TOWN COUNCIL MINUTES OF MEETING HELD ON SEPTEMBER 11, 1991

Roll Call

I. CALL TO ORDER AND ROLL CALL The monthly Town Council of the Town Council of the Town of Palm Beach was called to order by President Heeke on September 11, 1991 at 9:30 AM in the Town Hall Council Chambers. In attendance, on roll call, were Mayor Marix, President Heeke, President Pro Tem Weinberg, Councilwoman Douthit and Councilman Ilyinsky. Absent was Councilwoman Wiener. Also in attendance for all or a portion of the meeting were Town Manager Doney, Town Attorney Randolph, Mrs. Peters, Mr. Elwell, Chief Elmore, Chief Terlizzese, Mr. Jakubiak, Mr. Moore, Mr. Dusey, Mrs. Crozier, Mr. Bitzer, Mr. Crouse and Mr. Zimmerman.

[redacted]

II. INVOCATION AND PLEDGE OF ALLEGIANCE Invocation was given by Monsignor McGrenahan and Pledge of Allegiance was led by President Pro Tem Weinberg.

III. APPROVAL OF MINUTES OF JUNE 11, JULY 9, AND AUGUST 13, 1991. Motion was made by Mr. Ilyinsky, seconded by Mrs. Douthit to approve the minutes with corrections. On roll call, the motion carried unanimously.

IV. APPROVAL OF AGENDA Agenda was approved on motion of Mrs. Douthit, seconded by Mr. Ilyinsky with the deferral to the October 8, 1991 Town Council Meeting of Item No. XII.B.1 - Var. No. 38-91 - Donald Trump, Mar-a-Lago, 1100 South Ocean Boulevard. On roll call, the motion carried unanimously.

[redacted]

V. ORGANIZATIONAL ITEMS

Appt. of Town Man.

A. Appointment of Town Manager - Pursuant to Section 4.02 of Town Charter and Ordinance No. 13-90 Motion was made by Mrs. Douthit, seconded by Mr. Ilyinsky that Robert J. Doney be reappointed as Town Manager pursuant to Section 4.02 of the Town Charter. On roll call, the motion carried unanimously.

Appt. of Admin. Officials

B. Appointment of Administrative Officials - Pursuant to Section 2-3 of the Town Code and Ordinance No. 13-90 - Motion was made by Mr. Ilyinsky, seconded by Mrs. Douthit, that the Administrative Officials be reappointed as set out in Mr. Doney's memorandum of September 10, 1991. On roll call, the motion carried unanimously.

The memorandum of September 10, 1991 from Mr. Doney to the Mayor and Town Council: Subject: Appointive Administrative Officials -- Item for September 11, 1991 Town Council Meeting.

"In accordance with Section 4.04 of the Town Charter and Sections 2-2 and 2-3 (which was amended by Ordinance No. 13-90) of the Town Code, I recommend to the Town Council the appointment of the following administrative officials:

[redacted]

Position Title	Name
ADMINISTRATION:	
Town Clerk	Grace T. Peters
Finance Director and Treasurer	(No Recommendation)
Director of Planning, Bldg. & Zoning	Robert L. Moore
Town Attorney	John C. Randolph
Town Engineer	Director of Public Works or His Designee
Personnel Director	William C. Crouse
Recreation Director	Russell E. Bitzer
PUBLIC SAFETY:	
Chief of Police	Joseph L. Terlizzese
Fire-Rescue Chief	Vincent K. Elmore
PUBLIC WORKS:	
Director of Public Works	Albert P. Dusey
ACTING TOWN MANAGER (Per Section 4.02 of the Town Charter;	Peter B. Elwell

Presentation

VI. PRESENTATION

A. Recognition of E. Rodman Titcomb, Jr. - Zoning Commission Mayor Marix read the plaque and presented it to Mr. Titcomb in recognition of his service on the Zoning Commission.

Comments of Mayor

VII. COMMENTS OF THE MAYOR Mayor Marix believed there were more changes in this Town in the past two or three years than there have been for many years and she thought the Town was changing quicker and not always for the better. She wanted to discuss how things look and repeated her request that when items are presented to the various Commissions and to the Council, they be given a large blown up poster type photograph of the entire area with superimposed on the photographs a drawing of what was proposed to be constructed. She felt that was the only way anyone of them would have a proper idea of exactly what is being done in the Town and indicated a catalogue by Vernon Drake offers this type of poster type photograph for approximately $9.00 and this would let everyone have a very clear picture of what they are getting.

