TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL MEETING
HELD ON OCTOBER 4, 2007

I. CALL TO ORDER AND ROLL CALL

The Regular Town Council Meeting was called to order on Thursday, October 4, 2007, at 9:30 a.m., in the Town Council Chamber. On roll call, the following elected officials were found to be present:

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

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

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

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Tim Frank - Planning Administrator
Fred Hess - Police Sargent
Charles Langley - Public Works Assistant Director
Jon Luscomb, Dock Master
Michael Reiter - Police Chief
Jane Struder - Finance Director
Spencer Wilson, Information Systems Manager
Susan Eichhorn - Town Clerk

II. INVOCATION AND PLEDGE OF ALLEGIANCE

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

III. PRESENTATIONS

Mayor McDonald introduced City of West Palm Beach Mayor Lois Frankel who reported on the current boil water situation, and the operation needs and drought initiatives that the City of West Palm Beach had been working on for the entire water system over the past two years.

Mayor Frankel introduced City of West Palm Beach Assistant City Administrator Ken Rearden who discussed further the water situation, and along with Mayor Frankel, responded to the questions and concerns of the Mayor and Town Council.

William Diamond, 220 Wells Road, commented regarding a possible breach of the three-year contract with the City of West Palm Beach to supply the Town with sufficient and drinkable water, and suggested that the Town consider becoming water independent.

Council Member Brooks responded that it was premature to claim that the City of West Palm Beach was in breach of the contract and that the Town, as a good neighbor, should work with the City of West Palm Beach.

IV. COMMENTS OF MAYOR JACK McDONALD

"This is probably good news to the Council people, in addition to all the residents, and it has to do with a prescription program that is being offered by Palm Beach County, and the fact that they are going to make prescription drug discount cards available that provide a savings of approximately 20%. This card is offered to any County resident regardless of age or income, and is accepted by most of the pharmacies in Town: Fedco Drugs, Green's Pharmacy, Publix and Lewis Pharmacy. You can pick up the cards downstairs at the reception area. There is no enrollment form. There is no membership fee. There are no restrictions. You simply present the card and get the discount. Thank you."

V. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

President Kleid commented on the December 18, 2007 Storm Protection Bond Referendum as follows:

> "Some people have asked me why we should borrow money for projects that we had been completing with operating funds. One answer is that bonds are the way most communities pay for such major capital improvements. The story here, in Palm Beach, however, is a little more complicated. The Town's tax rate for our basic operations was low enough to allow the investment of almost $43 million in operating funds to be invested in drainage improvements and shore protection projects since 2001. That is over $6 million per year, about 18% of all property taxes collected by the Town during that period. This is a legal and appropriate way of funding such improvements, but it is unusual. Bonds are the normal source of funds for such large scale construction projects, since bonds spread the cost of the improvements over their useful life, thereby reducing the annual cost and charging all benefitting citizens, relatively equally, over the years. In fact, the Town's beach work was financed with bonds, but they are short term bonds and the debt service has been paid with operating funds; since we could afford to do pay-as-you-go financing for the drainage projects we opted to do so. We had planned to continue on with this approach, but as you all know the State of Florida imposed a mandate earlier this year for all local governments to reduce our property tax rates. The Town Council recognized that a large part of the increase in the cost of Town government in recent years, was the funding of these major capital improvement projects through the Town's operating budget.
>
> In considering the alternatives presented by staff, we determined that an appropriate first step to reduce the operating tax rate would be to address these projects as they are usually addressed, through a bond referendum. That way, the operating tax rate adopted by the Town Council more accurately represents the true cost of basic daily services in Palm Beach, and the citizens will decide whether to continue investing in the drainage improvements and the Reach 8 Beach Restoration Project.

I have not heard anyone in Town question the need for these projects, only the method of financing and the fact that they had been combined into a single question on the December 18th ballot. The decision to combine these two types of projects into a unified storm protection program was made upon the advice of the Town's bond counsel and with due regard to the fact that flooding from rain and erosion from waves are storm impacts that often occur together. It is incorrect to characterize these projects as benefitting exclusively the north or the south end. Severe property damages resulting from either cause will negatively affect our entire Town.

Finally, I want to underscore for anyone who has any additional questions about these projects or about the undergrounding referendum on January 29, 2008, that the Town is preparing for a large scale public education effort to ensure that all voters know everything they need to know to cast an informed ballot. We will be sending out mailers, making presentations, updating our website, and will be reaching out to the entire community with this educational message. It will peak in early December for the drainage/beach referendum, and in mid-January for the undergrounding referendum. In addition, the Palm Beach Civic Association and the Citizens' Association will join in this public education effort. In the meantime, we welcome your questions, but ask that you reserve judgement on these matters until you have heard all the facts."

President Pro Tem Coleman commented on information mailed to him regarding the annual American Cancer Society Ball noting that the return address on the envelope said "Town of Palm Beach," and that the Town had previously requested that the address be corrected. The Town Attorney was now in the process of sending a follow-up letter and an update would be provided at the next meeting.

VI. COMMUNICATIONS FROM CITIZENS- 3 MINUTE LIMIT PLEASE

Ms. Bobby Lindsay, 212 Caribbean Road, commented on safety issues regarding the use of the bike trail on the north end of the Island due to traffic. She noted that all residents north of the Sailfish Club entered or exited the Lake Trail at the following two points and she requested that stop signs be placed at those locations.

1. The northern most point was between Reef Road and Esplanade Way, which was an access point completely obscured from the road.
2. The second access point was Seagate Road at the very north end of the Sailfish Club.

In response to President Kleid, Town Manager Elwell advised that staff had received three letters from the residents speaking today. He noted that he responded to the concerns of those residents, however, the letter responding to their concerns may not have been received as yet. He reported that a review was presently occurring with the Police Department and Public Works Department, and staff would follow up with actions and would bring before the Town Council any policy matters that needed to be considered.

Ray Kramer, 1511 North Lake Way, commented on safety issues regarding the bike trail. He advised that the residents would like to work with the Town on this issue.

Council Member Markin commented that it was a dangerous situation primarily caused by overgrown hedges, and suggested that Code Enforcement should be involved with almost every intersection on North Lake Way, north of the Palm Beach Country Club, in order to resolve these situations.

After further discussion, President Pro Tem Coleman requested that staff come back before the Town Council with a report on how to proceed forward with this issue.

Town Manager Elwell advised that there was a consensus that the Town Council wanted to give this policy consideration, and staff would provide a report relative to this issue at the November 13, 2007, Town Council Meeting.

Laura Jane Linck, 251 Esplanade Way, commented on safety issues regarding the bike trail, noting that there needed to be a stop sign at the Esplanade Way.

Patrick Flynn, Palm Beach Theater Guild, 44 Cocoanut Row, Palm Beach, questioned if public comment would be permitted when the landmarks issue for Royal Poinciana Plaza was addressed. *[President Kleid advised that citizens' comments would be heard when this item was addressed at a time certain of 4:00 p.m.]*

VII. APPROVAL OF AGENDA

The following modifications were made to the Agenda:

MOVED Item X.A.4., Town Council Chambers Upgrade in Town Hall Renovation, to Time Certain of 10:45 a.m.

DEFERRED Item XI.A.3., Ordinance No. 21-07 to the November 13, 2007, Town Council Meeting.

DEFERRED Item XI.A.4., Ordinance No. 22-07 to the November 13, 2007, Town Council Meeting.

DEFERRED Item XII.C.2.b., Variance #30-2007 to the November 13, 2007, Town Council Meeting.

DEFERRED Item XII.C.3.b., Site Plan Review #14-2007 with Variances and Special Exception to the November 13, 2007, Town Council Meeting.

DEFERRED Item XII.C.3.c., Site Plan Review #15-2007 with Variances to the November 13, 2007, Town Council Meeting.

DEFERRED Item XII.C.3.d., Special Exception #9-2007 with Site Plan Review and Variances to the December 11, 2007, Town Council Meeting.

DEFERRED Item XII.C.3.e., Special Exception #10-2007 to the November 13, 2007, Town Council Meeting.

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

VIII. CONSENT AGENDA

A. MINUTES: SEPTEMBER 11, 2007
APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

B. MINUTES: SEPTEMBER 11, 2007
APPROVAL OF THE MINUTES OF THE TOWN COUNCIL PUBLIC HEARING

C. MINUTES: SEPTEMBER 19, 2007
APPROVAL OF THE MINUTES OF THE TOWN COUNCIL PUBLIC HEARING

D. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL COMMISSION AT ITS MEETING ON SEPTEMBER 26, 2007.

E. RESOLUTIONS

1. RESOLUTION NO. 50-07 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving an Agreement Between the Town of Palm Beach and Ceres Environmental Services, Inc., of Brooklyn Park, Minnesota, and Crowder-Gulf, of Theodore, Alabama, for Hurricane/disaster Debris Removal, Reduction, and Disposal, Pursuant to the Solid Waste Authority of Palm Beach County Contract No. 07-241, and 07-242, and Authorizing the Town Manager to Execute the Same on Behalf of the Town. [H. Paul Brazil, Director of Public Works]

2. RESOLUTION NO. 56-07 A Resolution of the Town Council of the Town Of Palm Beach, Palm Beach County, Florida, Approving an Upgrade to the Town's Main Iseries Server and Renewal of Annual Software Support and Hardware Maintenance With IBM Through Midrange Support and Service and Authorizing the Town Manager to Execute This Purchase on Behalf of the Town.
[Thomas G. Bradford, Deputy Town Manager]

3. RESOLUTION NO. 57-07 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Purchase of Annual Software Support and Maintenance for Microsoft, Sungard HTE, Cartegraph and Tyler Technologies and Authorizing the Town Manager to Execute the Purchases on Behalf of the Town.
[Thomas G. Bradford, Deputy Town Manager]

4. RESOLUTION NO. 60-07 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Amendment of Landmark, Architectural Commission, Lien Search and Appeal Fees.
[Veronica B. Close, Director of Planning, Zoning, and Building]

5. RESOLUTION NO. 62-07 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Renewal of the Contract Between the Town of Palm Beach and Research Atlantica, Inc. as Historic Landmarks Preservation Consultant and Authorizing the Town Manager to Execute the Same on Behalf of the Town.
[Veronica B. Close, Director of Planning, Zoning, and Building]

6. RESOLUTION NO. 63-07 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the

Agreement to Enter a Two-year Contract With the Center of Family Services of Palm Beach County, Inc., to Provide Employee Assistance Program Services and Drug-free Workplace Program Services.
[William C. Crouse, Director of Human Resources]

F. OTHER

None

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

IX. BOARD/COMMISSION ANNUAL REPORT

A. Recreation Advisory Commission.
[Michael Spaziani, Chair and Jay Boodheshwar, Director of Recreation]

Director of Recreation Jay Boodheshwar acknowledged the staff's appreciation for the guidance and support received this past year from the Recreation Advisory Commission. He introduced the Chairman of the Recreation Advisory Commission Michael Spaziani.

