectural Commission did not deny the application but merely recommended that the central opening be widened as a compromise and she felt the place to work this out would be at the Architectural Commission, looking at an amended landscape plan and she so moved. Seconded by Mrs. Wiener.

On roll call, the motion carried 4-1 with Mrs. Royal voting against the motion.

B. Variances, Special Exceptions and Site Plan Reviews

<u>Old Business</u>

Var. 40-93

1. Variance No. 40-93 - Howell Van Gerbig, Jr., 12 Via Vizcaya; to allow installation of driveway gates in the front yard setback 4' in lieu of 15' required. R-A District. Deferred from October 12, 1993 Meeting This matter was withdrawn earlier in the meeting.

Var. 45-92

2. Consideration of Request for Time Extension Until 2001 by James McCartney Wearn - Variance No. 45-92 with Site Plan Review - Allied Dunbar Property, Inc., 237-243 Worth Avenue; to allow modification of a nonconforming property; applicant proposes demolition and partial replacement which would bring property into conformity in all areas but parking; the parking nonconformity would be reduced from a 94-space deficit to 44. C-WA District. Attorney James Wearn addressed the Council representing the owner of the property at 237-243 Worth Avenue, who he represented when the variance was heard originally. He advised the applicant is requesting the Town to clarify to allow to the end of existing tenancies as a reasonable time under the circumstances within which to permit and begin the construction n the second phase of this approved phased project.

He recalled the project was approved as a phased project, with the first involving the new tenancy of Georgio Armani and all work was completed and the common landscaped areas were done immediately after the variance was given. He stated the work accomplished is reflected on a drawing where the rear building which was a restaurant was torn down and additional space was constructed on the back of the existing building on the west and a building area as part of the second building from the west was filled in and the landscaping was installed to completion.

He advised the only portion which has not yet been completed is on the back of the existing buildings and is tied to this request through the tenancies of the three stores which are there. He stated the tenancies they have expiring on June 30, 1996 and October 1, 1996 and on August 31, 2001. He advised the owner would like to not disrupt the activities of these tenants and the construction should go forward and be completed which was approved.

He suggested the Town is not burdened or damaged if this extension is granted and only a portion of the demolished space is being replaced. He advised the delay in the construction would be of benefit to the parking requirement. He advised when he reviewed this with the Building Department, they indicated there was a precedent for at least a three year extension as the problem arose initially as the Ordinance states the construction must be completed within a year's time and it has been commenced and the first phase was completed on Dec. 11, 1992.

Mr. Wearn noted that since that time clarification has been received from the Building Department and an additional year had been granted from completion of the first phase and the second phase must begin. He stated it is that question that has brought them here with regards to tying the phasing into the tenancies as they did on the first variance.

Mr. Wearn understood that if three years were granted, that would be at 1996 and the construction could not go on from December of 1996, so if Council was inclined to follow that recommendation, he would request that they go though 1997, to allow the construction period to be to the end of 1997 without prejudice to whatever request had to be made for that one additional and last tenancy.

Mr. Moore recalled the precedent was the Colony Hotel when they asked for phasing over a maximum three year period of time. He believed the points made by Mr. Wearn on the part two phasing involving the three stores are well taken, noting the Town would not be harmed on the short term delay of building over the next two to three years. He thought any agreement reaching into the year 2001 would be beyond the spirit of the development review agreement that would be entered into at one period of time and be completed many years down the road. He advised there is no objection about the two issues into 1996 and Mr. Wearn is correct in that they could not issue a permit and would have to wait until May 1997 until the permit could be issued. He suggested if they were going to approve this it should be the May 1, 1997 date that they consider.

Mrs. Douthit asked when the leases expired on the three shops? Mr. Wearn responded one on June 30, 1996, one on October 31, 1996 and the other on August 31, 2001 and that is why they asked for the full amount of time so as not to disrupt those tenancies.

Mrs. Smith asked if they had any proposed tenants in mind for the proposed construction? Mr. Wearn advised the tenants are there now as they have signed leases that go through the dates he indicated. Mrs. Smith asked if after the construction is completed, have the shops been designed for a tenant who will go in there in 1997? Mr. Wearn advised they do not have tenancies beyond the periods they have requested. Var. 45-92 (cont'd)

Mrs. Smith noted he is asking for permission to extend and complete the footprint and wondered if he had tenants to go into those stores, except for the one, in 1997 or is he asking for approval on something that is in effect a myth? Mr. Wearn stated they are going to do the construction but do not wish to disrupt the tenants and want to do it after the tenancies are over and before new ones come in. Mrs. Smith commented the building ownership could change hands and what would stop them from coming back in 1997 with a set of building plans for approval to do this and why should they not do that?

Mr. Wearn was not sure he was following her question. Mrs. Smith stated she doesn't totally understand why he is here today in November of 1993 asking for approval for something that will happen in May of 1997? Mr. Wearn verified the approval has already been granted and the phased projects were approved, however, the time period for when the second phase would begin was not specified and they are here to clarify the specification of when the second phase was to begin. Mr. Wearn stated the Building Department has made the statement that the building permit must be applied for within a year's time after the first phase, which would mean Dec. 11, 1993 and that is why they are here. He doesn't want to disrupt the tenancies and have the project proceed the way it was originally contemplated, and that work would be done in the phasing when the tenancies have expired.

Mrs. Smith understood it was to be in two Phases but she also understood that Phase 2 would commence, even if it necessitated buying up the leases of the present tenants to meet the time. Mr. Wearn did not recall saying that. Mrs. Smith agreed he didn't but that was her understanding when she was sitting on ARCOM.

Mr. Wearn recalled he gave the presentation before the Town Council and that was not his understanding nor did he say that would be the case. Mrs. Smith agreed but it was ARCOM's thought that it would be that way as the building permit had to be issued within a certain time period and she didn't believe it was going into the next century.

Mrs. Douthit did not recall the phasing over a five year period. Mr. Moore agreed the initial request was not staged over a five year period and it was to be over two or three years and Mr. Wearn is here today to modify that.

Mr. Wearn reported there was no period of time identified for the second phase, mainly because he understood from reading the Code that it was necessary to commence the project within a year's time and that was done, however, he did not realize the Building and Zoning Department construed that the second phase had to start within a given period of time and that is the reason he is here.