[redacted]

Licenses & Permits

VIII. LICENSES AND PERMITS

A. Charitable Solicitations

[redacted]

1. Leukemia Society of America, Palm Beach Area Chapter; No. 39-92
2. Children's Home Society of Florida - South Coastal Division; No. 60-92
3. Rosarian Academy; No. 127-92
4. Paracare Association of Palm Beach; No. 143-92
5. Visiting Nurse Association of Palm Beach County, Inc.; No. 166-92
6. South Florida Public Telecommunications, Inc.; No. 168-92
7. Preservation Foundation of Palm Beach, Inc.; No. 192-92
8. The Salvation Army; No. 197-92
9. Croquet Foundation of America; No. 216-92
10. American Association Ben-Gurion University of Negev, Inc.; No. 277-92
11. Gulf Stream Council - Boy Scouts of America; No. 304-92
12. YWCA of Palm Beach County, Inc.; No. 325-92

Mrs. Peters advised all of the listed charitable solicitation applications are recommended by staff for approval. Motion was made by Mr. Weinberg, seconded by Mrs. Douthit that the permits for the charitable solicitation applications be issued.

Beverag e Licenses

B. Beverage Licenses

1. Application for Transfer of a 4COPSRX Alcoholic Beverage License from Club L to Mario Botindari/Ristorante Mario at 331 South County Road - Mr. Doney explained this has been reviewed by Town staff and is recommended for approval. Motion was made by Mrs. Douthit to approve the transfer of this beverage license from Club L. to Mario Botindari/Ristorante Mario. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

IX. COMMITTEE REPORTS

Committee Reports

A. Public Safety Committee Meeting Held on August 20, 1991 - Mr. Ilyinsky advised that since the Committee has met, he has received many phone calls on the subject of the striping and widening and narrowing of North County Road and he thought perhaps the recommendation needs to be looked at once again and for the present time, that nothing be done from Miraflores northward, to which Mr. Heeke agreed. Mr. Ilyinsky believed they should enlarge the area and add landscaping on the section between Wells Road and Miraflores as that is a dangerous situation. Mrs. Douthit felt the no-passing should be strictly enforced between Wells and Miraflores and they just leave that area the way it is.

Mr. Heeke suggested the report be accepted into the record and Mr. Weinberg so moved. Seconded by Mr. Ilyinsky. On roll call, the motion carried.

REPORT OF THE PUBLIC SAFETY COMMITTEE MEETING HELD ON

AUGUST 20, 1991

Public Safety Comm.

I. CALL TO ORDER AND ROLL CALL: Meeting called to order by Chairman Ilyinsky. On roll call, Chairman Ilyinsky and Committee member Heeke were found to be in attendance. Also attending were Mayor Marix, Councilman Weinberg, Mr. Doney, Mr. Dusey, Mr. Bowser, Chief Terlizzese, Cpt. Croft and Mrs. Peters.

II. APPROVAL OF AGENDA: Agenda was approved.

III. NORTH COUNTY ROAD FROM WELLS ROAD TO COUNTRY CLUB ROAD - CONSIDERATION OF REGULATORY SIGNAGE AND RELATED ISSUES. After hearing the discussion, it is the COMMITTEE'S RECOMMENDATION THAT FROM WELLS ROAD TO NORTH OF CASA BENDITA, the roadway be narrowed to fourteen feet to allow only one lane of travel in each direction by removing the outside six feet of pavement each side of the road and replace the pavement with sod, with the funding to be transferred from the undesignated General Fund balance which will be approximately $15,000.00. It is noted the advantages for this recommendation are:

1. Those vehicles entering North County Road from the intersecting streets will have increased visibility of oncoming traffic, which will enhance public safety.
2. Passing of vehicles will be eliminated, which will also improve public safety.
3. The lane of travel will be moved away from the low hanging canopy of trees and there will be increased vertical clearance between the pavement and the tree limbs.

THE COMMITTEE FURTHER RECOMMENDS FROM NORTH OF CASA BENDITA TO COUNTRY CLUB ROAD the roadway be widened in those areas where necessary to forty feet, with four ten foot wide lanes of traffic (which are recognized to be sub-standard) with minimum striping installed to denote same; install signs denoting minimum and maximum speed limits (25' minimum and 35' maximum); and signs stating that slower traffic should keep to the right; also with transition painting of the road when it narrows from four lanes to two lanes north of Casa Bendita. and at Country Club Road; with the funding for this project to come from the undesignated General Fund balance. Mr. Bowser will prepare drawings of the areas which need to be widened and a cost estimate for same and these drawings and a cost estimate will be submitted to the Mayor, Town Council and the President of the Garden Club prior to the September 11th Town Council meeting.