Mr. Spaziani, 322 Seaspray Avenue, Chairman of the Recreation Advisory Commission, thanked the Mayor and Town Council for allowing him to Chair the Commission, and thanked the members of the Commission for their hard work and dedication. He provided a report of the Recreation Advisory Commission and reviewed the following:

- Seaview Tennis Center Renovation Plan
- Par 3 Master Plan
- Lake Drive Park Master Plan
- Seaview Park Synthetic Field/Lighting Proposal
- Review Tennis Facility Policies
- Seaview Field Use Policy
- Fiscal Year 2008

President Kleid thanked Chairman Spaziani for an excellent report, and on behalf of the Mayor and Town Council, commended him and the entire Recreation Advisory Commission for their hard work and dedicated service to the Town.

In response to Council Member Coniglio, Mr. Spaziani advised that discussion of Recreation Department fees was an integral part of Commission meetings.

Responding to Council Member Coniglio, Mr. Boodheshwar noted that relative to the municipal parking lot off of Royal Palm Way, staff had seen a very improved situation as compared to last year.

X. REGULAR AGENDA

A. Old Business

1. Updates Regarding Florida Department of Transportation Projects.
TIME CERTAIN: 10:00 A.M.

a. Overall Update on A1A Projects.
[Melvin Pollock, P.E., West Palm Beach Operations Engineer]

Melvin Pollock, Florida Department of Transportation (FDOT) Operations Engineer, provided an update on the ongoing projects that were being conducted in Palm Beach.

Mayor McDonald congratulated Mr. Pollock for a job well done and for completing the job earlier than expected.

b. Report Regarding Aesthetics and Parking Issues on South County Road. [H. Paul Brazil, Director of Public Works]

Director of Public Works Paul Brazil referred to his memorandum to the Mayor and Town Council dated September 26, 2007, and included in the backup material, to provide a brief update on the following parking and aesthetic concerns:

- Signs:
  - FDOT regulatory signs
  - Town signs
    - Any consolidation of Town signs onto decorative poles had to wait until the FDOT project was completed.

- Patchwork appearance of sidewalks.
  - The FDOT did not have the funds for a complete sidewalk replacement.
- Decorative crosswalks
- Handicapped ramps
- Parking Spaces
- Aesthetic appearance of crosswalks
- Curb in front of Island Palm Restaurant - staff to address this issue and bring it back before the Town Council
- Curb in front of Amici's Restaurant
- Elevation differences between sections of sidewalk
- Additional garbage cans
- Decorative signs and mounting hardware
- Decorative poles
- Staff concerns with aesthetic issues
- Minimize the number of sign poles

Responding to President Pro Tem Coleman, Mr. Brazil advised that decorative disposals for cigarettes were relatively inexpensive. Staff would find some strategic areas to place the cigarette disposals.

Mayor McDonald requested that Mr. Brazil be authorized, by the Town Council, to obtain the cost of decorative stop signs to replace the stop signs currently in the historic district. He noted that if money was not available to purchase the decorative stop signs, he would attempt to solicit donations, without violating the donation policy.

President Kleid advised that it was the consensus of the Town Council to authorize Mr. Brazil to obtain cost estimates on replacing stop signs in the historic district with decorative stop signs.

Leslie Evans, 214 Brazilian, commented on his concerns regarding the brick crosswalks, numbers of signs, and inconsistencies of the signs. He suggested the formation of a committee consisting of Town citizens to provide aesthetic guidelines.

Mr. Pollock responded that FDOT no longer allowed brick pavers in the travel lanes. The brick pavers were no longer an option for any municipality from this point going forward. The policy has been in place for about a year, because FDOT had experienced differential sediment between the asphalt, the concrete header curb, and the bricks, which settled. He advised that was the major reason for the use of the current product, which was not cheap, but was durable and should last quite a few years.

c. Update on Flagler Memorial Bridge Project.
[Joshua Salazar, Project Manager, Florida Department of Transportation, and Paul Cherry, Project Manager, Kimley-Horn and Associates, Inc.]

Joshua Salazar, Project Manager, Florida Department of Transportation (FDOT), introduced Paul Cherry, Project Manager, Kimley-Horn and Associates, Inc., who provided a report and update on the Flagler Memorial Bridge Project.

Mr. Cherry responded to the following questions and concerns of the Mayor and Town Council:

- Right-of -way areas east of the bridge
- Bridge Committee involvement with FDOT
- Land portion of northern part of bridge
- Pedestrian walkway underneath the bridge
- Royal Poinciana Plaza area related to pedestrian traffic
- Future Town study of Royal Poinciana Way area to include Flagler Bridge

The Town Council accepted the report presented by the Florida Department of Transportation.

2. Further Review of Placard Permit Parking Program.
[Thomas G. Bradford, Deputy Town Manager]

a. Staff Report on Program Administration.
b. Program Subscriptions for 100 Block of Royal Palm Way.

Deputy Town Manager Thomas Bradford referred to his memorandum to the Mayor and Town Council dated September 21, 2007, and included in the backup material, to provide a staff report on the program administration of the Placard Permit Parking Program.

Mr. Bradford commented as follows:

- The waiting list for subscriptions on the 100 block of Royal Palm Way has grown by 12 since the September 11, 2007, Town Council Meeting.

- Subsequent to the September 11, 2007, Town Council Meeting, Staff learned that the Palm Beach Board of Realtors anticipated the availability of the 20 parking spaces on the north side of the 100 block of Royal Palm Way for various meetings they held throughout the year.

Mr. Bradford provided an overview of the Placard Permit Parking Program and responded to specific questions raised at the September 11, 2007, Town Council Meeting, pertaining to placard permit renewal and the current inventory program. He advised that the program currently generated approximately $134,400 per year.

Mr. Bradford reviewed potential placard parking space inventory that had been identified to expand the program: Hammon Avenue, Hibiscus Avenue and Peruvian Avenue, providing 22 extra spaces. He explained that other areas had been identified for placard parking spaces in the Mid-Town area, however, there were residential properties on those streets. If the Town Council wanted to pursue that, staff could provide a report at a later date.

In response to President Kleid, Mr. Bradford advised that parking placards were available on a first come first served basis for anyone to purchase.

President Pro Tem Coleman commented in opposition to several of the proposed policies. He noted that the parking spaces were assets of the Town. He did not believe that the Town should transfer a hereditary right, and believed these assets should be allocated on an economic basis, which maximized revenue.

Mayor McDonald commented that he agreed with Mr. Coleman in terms of renewing the placard parking permits.

In response to Mayor McDonald, Mr. Bradford commented as follows:

- On the south side of the 200 block of Peruvian Avenue, there were 21 metered parking spaces, and staff had recommended utilization of 12 spaces for placard parking.
- The annual cost for a placard that was renewed three times a year was $840. The monthly cost was $70, which he understood to be less than what the Apollo parking lot charged.
- The Town would compete with a commercial operation in an attempt to find inventory to assist those who had a regular ongoing need to park in Town.
- The Apollo lot only had capacity for those willing to pay an hourly rate. It had a significant waiting list for those persons who wanted long term parking.

Town Manager Elwell explained that the goal for this month was to find as many parking spaces as possible that could be made available for placard parking in commercial areas that were not abutting residential properties. He advised that the reason for this was that staff anticipated there would be a substantially greater demand for those type spaces for employees when electronic chalking went into effect.

Town Manager Elwell advised that because staff had hoped to identify more than 22 parking spaces, but were unable to do so, the possibility of entering into residential areas adjacent to commercial areas to capture more inventory was conceptually raised. Staff, for various reasons, which included the impact it might cause to those residents, wanted to move in that direction very cautiously. He noted that if the Town Council did choose that option, staff would provide a report for their consideration at next month's Town Council Meeting.

John Maus, merchant at 312 Worth Avenue and a member of the Worth Avenue Association, commented as follows:

- The Worth Avenue merchants had proposed placard parking on Lakeside Drive, which had proven to be successful, noting that all those spaces were full.
- The Worth Avenue merchants then suggested placard parking on South Ocean Boulevard, with the Town merchandising those spaces.
- The Town has had trouble selling the spaces on South Ocean Boulevard, which were still half full.
- The Worth Avenue Association, for that reason, suggested to Mr. Bradford, in a letter sent in May, that once placard parking became a possibility on Peruvian Avenue, the Town should merchandise those spaces with the costs for placards on Peruvian Avenue higher than Lake Way, which was full, but South Ocean Boulevard should be less than the docks.
- The spaces being added on Peruvian Avenue should be reserved for the merchants on Worth Avenue and should be reserved, for example, in quantities of twos.

Council Member Coniglio noted that she agreed with Mr. Maus that the Town's Placard Parking Permit Program should include a specific number of placards per entity. She expressed the following concerns relative to the Placard Parking Permit Program:

- If the Town moved too quickly in providing placard parking spaces, while also moving forward with electronic chalking and kiosks, there was the possibility of a decrease in potential parking inventory, which could prove to be very difficult to undo next season.

- The Town had planned to move employee parking away from residential areas, and if the Town moved too quickly and did not allow the prior parts of the plan a chance to work, employees could be moved further into residential districts.

- Reduction of parking spaces

- "Compact Cars Only" parking spaces

- Elimination of thirty-minute parking on the east side of Seaview Avenue

Council Member Markin advised that she agreed with Ms. Coniglio and commented as follows:

- The initial purpose of the program was to provide lower cost parking to business employees.
- Concern over the Town selling or potentially selling the placards to visitors.
- The parking study had reported that there were some peripheral spaces available that were not being used. The Town should identify those spaces, selling them only to the businesses for their employees. If, during the season, that created problems, the Town would have the flexibility of not doing it next year.
- Placard parking should not be offered in residential areas.

President Pro Tem Coleman reiterated that he would advocate that this not be a hereditary program, because the spaces were assets of the Town and should be sold for whatever dollar amount the Town could get. He noted that he was also in agreement that the Town should not enter into residential areas except perhaps for Brazilian Avenue, because of an all day parking problem on Brazilian.