Mr. Moore explained there also is a section in the Ordinance which states they need to complete within two years once a project is started. He stated the issue is in a phased job, and that was identified, how much time does he have to initiate and complete Phase 2, and that is what is at issue and Mr. Wearn wishes to modify that section of the Ordinance and is requesting an extension.

Mrs. Wiener understood the problem of the tenancy, etc., but she thought there needed to be a compromise here and she had no problem with 1996 or 1997 but going to 2001 was something that was not really expected and she didn't consider it reasonable.

Mrs. Wiener moved that this entire project, Variance 45-92, with Site Plan Review be completed by year end 1997. Mrs. Douthit stated her amazement that they had ten year leases with their tenants and she would like completion to be by the end of 1996. Motion was seconded by Mrs. Douthit if the time was the end of 1996. Mrs. Wiener withdrew her motion rejecting the amendment of Mrs. Douthit. Mrs. Wiener moved that the completion date be by the end of 1997. Seconded by Mrs. Royal. On roll call, the motion carried 3-2 with Mrs. Smith and Mrs. Douthit voting against the motion.

A short break was taken.

Meeting reconvened by President Weinberg.

<u>New Business</u>

3. Variance No. 57-93 - Mr. & Mrs. Frederick Adler, 1520 South Ocean Blvd.; to allow construction of a tennis court with a 5' south yard setback and no setback from the north property line, in lieu of the required 10' setbacks per Section 6.15 and 5.51(b)(2) of the Town Zoning Code. R-A District. - Attorney Robert Deziel addressed the Council on behalf of the applicants, Mr. & Mrs. Adler, requested a tennis court to be built in the rear yard. He advised the lot is 125' wide and the standard size tennis court is usually 120' and they are proposing on the north property to put the court at the property line. He noted the neighbors on the north also have a tennis court abutting the property line. He stated on the south property line, they are proposing a five foot setback with a 12' ficus hedge. He stated the hedge would go throughout the width of the lot and would not just be behind the tennis court. He stated it would come up to the east along Lot 3 until the wall height becomes 7'. He advised the hedge and landscaping has been installed by the residence and the intention of the drawing is to detail the proposed landscaping in connection with the tennis court request. Var. 57-93

Mrs. Royal asked how many variances have been requested on this property? Mr. Deziel recalled two that he knew of. Mrs. Douthit asked if it was the same owner to which Mr. Deziel responded affirmatively, one variance being the wall and one being an addition on the northeast corner of the residence.

Mr. Weinberg called on Mr. Moore for his comments. Mr. Moore noted the tennis court runs north/south to be playable and the variance request for the south property line is the 5' setback and staff has no problem with that, however, the request for the north side to have no setback, the

Var. 57-93 (cont'd)

staff has a problem with that and feels there should be an offset of three to five feet from the north property line in order that the hedge required can be planted and there would be room there for it to grow.

Mrs. Wiener asked Mr. Moore if the Council has previously granted zero setbacks to which Mr. Moore responded it is extremely rare, although one or two have been done through the years. Mrs. Smith asked if there could be a compromise to do a 5' wide hedge there which would block the tennis court on the north side from the neighbor's wall and match the hedge on the other side? Mr. Deziel responded he had no problem with putting a hedge in, but wondered if there was any way that they could reduce that space a little bit. He stated they will install a 12' ficus hedge. Mrs. Smith noted that would shorten the tennis court on the north side but she thought the Council would be more receptive to a 5' hedge on the north side.

Mrs. Smith made a motion to approve Variance No. 57-93 with a five foot hedge on the north and the south sides. Mrs. Wiener asked if the motion could say a 5' setback and they can do what they want with the hedge. Mrs. Smith clarified that the end of the tennis court would be five feet from the property wall. Seconded by Mrs. Wiener.

Mrs. Douthit asked if the hedge would extend to the west line? Mrs. Smith advised that was not part of her motion. Mrs. Royal stated she had a concern because of the neighbor on the south side, Mrs. Whitney. Mr. Whitney addressed the Council representing his wife, Janie, indicating the lot they have there is about the size of the tennis court requested and their bedroom would be ten feet from the property line wall and if a tennis court is installed within five feet, that would give them 15' clearance between that bedroom and the tennis court.

Mr. Whitney suggested the tennis court be placed in an east/west direction and that would allow them to have a setback. Mrs. Smith noted there is no-one living in that house. Mr. Whitney stated the house is for sale. Mrs. Smith didn't believe anyone would want to play on an east/west court, noting there is also a major elevation problem on that lot.

On roll call, the motion carried unanimously to approve with conditions.

Mr. Winterfield noted there has been new progress made on the definition of hardship as he did not believe a hardship has been demonstrated but rather this is an inconvenience. He felt there were ways of solving the problem without a variance and they have chosen to be flexible and he hoped it would not set a precedent.

Var. 58-93

4. Variance No. 58-93 - Mr. & Mrs. Bernard L. Friedman, 616 Island Drive; to allow construction of a pool cabana providing a 13' north side yard setback in lieu of 15' required. R-B District. - Attorney Robert Deziel addressed the Council on behalf of his clients, Mr. & Mrs. Friedman stating they wish to construct a pool cabana. Mr. Weinberg noted it was impossible to read the rendering on the board and asked Mr. Deziel to either have it in color or more heavily marked in the future. Mrs. Smith noted there is a handout. Mr. Deziel distributed pictures and a site plan noting the goal of the applicant is to replace the gazebo with a site built structure that will be a pool cabana and they need a 2' variance. He stated the pool deck is 6.5' and the improvements have to be by FEMA law, at 7.5' and they need to get up a foot and have to have at least two risers, six inches each and when those risers are incorporated, the treads take them back 24" and they need to have the two feet. He stated the pool house is minimal and the door must swing out and because of the configuration and being on a landing area, they need 3.5' of clearance and that is his hardship as well as the FEMA requirements.

Mrs. Wiener asked the size of the cabana to which Mr. Deziel responded 14 x 14. Mrs. Wiener suggested they have sliding doors which will take care of the door which needs to have 3.5' to swing out.

Mr. Moore reported the staff finds no hardship other than the desire of the applicant to have this design and he agreed it could be redesigned to comply with the Code.

Mrs. Smith asked if the architect could speak to the suggestion about the sliding glass door and whether the building could be squared off in the front rather than the octagon shape.