Mayor Marix expressed her concern about the yard trash piles becoming hazards if they are piled alongside this main north-south artery, suggesting the residents provide for their yard trash to be picked up on their own property in a designated area, or alternative methods be devised.

IV. ANY OTHER MATTERS: None.

V. ADJOURNMENT: Meeting was adjourned at 9:57 AM.

Ad-journ ment

Signed by Paul Ilyinsky and Bernard A. Heeke

Mr. Heeke stated the first section is the area between Wells Road and Miraflores and that is the divided street under the canopy of trees. He indicated that Chief Terlizzese was very strong with regards to his safety concerns and he made a trip to this area and travelled on the side streets and found it was difficult to see down the road in some of the areas and there is a distinct hazard. He believed the answer to the problem was to limit this particular area to one wide lane and there be no passing, which would afford the opportunity to those people to safety come out of the side streets and allow them more visibility. He recommended the Committee Report be followed and that would be to take away some of the paving on the outer edges which would allow more opportunity for the people coming out the side streets to have a better view of the road. Mrs. Douthit believed it was a good idea but was concerned about the cyclists who use this area as the way it is now, the cars can pass up the bicyclists. Mayor Marix agreed.

Mayor Marix believed several of the streets have mirrors so they can have a better view and perhaps all should install the mirrors as she didn't believe the road should be narrowed and it will be a problem with the bicyclists. She wished to continue to preserve the Town the way it is now and the landscaping that is there now should be properly clipped and the no-passing laws and the speed limits be strictly enforced but she didn't want to see this road narrowed one bit. Mrs. Douthit strongly agreed.

Mr. Heeke asked Chief Terlizzese to comment on this section of road. Mr. Ilyinsky advised the audience that the Committee did not originate this idea but it was originated because of many complaints from the people who live in this area. Mayor Marix did not believe there were as many complaints from the people who live there as there has been since it has been made known they might be changing this roadway.

Public Safety Comm.

Chief Terlizzese addressed the Council, noting there is a lot of controversy about this and his department has also received complaints from residents who reside in this area, especially from Wells Road to Miraflores, because of the curves. He has visited this site once again in the last few days and the little side streets coming out onto the highway onto County Road are very difficult to get out of as he has tried it, especially at the curves and he was careful and responsible as he eased out as much as he could and one just couldn't see far enough to make it safe so he empathized with the people who reside there. He also empathized with the people who travel the road on a daily basis and get behind slow-moving vehicles which is infuriating. He viewed this as a public safety concern and reported there were 31 recorded accidents in an eighteen month period, due to failure to yield the right of way and improper passing and one of the accidents was a fatal accident, so it is an unsafe situation.

Mr. Heeke felt very strongly that this problem needs to be addressed as this is a Public Safety matter and not a question of how quickly you can traverse this highway. Chief Terlizzese didn't know why there was so much objection to the narrowing of the pavement to make this area safer as it can be beautified. Mr. Heeke advised this will not be a narrow one-lane as there will be ample room for a car. Mrs. Douthit stated her point was the sight lines of the landscaping be trimmed back so the drivers can have a better view. Mr. Heeke stated he was not talking about that particular area but above the curve. Mayor Marix asked if it was practical to put a mirror on the island so that people who are coming out onto those roads would be able to see the oncoming traffic; and strict enforcement of the no-passing rule.

Chief Terlizzese suggested they place their motorcycle unit there and strictly enforce the no-passing regulation. Mayor Marix stated she didn't know the cause of the accidents and whether they were driving badly but the visibility problem could be addressed safely.

Mr. Heeke believed they had called for a study of this area by the Police Department and have received their report and their recommendations and now they don't wish to accept it. He asked what the width of the road was in this area? Mr. Dusey responded the width is now 20' in each direction and the proposal is to remove six feet and he believed 14' was quite reasonable. Mr. Heeke didn't believe this would impede passing up the bicycles. Mr. Dusey responded if they are on the right side near the edge, there should be no problem.