Town Manager Elwell commented that he did not recall a specific discussion on subsidy, but the pricing did discount compared to private parking lots for a reason, which was that the Town did not guarantee the availability of a parking space as it was on a first come, first served basis.

Town Manager Elwell explained that the Town needed legal advice from Town Attorney Randolph relative to limiting the sale of parking placard permits to certain types of individuals. He noted that his concern was that the streets and parking spaces were public and everyone in the general public needed an equal opportunity to purchase a placard. He advised that if the Town was now to restrict that, Town Attorney Randolph would have to advise how the Town could go about doing that carefully.

Attorney Gary Nagel, on behalf of the Palm Beach Board of Realtors, advised that the Palm Beach Board of Realtors with more than 800 members had purchased, in 2005, condominium office space at 140 Royal Palm Way. He explained that even though the members did not meet all at one time, the Palm Beach Board of Realtors had anticipated that parking spaces would be available on the 100 block of Royal Palm Way for their meetings. The demand for the placards would far exceed the ability of the Town to meet that demand once the public became aware of the program. The legal issue was how the Town could fairly apportion out the use and distribution of the placards. He urged that the placard system for the 100 block of Royal Palm Way be rejected and suggested the Town place parking meters at that location, which he believed would generate far more money than the $70 a month the Town received from selling a placard.

Patricia Sans, President of the Greater South County Road Association, commented as follows:

- Parking placard permits should be kept affordable.
- Locating additional inventory to provide help to the business community and others relative to available parking.
- Electronic chalking would take away parking meters, which would then take away a lot of the solutions for businesses.

Town Manager Elwell clarified that the meters would be replaced with kiosks throughout the Town. The electronic chalking would be the method of enforcement for the timed spaces that were not metered.

Leslie Evans, 214 Brazilian, commented on the following concerns:

- Intrusion of placard parking into residential areas.
- Business employees in the Town.
- All day parking: i.e., teachers from Palm Beach Public School.
- A public/private partnership to build a parking garage using TIFF financing.
- Concern over the entire parking process relative to what businesses paid and what residents paid.
- The extreme difficulty businesses in the Town were having this year, noting that there were seven empty stores between Royal Palm Way and Brazilian.
- Palm Beach Day Academy's self-imposed parking difficulties.
- Hereditary parking spaces.
- Opposed to parking control officers working in the summer after 6:00 p.m., noting that police officers could cover that task after 6:00 p.m.

Responding to Council Member Coniglio, Mr. Evans explained that if parking spaces were removed on Peruvian Avenue, it would make parking more difficult, because employees with a placard could park before the stores opened leaving less spots available for customers. He noted it was extremely difficult to hire employees due to the parking situation.

Council Member Brooks suggested that the Town move slowly and the entire conversation on placard parking should be tabled. He advised that he was leery of the placard distribution system because it, inherently, was lacking in fairness.

President Kleid advised that staff had presented their report and was requesting direction from the Town Council regarding the following:

- If the Town Council wanted to allocate to the people who had applied for the placards on 100 Royal Palm Way.
- If the Town Council wanted to expand the placard program.

Motion made by President Pro Tem Coleman to limit the Placard Parking Permit Program to this year only. The program may be continued next year, but those persons that purchased a placard would be given fair notice that they did not have any right to purchase the placard next year.

After further discussion, **the motion failed for lack of a second.**

Motion made by Council Member Markin to rescind the 10 parking placards given to the Palm Beach Day Academy in order for the Town to arrive at an equitable way to use the placards that the Town currently had. The Town should not consider the placards that had been recommended for residential areas and should see how the placards in the commercial areas work.

President Kleid questioned if it was legal to rescind the 10 parking placards purchased by the Palm Beach Day Academy.

Town Attorney Randolph responded that he did not know what the expectations were of the Palm Beach Day Academy. He questioned whether they purchased the 10 placards for the entire year.

In response to Town Attorney Randolph, Mr. Bradford advised that the Palm Beach Day Academy had purchased the placards for a four-month period.

Council Member Markin withdrew the motion.

Motion then made by Council Member Coniglio to table the entire Placard Parking Permit Program, with no further action be taken regarding this program. The motion was seconded by Council Member Brooks.

Responding to President Kleid, the Mayor and Members of the Town Council clarified that the motion did not include allocating the 10 remaining placards.

On roll call, the motion carried 4/1.

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

Discussion ensued relative to the Palm Beach Day Academy's purchase of the 10 placards for a four-month period only. President Kleid noted that the Town had advertised the availability of those 10 placards, which obviously had not reached the greater community, as many business owners had advised the Town that they were not aware of the Placard Parking Permit Program. He explained that was the problem to begin with and advised that the Town had received the money from the Palm Beach Day Academy for a four-month period, and now the Academy should understand that they might not get another opportunity to purchase the placards.

After further discussion regarding Town Manager Elwell's request to clarify the motion, President Kleid advised that the consensus of the Town Council was for staff to continue to administer the program currently in place. The Town Council directed staff to return with an educational process at the November 13, 2007, Town Council Meeting so that thorough discussion could be held.

In response to President Pro Tem Coleman, President Kleid advised that the Town would not be allocating the present 40 spaces. The Town has already sold 10 of those spaces and would not be allocating any more spaces, noting that at the end of the four-month period, the Town Council might address not renewing the placards.

Town Manager Elwell advised that until the Town Council considered this issue further and changed the program, staff would continue to renew permits as those were the rules as of today. The Town might be into a new four-month period by the time these issues were resolved.

In response to Council Member Markin, President Kleid questioned if it was her suggestion that the program be suspended until such time as a report was received and policy decisions were made at that time.

Council Member Markin responded that the Town Council at least allocate the remaining 10 placards to employees in the Town, and then revisit it before the renewals were up.

Responding to President Pro Tem Coleman, Attorney Randolph advised that when this program was started on Worth Avenue, the placards were made available to anybody, on the basis that the Town would not discriminate, and from a practical standpoint, the only people that wanted the placards were the people that worked on Worth Avenue. He noted that the same had to be considered in regard to this situation and that the Town did not discriminate in the manner the placards were put out to the public.

Patricia Sans commented on the following:

- The Town would not be discriminating by providing placards to employees.
- The Town Council should not put this item off indefinitely, at least not for the parking spaces the Town currently had available.
- The Town should provide an educational program and place this item on the agenda for next month's meeting and not put it off indefinitely.

Motion made by President Pro Tem Coleman to suspend this program and place it on the agenda for the November 13, 2007, Town Council Meeting, and that no further spaces be sold until the Town Council had thoughtful consideration of the program next month. The ten already allocated parking placards would have no right of renewal. The motion was seconded by Council Member Markin.

After discussion, President Kleid clarified for Town Manager Elwell that the motion suspended subscriptions for the additional ten placards on the 100 block of Royal Palm Way only, until the November 13, 2007, Town Council Meeting.

On roll call, the motion carried 4/0 as Council Member Brooks was temporarily absent from the meeting.

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The luncheon recess was taken at 12:45 p.m.
The Town Council Meeting of October 4, 2007, was reconvened at 2:15 p.m.

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CITIZENS' COMMENTS:

Jere Zenko, 232 Tangier Avenue, commented on the following:

- Thanked everyone, in particular Town Manager Elwell, for scheduling, in December, the review of Townwide departmental operations.
- Zero-based budgeting
- Budgeting funds for public relations
- Taste level issues
- Marine One Unit

3. Alternatives for Increasing the Safety of the Intersection of Seaview Avenue and South County Road.
[H. Paul Brazil, Director of Public Works]

Director of Public Works Paul Brazil referred to his memorandum to the Mayor and Town Council dated September 26, 2007, and included in the backup material, to provide an update and report on the intersection of Seaview Avenue and South County Road.

Mr. Brazil commented that a major concern was the limited site distance north of Seaview Avenue for traffic exiting Seaview onto County Road. He noted that Town Manager Elwell authorized restricting parking spaces by placing "Compact Cars Only" parking spaces immediately north of Seaview Avenue on the west side of South County to improve sight distance. He explained that in the traffic consultant's original report, removal of some or all of those spaces had been recommended, but that report had also envisioned traffic going left or right coming out of Seaview, noting that the traffic went right only, which was the reason those spaces were left in place. He discussed the following alternatives for increasing the safety of that intersection:

- Determine if the "compact car only" signs worked.
- Removal of some or all of those parking spaces, which would have negative impacts for adjacent merchants.
- Signalize the intersection: A traffic signal at Seaview Avenue and South County Road did not meet the Florida Department of Transportation (FDOT) standard for separation between signalized intersections. The intersection was very close to Royal Palm Way and South County Road.
    - Project costs for a traffic signal.

Mr. Brazil noted that the Town Council was being requested to allow staff to continue to evaluate the effectiveness of the "compact car only" parking signs. He advised that the Town Council could also authorize the Town Manager, if staff did not believe that the "compact car only" parking signs were effective, to remove some or all of the parking spaces located on the northwest corner of Seaview and South County Road. He explained that if that option was put into effect, businesses located there would be negatively impacted.

In response to Council Member Brooks, Mr. Brazil advised that it would not be impossible to permit the signalization of the intersection, but he did anticipate that it would be difficult relative to the bureaucracy associated with FDOT as well as the fiscal impact it would have on the Town.

Council Member Markin commented in opposition to the placement of a traffic light at that intersection and that the placement of "compact car only" parking signs would be ineffective. She commented in support of initially removing five (5) parking spaces, and if that proved not to be safe enough then an additional two (2) spaces should be removed for a total of seven (7) spaces.

Council Member Brooks commented that he agreed with Council Member Markin regarding the effectiveness of "Compact Cars Only" parking signs; recognized the difficulty of implementing a traffic light system; and questioned whether consideration had been given to the placement of a stop sign at that site.

Mr. Brazil advised that staff had not evaluated placement of a stop sign at that location, and to do so would still involve FDOT, because it was an FDOT roadway. He explained that a stop sign might cause unwanted consequences such as queuing.

Brian Mirson, principal of American Consulting Engineers (ACE), commented on the big picture of the situation, noting that operationally the one-way conversion of Seaview was working as well as had been hoped. He discussed the modification of parking spaces on Seaview Avenue.

Responding to President Pro Tem Coleman, Mr. Mirson noted that the solution to this situation was to provide the appropriate site distance without the implementation of traffic control devices on County Road.