The architect felt there might be a tripping hazard with regards to the sliding glass door and with regards to the octagon shape, the request was made by the owner to have a building designed which would be more gazebo like in its appearance.

Motion was made by Mrs. Wiener to deny the variance No. 58-93. Mrs. Smith suggested a deferral so they could give it further study. Mr. Deziel stated he would appreciate a deferral. Mrs. Wiener withdrew her motion to deny and moved this Variance 58-93 be deferred. Seconded by Mrs. Smith. On roll call, the motion carried unanimously for deferral.

Var. 59-93

5. Variance No. 59-93 - Richard Toohey, 280 Bahama Lane; to allow construction of a swimming pool providing a 5' south side yard setback in lieu of 10' as required. R-B District. - Attorney Gus Broberg addressed the Council on behalf of the applicant, Mr. Toohey. Mrs. Douthit noted she sold this house to the previous owner and it is now under contract and she asked the Town Attorney if she had a conflict to which Mr. Randolph responded she has no conflict as her sale of the property was complete.

Mr. Broberg noted his client has contracted to purchase this property and the condition of the contract is that Mr. Toohey be permitted to have a variance to build a 8 x 20 foot pool at the southeast part of the property. He advised this lot borders on the Palm Beach Country Club property and there is no neighbor to the south. He stated a ficus hedge separates the properties and there will be no inconvenience to the neighbors as there is a 5' concrete wall on either side of the property. He stated his clients wish to place the pool within five feet of the boundary line instead of 10' on the south. He indicated the hardship would be to both parties if this contract falls through.

Mrs. Douthit recalled there was a easement on the south side and Mr. Broberg recalled there is a 2.5 easement on the south five feet of the property.

Mr. Moore stated there could be no pool deck or equipment on the easement to which Mr. Broberg agreed. Mr. Moore asked if there was an overhead electrical line as they could not put the pool and there can be no variance to the pool requirements in the Code to which Attorney Broberg agreed. Mr. Moore pointed the hardship is the lot is 90' in depth instead of the required 100' so staff has no objection. Var. 59-93 (cont'd)

Mrs. Royal moved that Variance No. 59-93 be approved. Seconded by Mrs. Smith with the comment that staff would check on the location of the electric lines to ensure everything complies. On roll call, the motion carried unanimously.

6. Special Exception No. 25-93 with Variance - Peruvian Avenue Corp., 240 Chilean Avenue (a vacant parcel 50'x 125'); to allow this vacant parcel to be used as a parking lot pursuant to Section 6.21(d)(1) of the Town Zoning Code, for the exclusive use of employees of Worth Avenue merchants. A variance to Section 6.21(d)(1)(b) is requested which would require the parking lot to be in the same zoning district as Worth Avenue. R-C District. Spec.Excep. 25-93

Mr. Moore explained this application is for a piece of property on the east side of the existing parking area just off of Chilean Ave. He noted several letters have been received on this. He indicated this is a request for parking for employees who work on Worth Avenue. He noted this is to replace the parking which was originally on Hibiscus which will now be a Park of the Preservation Foundation.

Mr. John Maus, 312 Worth Avenue, addressed the Council as a representative of the Peruvian Avenue Corp. of which he is a Vice-President. He stated this corporation is a collection of merchants and landowners on Worth Avenue who have collected property to insure the propagation of adequate customer parking for the stores on Worth Avenue. He stated these properties are guaranteeing customer and employee parking and the taxes on these properties is horrendous.

Mr. Maus noted the southern parking lot which lies south of Peruvian Avenue and east of Hibiscus is a transient hourly lot and people who park there are mostly customers. He stated along the perimeter of this lot and the north lot are those who work on Worth Avenue and are monthlies and they pull their cars there in the morning, leave it there all day and at the end of the day, they pull out. He stated many times as the season gets busier, it is necessary to dead pack these cars, one after another and the first car cannot get out until the three behind it leave. He advised this is done in order to provide overflow for hourly customers.

Mr. Maus commented the Chilian Avenue Lot which is bordered on the west by Hibiscus and in the corner, there is a grassy lot, which is legally described as Lot 8, and this area has not been used for parking and the request is to use this property, as it is critical with the addition of the Preservation Park which used to park 30 cars. He advised the request deals with Section 6.21 (d) (1) (b) and the portion on the Chilean side is zoned R-C; and the smaller part of the lot is zoned C-TS, which means they are dealing with two different zoning categories.

Mr. Maus stated the point is as long as Worth Avenue is there, they need to understand they cannot hamstring the street and idly sit by and see the parking being removed. He felt they needed to look to the future and in an economy such as this, additional help is needed.

Mr. Ed Kassalty, President of the Property Owners Association of Worth Avenue, addressed the Council noting one of their main problems on Worth Avenue is they cannot have more parking on Worth Avenue unless a building is actually torn down, which does curtail their parking situation. He believed that serving the people with parking comes under the category of community serving which helps the residents and the visitors to Palm Beach. He stated areas are needed for people to park their cars and he felt this was the only way they would be able to obtain additional parking.

Mr. Kassalty recalled parking garages have been talked about but they are not attractive and are costly to build and are noisy when operational. He believed this would be the simplest way to handle this as it will only be used during the daytime and requested the Council to give this application favorable consideration.

Mr. Brewster addressed the Council indicating he too is a Vice-President of the Peruvian Avenue Corp. and they are very concerned about the reduction in overall parking spaces and if they cannot provide places for their employees to park, they would have to park on the street and in a spot where a customer might park. He commented he wishes to be as sensitive as they can be to the residential side of this issue and in other areas where they have their shops in Vero Beach and Delray Beach, they have been able to settle these very sensitive issues with buffering of landscaping which has been attractive. He stated it will be monitored and managed properly by Appollo Parking.

Mr. Henry addressed the Council stating he lost eight spaces when the property on which they used to park was turned into a park and he has not been able to find replacement parking and it is inconvenient for his staff. He thought this would be an improvement in the neighborhood, especially with landscaping and it will be Town-serving.

Mrs. Douthit noted this lot is a buildable lot and is next to a parking lot. She stated there is a grassy area, 25' on Chilean and it is in a residential area and what she would like to see is the 25' in depth running north to south a ten foot planter hedge along the border up to the residential house, which would totally sightscreen this area, she may not be adverse to the application. Mr. Maus thought it was a workable situation. Mrs. Douthit thought the people who live on the other side of Chilean would not be aware that it is a parking lot.