Mrs. Gay Gaines addressed the Council who stated she lived in the north end and she asked if there was enough room for the emergency vehicles to get through as she was against making a bottleneck there for the larger emergency vehicles getting through there and secondly, the traffic rules should be strictly enforced so people will catch on and that will prevent narrowing the road and making a bottleneck.

Mr. Heeke stated another aspect would be this would move the pavement away from the overhanging branches so taller equipment will not run the risk of being hit, but the visibility problem of those coming out of the side streets has not been addressed.

Dr. Sten Lilja addressed the Council suggesting that reflectors be installed three feet west of the present edge of the road, which would be an invitation to the bicyclists to stay on the other side of them and motorists would stay to the left of it.

Mayor Marix and Councilwoman Douthit liked the reflector idea. Chief Terlizzese was asked about the reflective mirror in the median and he responded it may not be very effective and it would present a problem with vandalism, however, he did believe the reflectors would nudge the cars towards the center, which is what they are trying to accomplish.

Mr. Ilyinsky asked how much they would cost to which Mr. Dusey responded approximately two or three dollars a piece, but also he thought paint would have to be put with them if they were creating a bicycle lane. Mayor Marix did not believe that was the purpose but to keep the traffic towards the median and to indicate to drivers it is not a two lane road.

Mr. Dusey advised he would have to check to see if this would be in compliance with the Traffic Code. Mayor Marix asked if the Traffic Code would require the reflectors to have paint? Mr. Dusey responded he believed they always required paint between them. Mr. Ilyinsky asked if this should be referred to the Public Works Committee? Mr. Heeke believed it should be with Public Safety and asked in the meantime, if Mr. Dusey would make the determination as to what needed to be done within the traffic standard guidelines, as well as some idea of what it would cost. Mr. Heeke requested Chief Terlizzese to enforce the no-passing in that particular area and he asked that a Public Safety Committee meeting be scheduled sometime after the 23rd of September.

Mr. Doney advised the median beautification plan had been presented by Mr. Ugi and Mr. Dusey and this is in this same area.

Mr. Heeke indicated the next item is the road between Miraflores and Country Club Road and it has been suggested that nothing be done with that area at this time. Mayor Marix suggested a broken single line be made so the people who wish to pass may do so if there is no oncoming traffic. She stated at this time there is presently a double yellow line in the middle and people who pass there do it illegally. Mrs. Douthit felt the hazard there are the trash piles in the street.

Chief Terlizzese stated he would rather see it just as it is and put a dotted line in the middle as those who are coming out of the side streets are not going to anticipate one car passing another in the lane of traffic they would be turning into.

Mr. Heeke stated he would call a Public Safety Committee meeting to address the problems between Wells and Miraflores and no further action at this would be taken on the area north of there and it will remain status quo.

New Business

X. NEW BUSINESS

A. Resolutions

Res. 44-91

1. Resolution No. 44-91 - Designation of Town Depositories and Authorization to Sign Checks for FY92. Mr. Randolph read Resolution No. 44-91:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN
OF PALM BEACH, FLORIDA, DESIGNATING TOWN
DEPOSITORIES FOR FISCAL YEAR 1992 PURSUANT TO
SECTION 2-160 OF THE TOWN CODE OF ORDINANCES AND
DESIGNATING PARTIES TO SIGN CHECKS OR WARRANTS ON

BEHALF OF THE TOWN; PURSUANT TO SECTION 1-159 OF THE TOWN CODE OF ORDINANCES.

Motion was made by Mr. Ilyinsky that Resolution No. 44-91 be adopted. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Res.50-91

2. Resolution No. 50-91 - Consideration of Creation of Bicentennial Eagle Restoration Committee - Mr. Randolph read the Resolution No. 50-91:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, CREATING THE BICENTENNIAL EAGLE RESTORATION COMMITTEE, TO OVERSEE THE REGILDING OF THE BICENTENNIAL EAGLE MONUMENT ON ROYAL POINCIANA WAY.

Mr. Weinberg moved for adoption of Resolution No. 50-91. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Mr. Doney pointed out that in Mr. Elwell's memorandum of September 5, 1991, there are related issues which need to be considered as one was the appointment of David Gradman as the Chairman of this Committee and Mrs. James dePeyster as Vice-Chair of this Committee and the additional people can be appointed at the October 8, 1991 meeting. Mr. Ilyinsky so moved. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Mr. Heeke noted the second item is the seed money and the use of the Town letterhead and secretarial staff being furnished. Mr. Weinberg so moved. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Mr. Heeke recalled Mr. Doney had mentioned there was a report from Mr. Ugi on the beautification of the median and asked this be brought up under "Any Other Matters". Mr. Doney explained Public Safety Committee and Public Works would be meeting on this on the same geographical area but on different issues.