Council Member Coniglio questioned whether the Town had accomplished more than they gave up.

After further discussion, **Council Member Markin made a motion to vacate three parking spaces on South County Road that had been designated for "Compact Cars Only"; to have a police officer patrol the area at the beginning and at the end of the school day; and**

to have the Police Department re-evaluate to determine if it was necessary to remove additional parking spaces. The motion was seconded by President Pro Tem Coleman.

Council Member Brooks noted that at last month's Town Council Meeting, Mrs. Connaughton, a resident and mother of a child at Palm Beach Day Academy, had brought up an excellent point: the ability of a parent to pick up a sick child, etc. He advised that he would be amenable to hearing from Dr. Rebecca van der Bogert, Head of Palm Beach Day Academy, for limited use of the west field for parents to pull in and pick up their children. He noted that it would be an improvement, not a fix, to the flow of traffic as well as for the safety of the children.

In response to Town Manager Elwell, **Council Member Markin amended the motion to include that the entire safety and parking situation at the intersection of Seaview Avenue and South County Road would be reviewed upon the recommendation of the Police Department. The amended motion was seconded by President Pro Tem Coleman.**

Jane Baker, 235 Cocoanut Row, corner of Cocoanut Row and Seaview Avenue, commented on the concerns she had as the only resident that accessed her property on Seaview Avenue:

- The right of ingress and egress to her property.
- Use of the west field for queuing.
  [Council Member Brooks noted that he had recommended that Dr. van der Bogert along with the Palm Beach Day Academy Board examine limited use of the west field, which would be subject to the approval of the Town Council.]
- "Left turn only" at certain hours.

Ms. Baker requested consideration of these concerns, noting that she would be happy to meet with the Palm Beach Day School or whatever was needed to do to make it safe. She thanked the Town Council.

Discussion ensued and **Council Member Markin further amended the motion to include converting as many spaces as possible on Seaview back to timed parking; to include the request that Palm Beach Day Academy examine the use of the west field for a parking queue for drop off and pick up of students, and to place a time specific sign on County Road for left turns.**

Discussion ensued relative to Mr. Brazil's request that the motion not include the placement of a time specific sign on County Road relative to left-hand turns.

President Pro Tem Coleman suggested that because the motion was complicated, the Town Council should vote on a bifurcated motion.

Council Member Markin clarified the amended motion, seconded by President Pro Tem Coleman, as listed below:

- **Vacate the three parking spaces on South County Road that had been designated for "Compact Cars Only";**
- **Police officer patrol the area at the beginning and at the end of the school day;**
- **Police patrol and parking be re-evaluated by the Police Department to determine if an officer was necessary and if it was necessary to remove more parking spaces.**

On roll call, the motion carried unanimously.

Police Chief Reiter advised that the Police Department could not recommend a left-hand turn at that intersection at anytime without a police officer there.

Council Member Coniglio suggested that as many spaces be added on the east end of Seaview Avenue as one-hour timed parking to accommodate the businesses located there.

Annette Dowell referred to her letter sent to President Kleid, noting that as a parent of a student at the Palm Beach Day Academy she was pleased that the Town Council was still considering other options regarding this situation, as there were safety concerns.

Motion made by Council Member Coniglio, seconded by Council Member Markin to convert as many spaces as possible back to timed parking on Seaview Avenue.

President Kleid commented that he did not believe a motion was needed as there was a consensus of the Town Council to have staff look into the issue of the Palm Beach Day Academy use of the west field.

Town Manager Elwell advised that the Palm Beach Day Academy was looking at some options related to the west field, which would not be presented to the Town Council before December 2007 or January 2008. The Palm Beach Academy had been in touch with Planning, Zoning and Building Department staff. He noted that the Palm Beach Day Academy would apply for a zoning application to seek approval from the Town Council to make some modifications as to how that area would be used.

4. Town Council Chambers Upgrade in Town Hall Renovation.
   [Peter B. Elwell, Town Manager]
   *[**MOVED** Item X.A.4., to Time Certain 10:45 a.m.]*

Town Manager Elwell commented on the options before the Town Council for the upgrade of the Town Council Chambers and the dais. He advised that staff had followed through on the Town Council's suggestion last month to obtain the services of an audio-visual (AV) consultant. Staff had made preliminary contact with an AV consultant who would design a system based on the physical layout selected by the Town Council to be presented at a future Town Council Meeting. The AV Plan as a separate component would not affect the Town's critical time line to have this project fully designed and out to bid.

Director of Public Works Paul Brazil referred to his memorandum to the Mayor and Town Council dated September 27, 2007, and included in the backup material, used to review the following options for the Town Council Chambers upgrade:

- <u>Site Line Issues Relating to the Height of the Dais:</u>

  <u>SK-1A:</u>
  Dais height of 12" and the sight lines for presenters (standing and seated) and the audience.

  <u>SK-2A:</u>
  Dais on a level plane with the rest of the chambers.

  <u>SK-3A:</u>
  The existing 18" high dais.

- <u>Alternative Layouts for Town Council Chambers:</u>

  <u>Alternative #1 (Sketch SK-1):</u>
  11 participants at the dais, including the Town Clerk, and a revised presentation location. Audience seating capacity remains status quo.

  <u>Alternative #2 (Sketch SK-2):</u>
  Reflects a dais shape with more curvature than was proposed previously. 10 participants at the dais, and slightly improved line of sight between participants at the dais itself. Audience seating capacity remains status quo.

  <u>Alternative #3 (Sketch SK-3):</u>
  Reflects a dais shape with the most curvature possible without significantly impacting the functionality of the room. 11 participants at the dais, including the Town Clerk, Improved line of sight between the participants at the dais itself. Audience seating capacity would be reduced by two seats.

Alternative #4 (Sketch SK-4):
Reflects a dais shape the same as Alternative #3. Audience seating capacity would be increased by 28 seats but the relocation of the south walls would lead to additional costs and negative impacts to the AV room and the conference room.

Alternative #5 (Sketch SK-5):
Reflected a shape the same as Alternative #2 proposed previously, and provided for the dais to be at the same floor elevation as the audience. Due to the ramping required, this dais shape and location significantly impacted the audience seating capacity, and provided only 10 additional seats.

President Kleid clarified that the Town Council had two decisions to make:

1. The elevation of the dais at 12" or 18", which would drive some of the dais alternatives.
2. Select an option from the choice of five different schemes for the dais and interior.

Motion made by President Pro Tem Coleman to select the 12" dais elevation.

In response to Council Member Markin who expressed concern related to SK-4, Mr. Brazil advised that the railing would not be an obstruction.

Jere Zenko, 232 Tangier Avenue, commented on the elevation of the dais, noting that members of the audience wanted to be able to see the Town Council Member that was responding to an item.

In response to Ms. Zenko, Mr. Brazil clarified that presently the biggest obstruction for the residents or participants to view the people on the dais was the rail, and if removed, then almost any of the alternatives would be better. He explained that there was some compromise in going down to grade with line of sight issues. The 12" or 18" elevation would both be an improved condition over what was there now.

Council Member Brooks seconded the motion made by President Pro Tem Coleman selecting the 12" dais elevation.

Council Member Markin commented that if the 18" dais elevation could accommodate the ramp, she might be more in favor of the 18" dais elevation, as she was comfortable with the 18" line of sight.

Council Member Coniglio commented in favor of Alternative #3.

President Pro Tem Coleman withdrew the motion selecting the 12" dais elevation.

Motion made by Council Member Coniglio, seconded by President Pro Tem Coleman to accept Alternative #3 (Sketch SK-3).

On roll call, the motion to accept Alternative #3 (Sketch SK-3), carried 4/1.

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

President Pro Tem Coleman made a motion selecting a dais height level of 12". The motion was seconded by Council Member Brooks. On roll call, the motion carried 2/3.

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

President Pro Tem Coleman made a motion selecting a dais height level of 18". The motion was seconded by Council Member Brooks. On roll call, the motion carried unanimously.

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

Town Manager Elwell referred to his memorandum to the Mayor and Town Council dated September 28, 2007, and included in the backup material, providing a monthly status report on the Town hiring freeze.

Discussion ensued relative to the position of the Coastal Project Administrator position, which was not, at this time, an authorized budgeted position, by determination of the Town Council.

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

B. New Business

None

XI. ORDINANCES

A. Second Reading

1. <u>ORDINANCE NO. 16-07</u> An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 82 of the Code of Ordinances Relating to the Retirement System; Amending Section 82-54(d) to Add Subsection (6) Limiting the Purchase of Benefits by Firefighters and Police Officers to Actual Prior Service; Adding Section 82-59 Relating to Transfers of Service Between Town Plans; Amending Sections 82-97(a)(1)-(3), 82-117(a)(1-3), and 82-137(a)(1-3) to Clarify That Supplemental Pension Distributions Are Paid Based upon the Excess Gains from the Reserve for Retired Benefit Payments; Amending Section 82-101, 82-121, and 82-141 to Provide That a Disabled Member must Receive Disability Benefit for at Least Five Years Before Conversion; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date. [Peter B. Elwell, Town Manager]

Town Attorney Randolph read Ordinance No. 16-07 by title, as printed above.

Council Member Coniglio moved adoption of Ordinance No. 16-07. The motion was seconded by Council Member Markin. On roll call, the motion carried 4/0 as Council Member Brooks was temporarily absent from the dais.

2. <u>ORDINANCE NO. 17-07</u> An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 66 of the Code of Ordinances Entitled "Natural Resource Protection"; Providing for Amendments to Section 66-123 Relating to "Application Requirements"; Providing New Permit Fees; Providing for Severability; Providing for Repeal of All Ordinances or Parts of Ordinances in Conflict; Providing for Codification; and Providing an Effective Date.

[Veronica B. Close, Director of Planning, Zoning, and Building]

Town Attorney Randolph read Ordinance No. 17-07 by title, as printed above.

Council Member Markin moved adoption of Ordinance No. 17-07. The motion was seconded by Council Member Coniglio. On roll call, the motion carried 4/0 as Council Member Brooks was temporarily absent from the dais.

3. ORDINANCE NO. 21-07 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, Article X, On-street Parking Permits, Division 2, Residential Districts, at Section 134-2296, So as to Provide for Business Visitor Permits; Amending Section 134-2298 Relating to False Representation; Amending Section 134-2299 Relating to Revocation; Deleting Section 134-2300 Relating to Temporary Visitor Permits in its Entirety; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.
[Thomas G. Bradford, Deputy Town Manager]
Request for Deferral to the November 13, 2007, Town Council Meeting Per Letter Dated September 21, 2007, from Town Attorney John C. Randolph.