Mr. Maus thought the future of Worth Avenue parking can lie only in the removal of Commercial Worth Avenue zoned property and that is not likely to happen which forces them into other alternatives. He stated the economy is coming back and they have to be ready for the short four to five months of the Season.

Mr. Weinberg asked what he would suggest to be done on this parking lot if he had a residence there? Mr. Maus responded he would like to see better maintenance on the northeast corner and he liked the idea of the beltway on the east side as suggested by Mrs. Douthit. Mr. Weinberg asked what if he lived in the house located there and looked out the second story window? Mr. Maus thought perhaps they could install a higher hedge.

Spec.Excep. 25-93 (cont'd)

Mrs. Smith asked if they could talk about the dirty white wall that is there approximately four feet in height and suggested perhaps it could be made higher, perhaps seven feet high, and then Mrs. Douthit's ten foot strip of landscaping and in addition to the hedge she would like to see some trees which would block out the house and be above the cars, and that would be a good landscaping buffer that would help. She believed they needed to pay more attention to the maintenance as there is a lot of garbage in the hedge that is there now.

Mrs. Royal asked what hours the parking lot would be operating? Mr. Maus advised the employees arrive at 9 AM and depart by 6 PM and it would not be used at night, except for two to four times a year when Brazilian Court looks for additional parking and purchase space for half a dozen cars.

Donald Smith of 230 Chilean Avenue addressed the Council, noting his property is one house away from the applicant's property and wishes to underline the fact that they hate to see residential property turned into parking. He knows the businesses on Worth Avenue have a terrific problem. He has lived in this neighborhood for ten years. He has sent a letter and mentioned in that letter all of the properties which have been improved in this area. He encouraged the Council to draw the line somewhere and it should be here as the Peruvian Avenue Corp. bought this property and by their own admission are collecting properties to try and improve their parking situation and he recalled hearing they need a steady growth of parking spaces for them to remain in business. He felt anything that they do here today will be a compromise but he didn't think they had a hardship, as it is self-inflicted hardship since when they bought the property they razed a house, and he didn't believe that any amount of isolation by landscaping or whatever would make a big difference as he can hear all day long the call system on the South Lot and it is a part of life. He stated the house at 234 is a two story house and the townhouses are also two story homes and they will all be looking at this lot. He stated the parking is used all weekend long and delivery trucks park there. He urged the Council to let this property remain residential.

Harry Gilbert, 234 Chilean Avenue who stated his property is right next to the proposed parking lot and he has owned the property for three years and he can give them a first hand accounting of what takes place in that parking lot, as people start arriving approximately 7 to 7:30 AM in the morning. He thought if this plan is implemented, it will be ten feet from his property and now it is 50'. He has tried to landscape his property to try and keep down the noise and if this is allowed, his property will devaluate extremely and he sees no hardship involved. He stated the north lot never gets filled more than three or four times a year.

He advised he has been working here for approximately 15 years and has witnessed the parking problems in this area and for the Council to allow parking in a residential zone on a piece of green landscaping is appalling to him. He felt the point of the whole situation is they are taking up the green space which Palm Beach stands for and putting in asphalt. He didn't believe this parking lot was going to solve the parking problem of Worth Avenue and he is not happy with it and asked the Council to not approve this request.

Margaret Smith of 230 Chilean Avenue addressed the Council and pointed out the application states the lot will be exclusively used by the employees and the merchants. She didn't believe the Peruvian Corp. had a very good track record as at least once a year they use the grassy spot in this area and the Building & Zoning Department gets a call about this. She wondered who would police this lot to ensure it is not going to be used for in and out traffic all day long. She is totally against the application but if it is granted she wished there was some way this could be monitored. She knows they have a problem with parking their cars, but it should not be solved at the expense of the residents who take a lot of pride in their homes.

Todd Kerrick, Vice-President of Appollo Parking who runs and operates the parking lot for the past fifteen years stated they do park on the grassy area when they have an overflow, which exemplified the need for this additional park. He stated when he was notified that parking on the grass was illegal, it was stopped and it will not happen again, but it does show there is an additional need for the parking. He recalled the people who did park on the grass were employees and it was not in and out traffic.

He did not agree with the statement that only three days a year is this parking lot completely full. He noted on his lot he fills the lanes for ingress and egress and he has a waiting list with 75 names on it and he cut it off at 75, or it would be higher. He stated there is a need for additional parking and he doesn't know how to solve the problem but additional parking is definitely needed.

Mayor Ilyinsky asked if it would the responsibility of the Appollo Lot to police this particular parking lot requested to which Mr. Kerrick responded it would be his responsibility. He noted there are two delivery vans which park there but they are against the fence and are not used during the weekend. He noted there is no Sunday use at all.

Mrs. Royal asked Attorney Randolph if he agreed with the first paragraph on page two of Mr. Woods' letter to Mr. Doney as Mr. Woods thought it would be a commercial parking activity which is a commercial use of the land being established in a residential zone and would be rezoning of the residential land. Mr. Randolph stated he doesn't necessarily agree with the way it is worded but is of the opinion that to allow a Special Exception for a Use which is not otherwise allowed in the District is inappropriate.

Mr. Moore advised the property was acquired by the Peruvian Avenue Corp and a home and a garage apartment did exist and was in a deteriorated condition and the first time the application came before the Council, it came under the Supplementary Parking section instead of required parking and the application was denied.

Mr. Moore recalled the Building Department notified the Peruvian Avenue Corp of the deplorable condition of the buildings and asked them to either repair or demolish them and they opted to demolish them. He recalled they again filed an application for supplementary parking and were turned down. He stated they are here again but there is an additional change as the parking that was allowed in the area which is now being turned into a park by the Preservation Foundation has displaced approximately 24 cars. He advised Mr. Zimmerman has reviewed this and it was agreed that the proper way to apply for this would be for required parking because required parking could be addressed although they have not nailed down the legalities. He believed this would be a lesser variance request that would be asked for under the Special Exception.

Spec. Excep. 25-93 (cont'd)

Mr. Randolph noted there is room for interpretation in regard to the application and it has been evidenced by the fact that the Building Department allowed this to go forward as a Variance from Section (d) (1) (b). He has a different opinion than Mr. Moore and he believes that particular section has a specific requirement that the proposed location be located within the same zoning district as the principal use for which it is designated to serve. He questioned whether or not they can by variance allow a Use which is not otherwise allowed by the Zoning Code and he explained to Mr. Moore and to Mr. Zimmerman that he did not feel this was an appropriate vehicle by which to bring this before the Council. Mayor Ilyinsky asked how he would have preferred to do this? Mr. Randolph responded there is a section under the Code which will allow for supplemental parking and he didn't know if that is appropriate as he doesn't know if this is supplemental parking or required parking. He recalled in the past the applications were for a variance to Sub Section 2, which would allow them to not have the required parking and go for the supplemental parking, to which Mr. Moore agreed.

Mr. Moore commented he understands the concerns raised by Mr. Randolph, however, Mr. Zimmerman felt, and he concurred with that opinion that the application should be submitted for required parking and he thought the two zoning districts could be used, the C-WA and the R-C as it has been done in the past in the 100 block of Brazilian Avenue for the Banks which are in another zone, and now is Island National Bank.

Mayor Ilyinsky asked if this was fair to the Council without them knowing exactly what the rules are to play the game as until the Building Department and the Town Attorney agree on the rules, he didn't believe a sensible decision could be made if the rules are not known.

Mr. Randolph agreed that it is unfortunate that the applicant comes before the Council on what has been represented to them as an appropriate procedure and now they are being advised that it is not appropriate and he doesn't know exactly how to deal with it, although he does believe there is room for interpretation on this.

Mrs. Wiener stated the Council wants to do the right thing, although they may do anything, but she would like to have something to hang her hat on and have the rules that apply to this particular situation. Mrs. Douthit asked if this should be deferred for one month until it is sorted out. Mr. Maus pointed out the season is here. Mrs. Douthit asked them to not put the pressure on the Council.

Attorney Robert Deziel addressed the Council noting he completed the application after several conferences with Mr. Zimmerman and they reviewed the R-C Schedule of Special Exception Uses and Mr. Deziel didn't even believe a variance was needed. He stated the section states supplemental parking can be obtained without a variance. He recalled they looked up the definition of supplemental parking which is it is parking over and above required parking. He pointed out the people who own the Peruvian Avenue Corp have so much footage on Worth Avenue that for them to meet their required parking provision they would have to have acres of parking. He recalled Mr. Zimmerman telling him it was not possible for them to get supplemental parking as they haven't complied with having their required parking. Mr. Deziel knew it was impossible to meet the definition of required parking as there is no space available and the flip side is a variance is not needed and this could be done by way of a Special Exception since they can't get any more required parking and the only thing they can get is supplemental and this piece of land meets all the requirements to get the supplemental parking by way of a Special Exception and that means there is no variance and there needs to be no hardship shown.

Attorney Randolph thought the issue is required parking versus supplemental parking as the section they are travelling under have two sections on required parking, neither of which the applicant meets. He felt there were portion of Section 3 that cannot be complied with without getting a variance. He stated the Schedule of Use within the Districts does have a Special Exception Use for supplemental parking which to him means that they would have to meet the requirements for a Special Exception. He believed they could travel under the Special Exception of the Code and not get a variance but that is dependent upon the decision that this parking is indeed supplemental parking. He stated the Building Department would then have to be satisfied that indeed supplemental parking for one zoning district can go into another and she thought they were saying that in the past they have allowed that to happen.

Mrs. Wiener asked if they would be changing zoning if they did this? Mr. Randolph did not believe they would be changing zoning if the interpretation is that they are granting a Special Exception, as even when granting a Variance they don't need a four fifths vote, but if the statement made by Mr. Wood in his letter is correct that by granting this special Exception, they are rezoning the property, then they would have to do that through a Zoning amendment.

Mrs. Wiener asked if Mr. Randolph could rule that Mr. Woods' letter is correct? Mr. Randolph believed they could not grant a variance to that restriction within the Special Exception that is being requested which would change the Use. He noted the Special Exception that is being asked for says the use cannot be for a different zoning district and from that standpoint, he believed Mr. Woods is correct as you can't by variance allow a use which is to protect the Zoning.

Mrs. Wiener asked if the other side of that is that they may grant a Special Exception? Mr. Randolph responded there is a list of uses in the Schedule in the Zoning Code and they are Permitted, Accessory and Special Exception Uses. He stated there is a Special Exception Use listed for "supplemental parking" and he believes there is an argument whether or not the "supplemental parking" was intended to be parking for commercial uses within residential zoning districts, but as he understands it, the way it has been applied in the past is that supplemental parking may be granted from one zoning district to another. He thought a question that should be asked is that in a R-C area, if a multi-family use didn't own a parking lot but owned a lot - could they use that vacant lot for supplemental parking for that R-C Use. He believed they could to which Mr. Zimmerman agreed.

Mrs. Smith noted this is for Lots 7 and 8 and they are platted as two separate lots and each are 25' wide, would it be possible to take a landscaped space of twenty-five feet for Lot 7 and take the western 25' of Lot 7 and turn it into parking? Mr. Randolph stated the zoning is R-C and if it is not appropriate to grant a variance to allow a commercial use within a residential zoning district, then the answer would be "no" as that doesn't answer the problem.

Mrs. Smith believed it was entirely fair to say the parking problem developed because the Preservation Foundation bought the lot which was being used for parking and she didn't view it as a

Spec. Excep. 25-93 (cont'd)

hardship but it does create a lack of parking spaces, so they are looking for a compromise. She didn't believe there was anything that would stop property owners from installing a seven foot wall and landscaping on the eastern part of the property, while they investigated whether or not it is supplemental parking or required parking. Mr. Randolph agreed. Mrs. Smith suggested they may want to do that anyway. Mrs. Wiener did not agree asking why they would would want to spend their money on something that may not come to pass? Mrs. Smith asked if they could get a permit now to landscape that property to which Mr. Moore responded there is nothing that could preclude them from getting a permit to landscape the property.

Attorney Deziel asked the Town Attorney if they deferred this and amended the application to go under the Special Exception without a variance and ask for supplemental parking, would this be acceptable? Mr. Randolph responded he would have to look at that along with the Building and Zoning Department. Mrs. Wiener felt they were getting into staff work and she thought the work needed to be done beforehand and she doesn't know who is at fault and this should not happen in front of the Council. She believed the problem would still be there no matter which way they went as they have a residential situation and they have to find a way, if possible, of making those who live in the area very comfortable with this situation. She thought they could have a written agreement with conditions and they could issue stickers for the cars to be parked in that lot so they would come in the morning and go away at 6 PM and this could be monitored and a wall can be installed with hedges. She thought to get into the legal situations in front of the Council doesn't help and the problem is there and they need to solve it.