Deferred under Item VII., Approval of Agenda, Ordinance No. 21-07 to the November 13, 2007, Town Council Meeting.

4. ORDINANCE NO. 22-07 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, at Article X, On-street Parking Permits, Division 3, Residential Districts Adjacent to Commercial Districts, Providing for the Issuance of Special Parking Permits upon Application; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.
[Thomas G. Bradford, Deputy Town Manager]
Request for Deferral to the November 13, 2007, Town Council Meeting Per Letter Dated September 21, 2007, from Town Attorney John C. Randolph.

Deferred under Item VII., Approval of Agenda, Ordinance No. 22-07 to the November 13, 2007, Town Council Meeting.

B. First Reading

None

XII. DEVELOPMENT REVIEWS

A. Appeals

1. ARCOM Appeal-Widow's Walk-174 East Inlet Drive.
[Veronica B. Close, Director of Planning, Zoning, and Building]
Deferred from the September 11, 2007, Town Council Meeting.

Mr. Mark Rowan, 174 East Inlet Drive, provided a brief overview of his appeal to construct an exterior observation deck on top of his existing residence.

Staff Comments:

Planning, Zoning, and Building Director Veronica Close indicated that the Architectural Commission's (ARCOM) decision was based on the fact that the proposed design would have negative impacts on the subject neighborhood and was not in keeping with the existing architecture in the area. The record reflected that ARCOM members thought that this particular application was not appropriate to the style of the house.

Architectural Commission's comments:

William Feldkamp, vice-chair of the Architectural Commission, commented that the Widow's Walk was architecturally incompatible with the 1950's style of hip-roofed houses. It was mounted above the ridge line of the house, such as the floor level was considerably above the second floor.

Mr. Rowan responded that in order to construct an interior staircase, he would have to eliminate part of the existing roof.

William Strawbridge, ARCOM, noted that the Widow's Walk was an architectural construction typical of beach communities, which did not have the same artistic or aesthetic value system of that in Palm Beach. It connotated a whole different style, that would make it quite dissimilar. He said that ARCOM felt strongly that this was a design element that did not meet architectural criteria and a possible use element that was incompatible with what was there.

Council Member Coniglio commented that ARCOM was not frivolous with their decisions, and that she had two conversations with neighbors that were not happy about the addition, as they indicated that someone could see into their bedroom windows.

Motion made by Council Member Coniglio, seconded by Council Member Markin to deny the appeal. On roll call, the motion carried unanimously.

B. Time Extensions

1. Request for Extension of Work Hours at 2 Via Mizner per Letter Dated September 11, 2007, from Brian Lee, South Ocean Builders, Inc.

Planning, Zoning, and Building Director Close indicated that staff requested a deferral to the November 13, 2007, Town Council meeting, in consideration of the time extension request, as the tenants in the area were not provided proper notice.

Motion made by Council Member Brooks, seconded by President Pro Tem Coleman to approve deferral of the extension of work hours at 2 Via Mizner to the November 13, 2007, Town Council meeting. On roll call, the motion carried unanimously.

C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business- Less Than 15 Minutes

None

2. New Business- Less Than 15 Minutes

a. <u>VARIANCE #28-2007</u> The application of Charles and Sara Fabrikant; relative to property described as Lots 3 and 6, WOODS LANDING, Plat No. 3, recorded in Plat Book 30, Pages 65, according to the plat thereof on file in the Clerk of the Circuit Court in and for Palm Beach County, Florida; commonly known as 249 S Woods Road; located in the R-B Zoning District. The applicant requests a variance to allow for a 10 foot side yard setback in lieu of the 12.5 feet required for the construction of a 492 square foot loggia addition to an existing single family house. Also, a variance is requested to permit 38.67% landscaped open space, in lieu of the 40.38% existing, and the 50% minimum required for lots exceeding 20,000square feet for the subject addition.

Ex-parte communication regarding the merits of the application was declared by Council Member Coniglio with Attorney Ron Kolins.

Attorney Kolins, on behalf of the applicants, Charles and Sara Fabrikant, provided an overview of the Variance request. Attorney Kolins also provided aerial views of the house.

Staff Comments:

Zoning Administrator Castro noted that staff questioned the hardship, not the setback, but the landscaped open space. Because of the lot size, there was plenty of other impervious areas that could be eliminated in order to compensate for the landscaped area that would be occupied. Staff recommended that the hardship be demonstrated by compensating, at least for the side setback variance, for the landscaped open space somewhere else within the property, and by entering into a Unity of Title Agreement between both properties.

Responding to Council Member Brooks, Attorney Kolins commented that most of the property had been utilized for tennis courts, and structures. He noted that 200 feet of greenspace could be added back, which was 40% of the 492 square feet of greenspace, to a space of an existing driveway that was utilized by a two-car garage, on the second lot where the guest house was located.

President Pro Tem Coleman indicated that the open space was down 1.5%, from 40% to 38.5%, which was going in the wrong direction. The problem was that the property was full of structures, which was why there was not enough greenspace.

Attorney Kolins replied that the greenspace was only decreasing by 1%, as the greenspace was being compensated; normally 45% of greenspace was required.

President Pro Tem Coleman suggested replacing the tennis courts or the guest house with greenspace.

Motion made by President Pro Tem Coleman to deny approval of Variance #28-2007.

Responding to President Pro Tem Coleman, Attorney Kolins stated that the hardship was inherited coverage of the lot, and the narrow shape of the lot.

Mayor McDonald suggested changing the clay tennis court to a grass court, as greenspace was a drainage issue rather than an aesthetic one.

Responding to Council Member Coniglio's suggestion, Attorney Kolins indicated that the front driveway would have to be rearranged in order to obtain more greenspace.

Motion failed for lack of a second.

Attorney Kolins indicated that he had just learned that he needed a variance for the setback and not the landscaped open space.

Motion made by Council Member Brooks, seconded by Council Member Coniglio to approve Variance #28-2007.

Attorney Kolins stated that he was withdrawing the request for the variance for the landscaped open space.

Zoning Administrator Castro made the following comments:

- The two-inch storm water retention was only for the addition of the loggia, and not the entire site; and
- The condition of approval that a Unity of Title would be required joining both sites together.

President Pro Tem Coleman expressed concern about creeping development, as each future request would have less greenspace in regard to the property.

Amended motion made by Council Member Brooks to approve the 10 foot side yard setback, due to the narrowness of the lot, for Variance #28-2007, with the condition that a Unity of Title is provided. President Kleid passed the gavel to second the motion. On roll call, the motion carried 4/1, with President Pro Tem Coleman dissenting.

b. <u>VARIANCE #30-2007</u> The application of Marion Hugh and Penelope F. Antonini; relative to property described as Lot 4, Plan of Golf View, according to the map or plat thereof as recorded in Plat Book 7, Page(s) 69, Public Records of Palm Beach County, Florida; commonly known as 4 Golfview Road; located in the R-A

Zoning District. The applicant requests a variance to allow the placement of a swimming pool with a front yard setback of 18.58 feet in lieu of the 35 foot minimum required. **Request for Deferral to the November 13, 2007, Town Council Meeting, Per Letter Dated September 5, 2007, from L. Frank Chopin.**

Variance #30-2007 was deferred to the November 13, 2007, Town Council meeting.

c. <u>SITE PLAN REVIEW #17-2007 WITH VARIANCE</u> The application of Bessemer Building Corporation; relative to a property described as Lot 35, Block E, Revised map of Royal Park Addition, Plat Book 4, Page 1, Public Records of Palm Beach County, Florida; commonly known as 222 Royal Palm Way; located in the C-OPI Zoning District. The applicant requests Site Plan Review to approve the location of a new 150KW natural gas standby generator and a variance to allow a new 150KW standby generator to be located 5 feet from the rear property line in lieu of the 10 foot minimum required.

Ex-parte communication was declared by Council Member Coniglio and President Kleid with Attorney Peter Broberg regarding this project.

Attorney Peter Broberg, on behalf of Bessemer Building Corporation, provided an overview of the request. He noted that the hardship was that the basement was the only location in which the generator could be placed.

Staff Comments:

Zoning Administrator Castro provided the following recommendations by staff, noting that basement was not flood proof:

- The generator was required to be enclosed in a flood proof material room approved by the Acting Building Official, which would meet the requirements of FEMA;

- The mufflers were required to be covered on a least three sides with wing walls and a wall on the west property line; and

- The walls would need to be as high as the mufflers and not just a lattice work that was shown on the plans.

Attorney Broberg replied that the mufflers were underground and the exhaust was above ground; the exhaust would be enclosed, which would exhaust to a parking lot on the west. He said that he had been told, by the engineer that assisted in the construction of the building, that the basement was flood proof.

Responding to President Kleid, Mr. Castro noted that the building official indicated that any electrical equipment below minimum flood elevation had to be sealed in order to protect it with safety mechanisms to shut off the generator if there was a breach within the system. Approval from the building official was necessary to ensure that the FEMA requirements for flood proofing were met.

Responding to Council Member Brooks, Mr. Castro noted that staff's concern was to meet the intent of the code by requiring that the generator be enclosed within a building. As it was a large generator, another part of staff's concern was the baffling of the noise. If it was enclosed in a generator room, it would solve any noise issues.

Responding to Council Member Brooks, Attorney Broberg stated that if the applicant's engineers say that enclosing the generator was feasible, he would agree. However, it was a combustion engine, which needed air circulation.

Council Member Markin commented that she did not want to vote until the issues by the engineers were clarified.

Attorney Broberg reiterated that the applicant would comply with the Town's recommendation if the applicant's engineer said it could be done.

Council Member Coniglio noted that it was an eight inch variance; she had walked the site and it was totally underground, and she was not sure that it would echo to the west parking lot.

Responding to Council Member Coniglio, Attorney Broberg replied that to the east was Royal Palm Way, and to the west was dirt, and a solid wall with a building 15 to 18 feet back.

Ms. Close commented that if the Variance was approved by the Town Council, staff recommended that the applicant meet the flood proofing standard in accordance with the building code. If there was any disagreement, it could be brought back if it was unresolvable.