Mr. Randolph apologized for not having it settled at the staff level, but this came up late and there wasn't time to get it totally resolved and it boils down as to whether it should be considered as required or supplemental parking and he thought that was something they all needed to look at. Mr. Moore stated he could give a position on that as it will have to be more supplemental parking than required parking and he felt they needed to readvertise it so a deferral would be required. Mr. Randolph asked if they made the decision that it was supplemental parking and they allowed supplemental parking of a commercial use in the past, why would it need to be readvertised if the more extreme circumstances has already been advertised for a variance?

Mr. Gilbert addressed the Council noting he heard the statement that prior Councils, under the same circumstances if parking is needed somewhere, they have considered this, but the fact is that other Councils took steps to ensure that residential lots were not succumbed by parking needs and this is what they have here. He recalled the home on the residential lot was torn down specifically to gain more parking. He thought they were talking about green area and not more Asphalt and he asked them to consider this very carefully. Mrs. Wiener pointed out the reason they have this problem is these people were parked on a piece of property which has now been sold and therefore they are trying to find a way to solve this so the neighbors are not inconvenienced and there will be larger green areas on that street.

Mr. Moore advised they have reviewed this briefly with Mr. Randolph and they do believe the opinion given by Mr. Randolph that both items are Special Exceptions but the supplemental parking would be a lesser use and he thought they could go forward and continue to hear this case noting that the argument advanced that the required parking is met by way of grandfathering and the Building Department does give credit on spaces that already exist, so feel the required parking is met by way of the grandfathering, so they may go forward with this as Special Exception for Supplemental Parking.

Mayor Ilyinsky asked if the Council would have the right to revoke this permission in the event there are problems to which Mr. Randolph responded negatively, noting that they would have moved forward with this on the basis of it being granted by the Town Council. Mr. Ilyinsky asked if it could be monitored to which Mr. Randolph responded the Council can put conditions on it.

Mrs. Royal asked Mr. Maus what they were doing for the employees who don't have a place to park to which Mr. Maus responded it is an expensive situation as they have car pooling.

Mr. Weinberg stated he is concerned about the residential homes in this area and has heard the statements of those homeowners today, but in looking over the map, it is noted that 87% of the area is covered by commercial parking or commerce and under those circumstances, he didn't see how they can avoid the fact that over 87% is already devoted to the commercial.

Mrs. Donald Smith addressed the Council stating what he has said is true but if they grant this and grant one in the future, it will still be true, and they ought to always remember it was residential when they bought it.

Mrs. Wiener asked how did they configure those two lots with regards to the parking and the egress and ingress. Mr. Maus responded they currently park next to the curb stone in an easterly direction, one care after another and they would take whatever additional would be allowed and park in an east/west direction.

Mrs. Smith asked about the landscaping and how would they sightscreen it from the residents' concern. Mr. Kerrick responded that they want this to be a win-win situation and they know the property is an eyesore. He wants to be residentially friendly and be open to suggestions and there will be no speakers on that property.

Mrs. Wiener asked the Smiths if this would be a little more palatable if there was a wall and green space and there wasn't as much noise. Mrs. Smith didn't believe it would be helpful at all. Mr. Kerrick stated the old system has been there for many years and they will work on it as it is loud and a nuisance and they can develop a better system to relieve the noise problem.

Mrs. Douthit asked if it could be deferred so it can be worked out as to what the Council is going to be requesting.

Mr. Deziel was asked by Mr. Moore on the issue of how the Special Exception was filed and asked if the Peruvian Avenue Corp. were the owner of the property in the R-C Zone to which Mr. Deziel responded affirmatively. Mr. Moore noted they are also the owner of the abutting property also to which Mr. Deziel responded affirmatively. Mr. Moore asked if the business that is run there is currently a parking lot to which Mr. Deziel responded affirmatively. Mr. Moore announced this would be supplemental parking to that business to which Mr. Deziel agreed.

Spec. Excep. 25-93 (cont'd)

Mr. Moore stated in that case there is no question that they are entitled to request this Special Exception as supplemental parking as it is not a change of use.

Mayor Ilyinsky did not disagree with the residential property owners but he felt they had an obligation to everything that makes this Town move along slowly, efficiently and beautifully and whether or not they admit it or not, Worth Avenue is a jewel in the Town's crown and what they are asking for as long as they comply with the large setback and the enormous effort in green space and perhaps planting some trees, the real maintenance of the property so that it always appears to be a park, and if it is monitored diligently and they use radios so there wouldn't be loud noises and if the people who park there are those who work on Worth Avenue and perhaps have a special sticker made for their cars, with the clear understanding that if there is a car there that does not belong, it would be ticketed, he thought this was a small price to pay for the continuing success of Worth Avenue as they were deprived of parking by the purchase of the lot by the Preservation Foundation, and if it wasn't for that, he believed they had a reason to ask for this.

Mrs. Smith asked if they are going to make a motion on this could a part of it be that they would plant ficus trees and hedge and install a seven foot wall? Mrs. Wiener moved that the Council wants to see after the wall is installed is to have thirteen to fourteen feet of solid landscaping and further there will be only employee parking and the cars each be issued a sticker and if at any time, there is any car found in the lot which doesn't belong there, the applicant would have to revisit the Council; in the old lot, before this new lot is in use, the sound system in the old lot will have to be changed so that no-one in the neighborhood will hear any of the calls; and the drainage requested by the Town Engineer will be provided up to Code; and also the lot will have no parking in the evenings or on Sundays. She emphasized that there will be no use of that lot until the wall is built, the hedging is in and there is a new sound system in the old one and she didn't think it would hurt to improve the appearance of the old lot also. Motion was seconded by Mrs. Smith.

Mr. Maus reported there is an existing wall on the parking lot between Lots 8 and 9 and it is four feet and asked if they wanted a hedge and another wall? Mrs. Wiener stated they wanted seven foot of wall and then the hedge. Mrs. Douthit noted they would have to remove the wall which is there now at the four feet. Mrs. Wiener did not think it should be removed as they wanted the lot to be monitored at all times and if at any time there is any variation, they have to come back to the Town Council.