Motion made by Council Member Brooks, seconded by Council Member Coniglio to approve Variance #17-2007 with the condition that the flood proofing standard was met in accordance with the building code. On roll call, the motion carried unanimously.

d. SITE PLAN REVIEW #18-2007 WITH VARIANCE The application of William E. Shockett, Trustee; relative to property described as lengthy legal description on file; commonly known as 2842 So. Ocean Blvd.; located in the R-D (2) Zoning District. The applicant requests a re-approval of the project's site plan, showing the following changes: replace canvas structure at entrance with a solid porte-cochere, add second floor sun deck, cabanas, and elevator to existing pool building, revise decorative paving pattern in parking lot, move water features on west facade to west side of drive and replace with berm, change pool deck and pool including revised planters and pool steps, relocate dumpster from southwest corner of site to northwest corner, install retaining wall between southwest corner of building and south property line, redesign outdoor use areas on east side of hotel. The variance request is to construct a solid entry porte-cochere rather than canvas with a lot coverage of 29.98% in lieu of the 29.12% existing.

Attorney James Brindell, on behalf of the applicant, provided an overview of the request. He indicated that the hardship was that there was not sufficient clearance to allow emergency vehicles to gain access to the front door, and that the existing awning was not strong enough to withstand severe storms.

Staff Comments:

Zoning Administrator Castro made the following comments:

- The existing basement floor was rearranged space, which comprised of support staff office space, lockers for the employees, and meeting rooms; it did not increase the parking generation rate or demand;

- Relating to the pool deck area, and existing pool pavilion, an elevator was being added to meet the handicapped American Disabilities Act (ADA) requirements for the second floor sundeck, with a trellis over it;

- An existing sauna/shower area, within the pool area, had now become an entertainment area, which included a small bar that served the pool and would be a benefit for the aesthetics and amenities for the hotel, as the servers would not have to go from the hotel to the pool area;

- Operational aspects in the Declaration of Use Agreement, to be considered, as related to the hours of operation of the pool deck area, which was agreed to by staff when it was on the fifth floor, was from 8:00 a.m. to 10:00 p.m., for food and beverage service;

- The hotel was precluded from any live music or entertainment;

- Low volume background music was being proposed, which was typical of any hotel.

Motion made by Council Member Brooks, seconded by President Pro Tem Coleman to approve Site Plan Review #18-2007 with Variance, incorporating the Declaration of Use Agreement.

Responding to President Kleid's concern regarding the second floor addition screening from State Road A1A, Mr. Castro noted that it was an open sun deck with a pergola over the top of it, with a parapet around it, which was approved by the Architectural Commission. The hours of operation were from 8:00 a.m. to 10:00 p.m., and the low volume background music was from 9:00 a.m. to 10:00 p.m.

Responding to Council Member Markin, Adam Schlesinger, president of CSC PB Beach, Ltd., indicated that the pool was required to be closed at sunset, as there was no external lighting. He noted that the lighting in the parking lots was being reduced, so as not to disturb the neighbors.

Attorney Brindell responded to President Kleid that the hours could be changed from 8:00 a.m. to 8:00 p.m., for both the food and beverage service and the low volume background music.

Amended motion made by Council Member Brooks to approve Site Plan Review #18-2007 with Variance, incorporating the Declaration of Use Agreement and the hours of operation of the pool deck area would be 8:00 a.m. to 8:00 p.m. for food and beverage service and low volume background music. The seconder agreed. On roll call, the motion carried unanimously.

e. <u>SPECIAL EXCEPTION #12-2007 WITH SITE PLAN REVIEW AND VARIANCE</u> The application of Henry Morrison Flagler Museum; relative to property described as lengthy legal description on file; commonly known as One Whitehall Way; located in the R-C/R-B Zoning District. The applicant requests Site Plan review to place a temporary hook up to accommodate a 550 +/- KW mobile generator on the southeast side of the grounds, in front of the Pavilion. A Variance is being requested to permit a portable 550 +/- KW generator to be temporarily located on the subject property without the required building enclosure. In addition, a Special Exception is also being requested to permit, as accessory to the Museum, food service catering for tea and light lunches within the pavilion and/or west room of the museum.

Ex-parte communication was declared by Council Member Coniglio, President Pro Tem Coleman, and Council Member Brooks with John Blades, Flagler Museum Director.

Attorney Ron Kolins provided an overview of the request.

Staff Comments:

Zoning Administrator Castro commented that, historically the Flagler Museum had been operating with catering of events during lunch, within the Museum and the Pavilion, and staff requested that the Museum acquire Council's permission for approval of the Special Exception.

Mr. Castro noted that the Site Plan Review was required, not so much for the hookup, but for the placement of such a large generator at the location. The generator was required to be enclosed in a building, whether it was temporary, portable or permanent. The hardship criteria needed to be addressed. Staff recommended that if Council was going to approve a portable generator at that location, with the Variance proposed, that there be a condition placed that the generator cannot come onto the site prior to 48 hours before an event, and had to leave the site within 48 hours after power was restored.

Attorney Kolins responded that it was unknown when 48 hours before the event was, as hurricanes were unpredictable. It would be brought in on a hurricane warning, but the hurricane may not happen for four days.

Motion made by Council Member Brooks to approve Special Exception #12-2007 with Site Plan Review and Variance with the condition that the portable generator could be placed on the site whenever the National Hurricane Center issued a hurricane warning, or when there was a declared power outage and that it must be removed as expeditiously as possible when power was restored. Council Member Coniglio seconded the motion.

Council Member Markin commented that the phrase "as expeditiously as possible" was vague and requested more specific time frames.

Mayor McDonald commented that he would like to narrowly define that the reason for approval was because it was a landmarked building that was open to the public.

Amended motion to approve Special Exception #12-2007 with Site Plan Review and Variance with the condition that the portable generator could be placed on the site whenever the National Hurricane Center issued a hurricane warning, or when there was a declared power outage, and that it must be removed as expeditiously as possible when power was restored. Approval was based on the fact that the Henry Morrison Flagler Museum was a National Historic Landmark that was open to the public. The maker and seconder agreed. On roll call, the motion carried unanimously.

3. Old Business- More Than 15 Minutes

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

Ex-parte communication was declared by Council Member Coniglio, President Kleid, with Attorney Peter Broberg; Council Member Brooks heard the case when at the Architectural Commission meeting and also heard from neighbors; President Pro Tem Coleman spoke to the opposing neighbors.

Attorney Broberg provided an overview of the applicant's request.

Responding to Mayor McDonald, Patrick Segraves , SKA Architect and Planner, indicated that he had many discussions with John and Ann Blades, and briefly talked with Dan Hanley. He presented architectural renderings of the project.

Staff Comments:

Zoning Administrator Castro made the following comments:

- The property was a 50-foot wide, small lot, in which the existing house sat far back on the property;

- The setbacks, a 30-foot setback on Cocoanut Row and a 30-foot setback on the main street that fronts Seaspray, were significant when looking at a 50-foot wide corner lot;

- One of the issues was how much structure could be placed on a lot that small;

- Some compromises had been made related to the back building, which was a guesthouse, and side-loaded garage before the removal of the second floor;

- Staff questioned the hardship as it related to the rear setback;

- Fifteen feet had been provided from the neighbor to the west;

- The neighbors had objections, as letters were provided to the Council;

- The house was pushed nine feet from the corner;

- It would look massive from Cocoanut Row at that location;

- The applicant wanted a side-loaded garage and to move the two-story house further away from the neighbor;

- If the setbacks were met today, the building would be five feet wide;

- The only other compromise for the neighbor would be a one-story house, which the property owner did not want, or to push the house further back;

- The applicants were trying to mitigate the situation, and demonstrated that to the Architectural Commission, who voted to approve the project that fit into the neighborhood;

- He said he understood the concerns of the neighbors, and that the hardship needed to be demonstrated as it related to the variances; and

- He was not sure if the hardship was satisfactory in terms of meeting all of the criteria in the code.

Responding to Council Member Brooks, Attorney Broberg responded that the hardship was the size of the lot and the corner lot with the double setbacks. If the variance was not granted, the lot was unusable.

Council Member Brooks noted that he said there was not hardship to support the entire package. On a 50-foot wide lot, there would need to be some setback on the side to accommodate a 30-foot wide house

Architect Segraves noted that it was a 2300 square foot house with half of it on the second floor, which was the same or smaller than the neighboring houses. The code requirement and under side coverage had been met, the CCR requirement was under for that area, and relative to the size, the Town codes had been met. The hardship was that the variances were minimized by the side-yard setbacks.

Public Comment:

John Blades, 402 Seabreeze Avenue, commented that his home was at four and a half feet elevation, and if the house was built, the ground elevation had to be at seven and a half feet. His house was a one and half story bungalow, and the proposed house was a two-story home. If it was built in the suggested location, it would tower over his existing home blocking out all the light from the eastern elevation. He noted that he would not object to the building if the main house were moved to the rear of the lot, to the south, and the one-story garage was opposite his house.

Attorney Broberg commented that construction could not begin without a retaining wall, so the neighbors would not be affected. He pointed out that there was 20 feet from building to building, putting as much space as possible between them. Presently the neighbors had a borrowed view over the top of the property, which they would like to preserve.

Council Member Markin commented that there was hardship with the narrowness of the lot, and building a house of any reasonable size would be a constraint. The variance being requested for five feet in lieu of 18 feet required a setback for a garage.

Responding to Council Member Markin, Architect Segraves noted that the size of the garage was minimal but that a two-car garage was required. The main reason for the five-foot variance was to place the garage in the rear of the property without seeing the garage doors. It was placed 25 feet from the neighbor's property line to the garage doors in order to have the ability to back out of the garage. The height of the house was lowered to obtain nine-foot ceilings for both floors.

Responding to President Pro Tem Coleman, Planning, Zoning, and Building Director Close
replied that a variance could be obtained to have a one-car garage versus the required two-car garage.

Responding to President Pro Tem Coleman, Architect Segraves commented that he would need to discuss the option of requesting a variance for a one-car versus a two-car garage.

Attorney Broberg indicated that he would take a deferral until next month.

Motion made by Council Member Brooks, seconded by President Pro Tem Coleman to approve a deferral of Variance #22-2007 to the November 13, 2007, Town Council meeting. On roll call, the motion carried unanimously.

Council Member Markin suggested moving the house to the back, attaching it to the garage, and placing the pool in the front.

b. <u>SITE PLAN REVIEW #14-2007 WITH VARIANCES & SPECIAL EXCEPTION</u> The application of The Villas, Inc., Leo Albert, President, relative to property described as Lots 12 through 25 inclusive, a portion of Lot 26 and a portion of Lot 29, Block 13 of Royal Park Addition, as recorded in Plat Book 4, Page 1 of the Public Records of Palm Beach County, Florida; commonly known as 425 Worth Avenue; located in the R-D(2) Zoning District. Request a modification to the Villas' site plan to construct a 515 square foot building located at the northeast corner of the subject property to house a 350 kilowatt generator. The proposal includes the elimination of two (2) off-street parking spaces The applicant seeks a variance to eliminate two (2) required off-street parking spaces. The applicant requests a special exception to provide two (2) supplemental off-street parking spaces located on a property approximately 75 feet west of the subject property. The applicant seeks a variance to locate an enclosed building and 350 kilowatt emergency power generator within the street rear yard setback. The applicant seeks a street rear yard setback of 5.4 inches in lieu of 30 foot minimum required by code for an enclosed building and 350 kilowatt emergency power generator. *Deferred from the August 14, 2007, and September 11, 2007, Town Council Meetings.* **Request for Deferral to the November 13, 2007, Town Council Meeting, Per Letter Dated September 27, 2007, from Francis X. J. Lynch.**

Deferred to the November 13, 2007, Town Council Meeting.

c. <u>SITE PLAN REVIEW #15-2007 WITH VARIANCES</u> The application of Villa D'Este Condominium Association, Inc., relative to property described as Lots 7 and 8 and the east 22 feet of Lot 9, Block 5, H. W. Robbins Addition, Ocean Park, in the Town of Palm Beach, Florida, according to the records on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida as recorded in Plat Book 6, Page 78; commonly known as 230 Everglades Avenue; located in the R-C Zoning District. The applicant requests a modification to the Villas D'Este site plan to place a 100 kilowatt emergency power generator and a 9.72 foot tall wing wall located at the Northeast corner of the existing site. Applicant seeks three (3) variances to construct the wing wall (three-sided wall) and emergency power generator (100 kilowatt) within the font yard setback, side yard setback and exceeding maximum wing wall height; a variance to locate a 100 kilowatt emergency power generator and wing wall within the front yard setback requirement. The applicant seeks a front yard setback of 4.58 feet in lieu of 25 feet minimum as required by code; a variance to locate a 100 kilowatt emergency power generator and wing wall within the side yard setback requirement. The applicant seeks a side yard setback of 3.58 in lieu of 20 feet minimum as required by code. The applicant seeks a variance to construct the wing wall at a height of 9.72 feet in lieu of the six foot maximum allowed by code in the front setback. *Deferred from the August 14, 2007, and September 11, 2007, Town Council Meetings.* **Request for Deferral to the November 13, 2007, Town Council Meeting, Per Letter Dated September 27, 2007, from Francis X. J. Lynch.**

Deferred to the November 13, 2007, Town Council Meeting.

d. SPECIAL EXCEPTION #9-2007 WITH SITE PLAN REVIEW AND VARIANCES The application of Andrew N. Adler, relative to property described as lengthy legal description on file; commonly known as 216 Colonial Lane; located in the R-B Zoning District. Request for special exception with site plan approval for a new two story single family home of 2,793 square feet, on existing portions of platted lots that total 6,150 square feet in area in lieu of the 10,000 square foot minimum required by the R-B zoning district. Variance request to permit a front yard setback for the first story of 21.83 feet in lieu of the 25 foot minimum required. Variance to permit a one car garage in lieu of the two car garage required. Variance request to permit a swimming pool with a rear setback of 4.33 feet in lieu of the 10 foot setback required. *Deferred from the July 10, 2007, and August 14, 2007, Town Council Meetings.*

Deferred to the December 11, 2007, Town Council Meeting.

e. SPECIAL EXCEPTION #10-2007 The application of Island Hotel, Inc. By Brad Bleefeld, Vice President and Treasurer, relative to property described as Palm Beach Hotel Condominium Commercial Unit C-22 per Condominium Declaration of 2/12/81; commonly known as 235 Sunrise Avenue, Unit C-22; located in the C-TS Zoning District. The applicant requests a special exception to establish a 4,673 square foot, 100 seat synagogue. *Deferred from the September 11, 2007, Town Council Meeting.* **Request for Deferral to the November 13, 2007, Town Council Meeting Per Letter Dated September 19, 2007, From James R. Brindell.**

Deferred to the November 13, 2007, Town Council Meeting.

4. New Business- More Than 15 Minutes

a. VARIANCE #29-2007 The application of Jeffrey A. Marcus; relative to property described as Lots 64, PRIMAVERA ESTATES (Middle Section), according to the plat thereof as recorded in Plat Book 7, Page 39, Public Records of Palm Beach County Florida; commonly known as 240 Clarke Avenue; located in the R-B Zoning District. The application requests a variance to construct a new two story house with an architectural tower feature to be 256 square feet in area in lieu of the 132 square foot maximum allowed (2 percent of the gross floor area) and a variance to allow the architectural tower to be on the entry facade which is not permitted by code.

Ex-parte communication was declared by Council Member Markin, Council Member Coniglio, and President Kleid in conversations with Attorney Maura Ziska.

Attorney Ziska provided an overview of the request. She noted that the hardship was driven by the design of the staircase tower on the interior of the house with regard to the rise in the tread and elevator in the entry feature.

Staff Comments:

Zoning Administrator Castro made the following comments:

- The issue was how large a tower should be allowed in the R-B Zoning District, and the reasoning behind allowing tower types of features was:
    - A 2% regulation was proposed to the Planning and Zoning Commission and the Town Council, as typically an R-A District lot would be twice the size of a lot in the R-B District;
    - One percent of floor area was allowed in the R-A District in order to allow architectural detail and some flexibility;
    - Two percent of floor area, twice as much area would be provided to allow a tower feature that did not have any habitable space or area where there would be a third floor;
- The hardship was questioned for a new home, as it would not be a mediocre home without the tower;
- An entry feature was placed specifically in the code, as the Town did not want tower entry features in the R-B District; and

- It was twice the size of an allowable entry feature.

Attorney Ziska responded that the Architectural Commission (ARCOM) did think it would be a mediocre house without the tower, and the 2% rule was an arbitrary number considering the houses on a case by case basis, not everything may or may not fit into the 2% rule. Because of the interior that was designed, the entry, and stair, and the rise in the tread and certain dimensions, this was the number that it needed to be, which was why the applicant was requesting the variance.

Mr. Castro commented that it was not an arbitrary regulation that staff requested and recommended to the Planning and Zoning Commission and the Town Council, as it was well thought out.

Architect Jeffrey Smith commented that it was architecturally possible to build the house without a tower. The house was setback from the east property line 26 feet instead of 15 feet, setback from the road, 54 feet instead of 44 feet, and the size was larger because of the entry staircase that wrapped around and could not be made any smaller; it was strictly for architectural reasons.

Motion made by President Pro Tem Coleman to approve Variance #29-2007.

Motion died for lack of a second.

Council Member Brooks commented that there was no hardship.

Responding to Attorney Ziska, Council Member Brooks indicated that ARCOM did not have the authority to grant a variance, and suggested that she meet with the Planning and Zoning Commission to discuss any procedural changes.

Attorney Ziska replied that the owner was willing to mitigate it by pushing the house back and giving up 10 feet of his backyard, pushing it off the sideyard, and none of the neighbors were complaining about it.

Council Member Brooks responded that it was a fine home, but was in violation of the code.

Council Member Markin agreed that the architectural aspect of it was more appealing with the tower, and it was nice to have variation on Clarke Avenue. She expressed concern about going against code on new construction based on one skilled, architect who designs beautiful homes versus others, as there was no hardship. It would set a poor precedent to approve it on the basis that it was a beautiful building.

Motion made by Council Member Brooks, seconded by Council Member Coniglio to deny Variance #29-2007. On roll call, the motion carried 4-1, with President Pro Tem Coleman dissenting.

D. Other

1. Royal Poinciana Area Study–Interlocal Agreement with Treasure Coast Regional Planning Council.
[Veronica B. Close, Director of Planning, Zoning, and Building]
TIME CERTAIN: 4:00 P.M.

Planning, Zoning, and Building Director Close provided an update and discussed the funding for the project, which could be found in the backup material, on page 188, in a memorandum dated October 4, 2007.

Ms. Close noted that the Treasure Coast Regional Planning Council (TCRPC) offered their services for $110,000 for the charrette process and an additional not-to-exceed amount of $70,000, bringing the total cost of the project to $180,000. Staff recommended consideration of the Town Council's previously approved amount of $135,000 from the FY08 General Fund Contingency. This was a one-time only study, and the balance of the funds could be designated from Planning, Zoning, and Building's (PZB) FY08 funds, which had been budgeted.

Marcella Camblor, director of the Urban Design Studio for TCRPC, provided a PowerPoint presentation of the charrette process. She discussed the proposed steering committee, the timeline, and the funding.

Responding to President Pro Tem Coleman, Ms. Camblor indicated that the steering committee would be subject to the Sunshine Law; TCRPC would provide handouts along with staff's assistance to the committee regarding the rules of the Sunshine Law. She mentioned that the committee would not be voting on any of the issues.

Responding to Council Member Markin, Ms. Camblor explained the role of a charrette process as it related to the Federal Department of Transportation (FDOT) and made the following comments:

- TCRPC would work very closely with the property owners in order to obtain their approval relative to new land development regulations resulting from the new vision; and

- TCRPC would not come in with a preconceived notion; the direction as to what the vision would be would come out of the initial workshop, the interviews, and working with the community.

Responding to Council Member Markin, Ms. Close noted that FDOT indicated that the Town should form a group to work with them and the timing of the charrette would work very well.

President Kleid added that FDOT provided a PowerPoint presentation of the Flagler Memorial Bridge project, and requested that a Town committee work with them in the next few months.

Arnold Hoffman,150 Bradley Place, commented that the function of Poinciana Plaza and the Theater would satisfy his vision.

Responding to Council Member Coniglio, Ms. Camblor made the following comments:

- The area that the study would encompass could be either expanded or diminished through the charrette process;

- TCRPC would need to analyze entitlements for development and bring it to the Council if that was what the community was envisioning for the future.