Mrs. Royal thought they were fine conditions but wondered if they can legally do this as she really believed this is spot zoning and she has a worry about the legality. Mrs. Wiener recalled the Town Attorney stated it was acceptable. Mr. Randolph stated his opinion was based on the precedent which has been set of having allowed such commercial uses for supplemental parking in these districts in the past.

On roll call, the motion carried 4-1 with Mrs. Royal voting against the motion.

C. Other

Request to Name Private Drive at 6 So. Lake Trail as "Via Sunny"

1. Consideration of Request to Name Private Drive at 6 South Lake Trail as "Via Sunny" - Attorney Paul Thibedeau addressed the Council indicating he represented Leonard Sessa and this is a private driveway and the Town Council has allowed them to subdivide this property into two lots and they would like to name it "Via Sunny" and he asked for their consideration which the Post Office has already approved. Mrs. Smith so moved. Seconded by Mrs. Wiener. On roll call, the motion carried 4-1 with Mr. Weinberg voting against the motion.

Waiver to Sect. 12-51

2. Consideration of Request for Waiver to Section 12-51, "Hours for Construction Work," of Town Code by Stuart M. Gottlieb at 216 Worth Avenue - Mr. Gottlieb requested an extension of the work hours for Hedrick Brothers. Mrs. Douthit stated her dissatisfaction at the waiving of this section as everybody seems to be doing it. Mr. Gottlieb stated he would like to have the extended time for the remainder of November from 7:00 AM to 10:00 PM Monday through Saturday. He advised the reason the extension is needed his client signed the contract on Oct. 26, so there wasn't much time for the construction for the shop of Max Mara. Mayor Ilyinsky stated his objection to the parking spaces on Worth Avenue being used by the construction workers and asked if there was some other place they could park their vehicles. Mrs. Smith and Mrs. Douthit agreed.

Mr. Moore reported their choices are to let them work a little longer hours and get them out by November 30th, or letting them work four or five days after December 1st. He thought it has been the position of the Avenue that they would like to see the construction completed as soon as possible, therefore, he would recommend that the extended hours be allowed so they will be finished by Dec. 1st.

Mrs. Wiener asked why they didn't hire more people so the work could be completed sooner? Mr. Gottlieb stated extra people wouldn't help as there are certain types of work that would have to be completed before the work is commenced. Mrs. Wiener did not agree as if you have seven painters, they could certainly get the work done quicker than with three painters. She knows they show up and work a bit and then wander off to other jobs. Mr. Gottlieb noted certain items are to be delivered on certain dates and having extra workers complete other areas of work before those items are delivered just wouldn't help.

Mrs. Douthit didn't understand why they didn't get started sooner so they could be out of there by Dec. 1. Mrs. Smith didn't understand how a contract dated in October could be completed by the Dec. 1st date if there is extensive construction work required. Mr. Moore stated he advised Mr. Hedrick this would have to come to a halt as he had an extension on another job last month. Mrs. Douthit thought he should not be granted the extension and the work should be stopped and he come back after May 1st to finish the job.

Mr. Moore reported they are halfway through the construction work.

Mrs. Wiener recommended if contractors come in and do this kind of thing regularly, they should not be granted a building permit as she thought they needed to put some teeth into this provision that the work needed to be completed by Dec. 1st.

Waiver to Sect. 12-51

John Maus addressed the Council noting he didn't want to see an empty store on Worth Avenue as any store that is occupied is more advantageous than one that is closed and he asked they be allowed to complete the job. He suggested the word get out that these extensions may not be granted in the future but urged them to allow this particular one to go forward. He recommended they look at the right-of-way permits as the permits are issued for a lofty fee and the vehicles could be parked in the parking lot for half the price.

Mrs. Wiener moved that the hours of construction for work on 216 Worth Avenue be extended and the hours would be 7:00 AM to 9:00 PM and the job will be completed on time. Seconded by Mrs. Smith asking if there could be an amendment that they could not work on Sundays and on Thanksgiving Day, to which Mrs. Wiener agreed. Mrs. Wiener noted there will be no further allowances. On roll call, the motion carried 4-1 with Mrs. Douthit voting against the motion.

XVII. ANY OTHER MATTERS

Parking & Construction Issues - Worth Ave.

A. PARKING AND CONSTRUCTION ISSUES ON WORTH AVENUE - Mr. Doney noted a letter was received from John Maus on this issue. Mrs. Douthit suggested they change the date for work to be completed to November 1, instead of December 1, and the people who constantly request permits should not be allowed to have the extended hours.

Mr. Moore pointed that on Worth Avenue they have until December 1st to complete construction, but that provision is only for Worth Avenue. John Maus addressed the Council asking that the date be moved back until November 15, 1993 as he would like to see all work done by Thanksgiving Day. He didn't think November 1st was quite realistic and he would be happy to have the ending date be moved back to November 15th.

Mr. Maus suggested the right-of-way permits should not be issued after November 1st.

Mr. Moore noted there are two issues being addressed here, one is the construction moratorium date and the second is the right-of-way permits which are associated with construction.

Mr. Moore recommended if the Council does contemplate to move the date backwards to November 15, 1993, they appropriately compensate to allow the construction on Worth Avenue to be done during the hours of 8:00 AM to 6:00 PM, which will allow the work to be done and in return, he will advise the contractors of this and let them know there would be no extension of time unless there was a true emergency. He also indicated he would take an administrative stance to not issue any permits that they felt could not be completed during the time frame, which would be subject to appeal.

Mrs. Douthit believed if they started earlier in the year, the work could be completed during the normal work hours. Mr. Moore pointed out sometimes there are circumstances beyond the control of the contractor, such as the Architectural Commission deferring a store front change for one or two months, which would prevent the contractor from obtaining a permit and getting started.

Mr. Maus commented he didn't believe they should compensate for the contractors, and he indicated this was before the Council as he wanted to seize the opportunity to bring it before Council before the Season starts and ask them to drive down Worth Avenue and see what kind of a problem they are having. Mrs. Smith recalled the Worth Avenue Association should step in and inform their members and the property owners that if a job cannot be completed before the ending date decided upon, the contractor for the job will not receive any special handling from the Town Council.