Responding to Council Member Coniglio, Ms. Close noted that the land development regulations required by Florida Statute 163, included all the comprehensive planning and zoning requirements that a developer would have to know in order to work in our community. Staff requested TCRPC to incorporate the compilation of land development regulations into their scope of work because there was available money in next year's budget. Land changes would not be made or suggested to the existing land development, outside of the study. The Evaluation and Appraisal Report, and the Comprehensive Plan Amendments were being done by the Town's consultant and were not included in this funding.

President Kleid commented that it would be beneficial to have a plan built out in accordance with the Town's existing regulation, in order for the residents to decide if it was acceptable or not.

Responding to Sam Boykin, 285 Jamaica Lane, President Kleid provided clarification of the Proposed Steering Committee list.

Town Manager Elwell commented that TCRPC did not involve itself in any of the visioning elements that resulted from everyone's input in the community that participated in the charrette. TCRPC provided structure to help create momentum in the community.

Council Member Markin expressed concern that the vision would not incorporate the concerns of the residents.

President Kleid replied that the reason for the steering committee was to engage all major organizations as public relations people in order to draw into the orbit all of the individuals of the community.

Responding to Council Member Markin, Ms. Cambrol indicated that, typically, a landowner would hire a land use attorney to negotiate, to the Council, changes on a project by project basis. With an established vision and a document supported by the entire community, the negotiation process would be eliminated.

Mr. Boykin proposed that the steering committee be balanced in proportion with the south end, middle district, and the north end of the residents, without an over balance of commercial interest.

Yvelyne D. Marix, 1570 N. Ocean Boulevard, suggested that the committee be divided into two: the ones chosen by groups, and the others chosen by the Council.

President Kleid replied that it was a good point, that the Mayor had an appointment on the proposed list, and that they may decide that each Town Council person would have an appointment, which would allow individuals to participate.

Motion made by Council Member Brooks, seconded by Council Member Coniglio to authorize allocation of $135,000 from the FY08 General Fund Contingency for the Royal Poinciana Area Study. On roll call, the motion carried unanimously.

Responding to President Kleid, Ms. Close affirmed that there was another $45,000 to be allocated out of PZB's approved funding amount, and that there was a possibility for reimbursement at a later date from both the FDOT and the Metropolitan Planning Organization, which would reduce the total cost of the Study.

Town Attorney Randolph stated that he reviewed the Interlocal Agreement regarding the $110,000 and the $70,000, and that he was not sure where the Town would be at the end of the study. He asked if the Town could enter into the agreement allocating $110,000 for the first phase, but that no decision be made on the $70,000 until the conclusion of the Study.

Ms. Camblor responded that TCRPC could wait to make that decision until the conceptual master plan was adopted and then move forward.

Responding to Mr. Coleman, Mr. Elwell indicated that his suggestion of taking $50,000 of the $110,000 from existing funds, could be authorized as the first commitment of the $110,000 and that $60,000 could be authorized from the contingency. The full $135,000 that was just authorized was not needed.

Amended motion made by Council Member Brooks, seconded by Council Member Coniglio to authorize that the allocation of $50,000 from existing funds, and the allocation of $60,000 from the FY08 General Fund Contingency for the Royal Poinciana Area Study. On roll call, the motion carried unanimously.

Motion made by Council Member Brooks, seconded by Council Member Coniglio, that the Town of Palm Beach be authorized to enter into an Interlocal Agreement with the Treasure Coast Regional Planning Council for the Royal Poinciana Area Study. On roll call, the motion carried unanimously.

After discussion, it was the consensus of the Town Council to appoint a steering committee.

Mayor McDonald requested that TCRPC provide a definition of the functions and the number of meetings that would be required by the steering committee.

Ms. Camblor responded that staff would be emailed on the following day a clear description of the requirements of the committee that could be handed out to the members.

Motion made by President Pro Tem Coleman, seconded by Council Member Brooks that each Council Member and the Mayor nominate three individuals or organizations as potential members for the Steering Committee, and submit the names to Town Manager Elwell by October 26, 2007, for final deliberation at the Special Town Council Meeting to be held on November 5, 2007.

2. Request for Deferral of the Landmark Designation Public Hearing Regarding the Royal Poinciana Plaza, Currently Scheduled to be Heard at the November 13, 2007, Town Council Meeting. [James R. Brindell]
TIME CERTAIN: 4:00 P.M.

Attorney James Brindell requested that this item, the Landmark Designation Public Hearing regarding the Royal Poinciana Plaza, currently scheduled for the November 13, 2007, Town Council meeting be deferred until the May 2008 Town Council meeting. He noted that the charrette report was due to be completed by that time and it would benefit the proceeding.

Discussion occurred among the Town Council and the Mayor. Several of the following comments were discussed:

- The landmarking of Royal Poinciana Plaza should be deferred to March or April when the residents were in Town;

- Performances were not being held at the Theater, which was not in accordance with the contract, and was upheld in court;

- A lawsuit was pending on the landmarking aspect of the Theater, which had been abated during these discussions;

- The site would need to be secured to prevent deterioration;

- The Town should be allowed to inspect the Theater;

- Staff did not know the condition of the building; and

- A quasi-judicial hearing in November was for the Council to make a determination as to whether or not the recommendation of landmarking would be ratified.

Attorney Brindell indicated that the Royal Poinciana Area Study would provide the best input on land use for everything in the corridor before it was decided to take up the merits or non-merits of landmarking.

Council Member Brooks indicated that he was in favor of deferring the decision until May 2008 for the following reasons:

1. The Interlocal Agreement with the TCRPC;
2. The new bridge would involve an eminent domain, for 15 to 20 feet of Mr. Spiegel's property; and

3. Litigation was on going, which could result in an appeal to a land use court.

Responding to Mayor McDonald, Council Member Brooks commented that the item should not be deferred to December or January when the residents were in Town, as the Town operated for 12 months out the year with 59% of year round residents.

President Kleid noted that he was in favor of postponement of the item, as the landmarking was under consideration, and nothing could be done in the interim period. Regarding the Interlocal Agreement with TCRPC for the charrettes, the residents should be free to examine it without restrictions on the property. The meeting should be held in March or April, when more residents would be in Town. He indicated that he would like Attorney Brindell to include conditions to secure the site from the elements, prevent interior deterioration, and allow the Town to inspect the Theater.

John Ripley, Preservation Foundation of Palm Beach, commented that the landmarking process focused on the architectural and historic merit of the subject, not what might happen in the future. The Landmarks Preservation Commission voted unanimously to landmark the plaza; the landmarking process did not prevent any changes from being made. He asked that the Town not defer the item.

Patrick Flynn, Palm Beach Theater Guild, urged the Town Council to have the Landmark Designation Public Hearing regarding the Royal Poinciana Plaza, to be heard at the November 13, 2007, Town Council Meeting, as scheduled.

Motion made by Council Member Brooks to approve deferral of the Landmark Designation Public Hearing regarding the Royal Poinciana Plaza to April 2008 with the condition that the Town would be allowed open inspection of the Royal Poinciana Theater.

Responding to Town Attorney Randolph, Attorney Brindell indicated that he had the required 90 day waiver letter.

Upon roll call, the motion carried 3-2.

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

Amended motion to approve deferral of the Landmark Designation Public Hearing regarding the Royal Poinciana Plaza to April 2008 with the conditions that the Town would be allowed open inspection of the Royal Poinciana Theater within the next 30 days, and every 30 days, if the Town so desired, and also the abatement of the Landmark litigation. Maker and seconder agreed. On roll call, the motion carried unanimously.

3. Consideration of Conditions of Approval for Starbucks Restaurant Concerning Hours of Operation, Merchandise Display Area Window and Town-Serving Documentation, Site Plan Review #12-2006 with Special Exceptions and Variances, 150 Worth Avenue.
[Veronica B. Close, Director of Planning, Zoning, and Building]

Attorney James Brindell, on behalf of Starbucks, provided the following comments to satisfy the request for consideration of Conditions of Approval:

- The display in the merchandise display area window was removed, at the Town's request, and would be replaced with a display that met with staff's approval.

- The store hours were not in any violation; and

- A statement from Holyfield & Thomas, C.P.A., indicated that 59.54% of Starbucks customers met the Town-Serving criteria.

President Kleid commented that, in reading the certification from the accountant, it relied totally on what the client said, and not on any form of record keeping, such as credit card receipts.

Attorney Brindell replied that the customers were asked whether they belonged to one of the three categories, and the responses were punched in with an electronic key system.

Motion made by Council Member Brooks, seconded by President Pro Tem Coleman to approve the Conditions of Approval for Site Plan Review #12-2006. On roll call, the motion carried unanimously.

Responding to Council Member Markin, Attorney Brindell indicated that Starbucks was now closing at 6:00 p.m., Monday through Saturday, instead of 10:00 p.m.

Council Member Markin suggested changing the hours of operation to reflect the actual hours of operation.

Shaun DeMott, district manager of Starbucks, commented that residents requested opening at 7:00 a.m. instead of 8:00 a.m.

Mayor McDonald commented that he had visited the store and that it seemed to be Town-Serving and better than he previously thought. He suggested that Mr. DeMott request to change the hours to 7:00 a.m., if that was what the customers wanted.

XIII. ANY OTHER MATTERS

A. On-Street Parking Near 189 Bradley Place

Council Member Coniglio commented on a letter received from Town Manager Elwell regarding parking on Bradley Place. She noted that a letter from Police Chief Reiter acknowledged, from one person on the street, that there was not enough parking. During most of the time surveyed, at least half of the available parking spaces between Sunrise and Seminole Avenues were occupied, which led one to believe that the other half was empty. The letter continued that on the east and west side of Bradley Place, between Sunrise and Seminole Avenues, would be posted as two-hour free parking to create more turnover. Half of them were empty. She expressed concern that two spaces had already been removed on that street for the Il Lagano change; she noted that she did not see the point in doing something that had never been there before, for one person's request. She said that she was hopeful that this would be delayed again to see what would happen with the introduction of the chalking and the kiosks.

Motion made by Council Member Coniglio, seconded by President Pro Tem Coleman to direct that unrestricted free parking continue to be allowed in the applicable blocks of Bradley Place (between Sunrise Avenue and Seminole Avenue) until the implementation of the new parking program can be thoroughly reviewed. On roll call, the motion carried unanimously.

XIV. ADJOURNMENT

There being no further business, the October 4, 2007, Town Council meeting was adjourned at 7:00 p.m.

APPROVED:

President Kleid
Town Council President

ATTEST:

Susan A. Eichhorn
Town Clerk