Mrs. Smith thought this should also be applicable on Royal Poinciana Way. Mr. Maus suggested it be tested on Worth Avenue. Mrs. Smith noted County Road is roped off right now with a project now going on and those store owners are suffering a tremendous hardship.

Mr. Moore pointed out if the date is pushed back, there is a strong possibility there will be empty stores as the permits to remodel will not be issued by his Department.

Mr. Maus suggested the right-of-way permits not be issued after November 1st and the date to finish all construction on Worth Avenue be November 15. Mr. Moore noted this will take an Ordinance change and suggested this entire matter be referred to the Ordinance, Rules & Standards Committee, to which the Mayor and Town Council totally agreed.

Legislative Delegation of upcoming hearings

B. LEGISLATIVE DELEGATION OF UPCOMING HEARINGS: Mrs. Royal asked if the Town Council had any specific matters that should be brought to the attention of the Legislative Delegation. Mrs. Smith mentioned beaches and airport noise and stated she will give it some thought. Mrs. Royal asked all members to come up with their ideas and plan on attending the legislative meetings. Mayor Ilyinsky noted on the State level, the Town does have an attorney in Tallahassee who is used on an as needed basis. Mr. Doney pointed out the Federal legislative body will be meeting Friday at the Palm Beach Community College.

Nomination of Weinberg to Airport Comm.

C. NOMINATION OF M. WILLIAM WEINBERG TO AIRPORT COMMITTEES: Mr. Weinberg noted there are two committees with regards to the airport situation, one being the Citizens Committee Against Airport Noise (CCan), and the second is the Technical Advisory Committee (TAC). He noted the Municipal League of Cities has him as a representative on both these committees and the Town has no specific representation on CCAN but does have on the TAC. He stated he has a problem in representing the 38 municipalities as he sometimes finds himself in conflict with the concerns of the Town of Palm Beach.

Mr. Doney pointed out the other unfortunate circumstance is that when one represents the Municipal League, there are some who are in line with the Town's concerns and others are not, so it is not a winning situation.

Mrs. Smith felt Mr. Weinberg had to do whatever he felt most comfortable with as he is the only one that can make the choice.

Linda Gray Real Estate

C. LINDA GARY REAL ESTATE OFFICE AT CORNER OF WORTH AVENUE AND SOUTH COUNTY ROAD. Mrs. Wiener recalled a deal was made with Linda Gary Real Estate concerning the address and the frontage of that office and the Council compromised with her and it doesn't seem to be working. She would like to see this matter go on the next month agenda as she believed it needed to be revisited.

Mrs. Royal asked why it did not go to the Code Enforcement Board to which Mr. Randolph replied it did and the issue is whether or not they wanted to bring this matter back before the Council. Linda Gray Real Estate (cont'd)

Mrs. Wiener moved that this matter be brought up at the December Town Council meeting. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

D. SOUTH FIRE-RESCUE STATION: Mr. Doney explained this morning when this matter was being discussed, the motion was overlooked that all bids be rejected. Mrs. Wiener moved that all bids on the South Fire Station that have been received to date should be rejected. Seconded by Mrs. Smith. On roll call, the motion carried unanimously. South Fire-Rescue Station

E. WORKSHOP TOWN COUNCIL MEETING - After discussion, the Town Council decided to have this matter be put on the December Town Council Agenda with a workshop date to be set during the month of January when all members will be in Town. Workshop Town Council Mtg.

F. EVALUATION OF TOWN MANAGER - Mr. Doney explained his last evaluation was through September, 1990 and he would like to have consideration of a potential pay increase. He suggested a way to handle this would be for him to receive the same general pay increases which were awarded to other Town employees which were: Evaluation of Town Manager

October 1, 1990 - was a four per cent general pay increase
October 1, 1991 - was a $650 lump sum general pay increase
October 1, 1992 - was a three per cent general pay increase
October 1, 1993 - was a two per cent general pay increase.

He advised he has not received any of those general pay increases for those years. He noted in September of 1990, the Town Council changed his anniversary date to September of each year. He stated his annual salary currently and it has been this since September of 1990 is $87,539.

Mr. Doney recalled he was appointed as Town Manager on December 16, 1987 and has been with the Town since February of 1974. so it is nearly twenty years he has been an employee of the Town.

He requested this will be a sort of "catch-up" of past evaluations, and also general pay increases and he is not requesting any consideration of a pay increase for performance for that period of time, but would ask for a general pay increase to be retroactive until October 1, 1990, which would be what was previously awarded to eligible Town employees, and if Council is inclined to agree, the monies for same should come from the Undesignated General Fund Balance.

He recalled in his individual meetings with the Mayor and Town Council since the last Town Council meeting, he has been asked what the annual pay is of the highest department head and that is $81,870.

Mrs. Smith wanted to know why Mr. Doney did not receive these increases when the other employees did to which Mr. Doney responded in his contract with the Town, his increases are solely subject to any awards made by the Town Council. Mrs. Douthit believed it just fell in a crack as the Council wasn't really saying "No". Mrs. Wiener commented they kept pushing it aside and it is the Council's fault but she also blames Mr. Doney to some degree for "catch-up" is something that responsible elected officials should be doing and they should do their duty when they are supposed to do it. She believed Mr. Doney was entitled to the pay increase, but there has got to be some merit in there too because they have given in the past, some very very high marks, and she thought there should be at least some kind of acknowledgement of that merit although not to the level that they might have done it, had they done it on an annual basis. Mrs. Royal asked if anyone had a dollar figure to which Mrs. Douthit responded she'd be happy with a two per cent figure over the pay increases, to which Mrs. Wiener agreed.

Mrs. Wiener recommended for the first phase that the salary increase be that which all employees received as a cost-of-living since 1990, and that there also would be an additional two per cent merit increase. Seconded by Mrs. Douthit.

On roll call, the motion carried unanimously.

Mr. Doney thanked the Mayor and Town Council and clarified that the pay increase would be retroactive, to which the Council agreed. Motion was made by Mrs. Wiener that the monies for these increases come from the General Undesignated Fund Balance and that in the future they come from normal channels. Seconded by Mrs. Douthit. On roll call,the motion carried unanimously.

XVIII. ADJOURNMENT - There being no further business, the meeting was adjourned at 6:22 PM. Adjournment

Grace T. Peters
Town Clerk