Mayor Marix thought the Garden Club was notified this may be discussed today. Mr. Doney advised they were notified of both of the issues, although the Public Works issue of the median beautification was not an agenda item for this meeting.

Bid Awards

B. Bid Awards

1. Sealed Bid No. 030-90/91 - Dock Security Services - Mr. Heeke explained the recommendation is the award be given to the second lowest bidder, Advanced Protective Services in the amount of $41,607.00.Mr. Ilyinsky so moved. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

2. Sealed Bid No. 032-90/91 - Underground Street Light Wiring and Conduit, Phase II; Consideration of Resolution No. 49-91 - Mr. Randolph read the Resolution No. 49-91:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING THE CONTRACT TO BASIC LIGHTING MAINTENANCE DBA AMERICAN LIGHTING MAINTENANCE FOR THE 1991 UNDERGROUND STREET LIGHT WIRING AND CONDUIT, PHASE TWO.

Mr. Weinberg moved Resolution No. 49-91 be adopted awarding the contract. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Appointments

C. Appointments

1. Mini-Perc - One Four-Year Term to Expire September 30, 1991 (Public Member) Mr. Heeke indicated the recommendation is to reappoint Mrs. Hoffman to the Commission. Mr. Weinberg moved Mrs. Hoffman be reappointed to the Mini Perc Commission. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

2. Zoning Commission - Remainder of One Term to Expire February 1994 - Mr. Heeke noted this vacancy has been occasioned by the resignation of Mr. Titcomb and he had made a recommendation that William C. Cudahy be appointed to fill the unexpired term and Mrs. Douthit so moved. Seconded. Motion carried unanimously on roll call.

D. Other

1. Consideration of Renewal of Computil Agreement for Collection of Parking Fines for FY92 - Mr. Doney recommended the Town Council authorize the renewal of this agreement for one additional year and Mrs. Douthit so moved. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Computil Agreement

2. Consideration of Renewal of Agreement with Coral Building Services, Inc. for Janitorial Services for FY92 - Mr. Doney advised this is for all of the municipal facilities, the Town Hall, the Police Station, the Recreation Center including the Pro Shop, the North Fire Station and to extend the cleaning service to seven days a week at the Police Station and the request is to renew the agreement with Coral Building Services who will extend the services without an increase. Mayor Marix stated she was unhappy to note the Tennis Pro Shop is costing $1800. Mr. Doney pointed out this does include the rest rooms which are used by the public. Mayor Marix pointed out the total cost for the Rec Center and the Tennis Pro Shop is almost twelve thousand dollars a year and she is concerned about that. Mr. Weinberg noticed this list does not include the South Fire Station. Mr. Dusey advised the fire-rescue people clean their part of the station, but the cost reflected is for the administrative offices.

Coral Bldg. Services

Mr. Ilyinsky moved the janitorial services contract be extended for one year with Coral Building Services, Inc. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

3. Request Authorization for Town Manager to Execute Contract for Town Physician for FY92 - Mr. Ilyinsky moved the Town Manager be authorized to proceed with the execution of the contract for the Town Physician for the next fiscal year. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Contract for Town Physician

Golf Course Agreement

4. Request Authorization for Town Manager to Execute Management Agreement for the Palm Beach Municipal Golf Course for FY92. Mrs. Douthit moved that the Town Manager be authorized to execute the Management Agreement for the Palm Beach Municipal Golf Course with Mr. Dytrych for FY92. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Tennis Court Agreement

5. Request Authorization for Town Manager to Execute Management Agreement for the Operation of the Seaview Tennis Courts for FY92. Mr. Ilyinsky moved the Town Manager be authorized to execute the Management Agreement for the operation of the Seaview Tennis Courts for the next fiscal year with Mr. Hay. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

[redacted] Town Medical Plan Agreement

6. Recommended Town Medical Plan for FY92 - Request for Authorization for Town Manager to Execute Agreements and to Proceed with Related Details. Mr. Ilyinsky moved the Town Manager be given the authority to execute the agreements and proceed with the related details with regards to the Town Medical Plan for the next fiscal year. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Insurance Agreement

[redacted]

7. Recommended Program for FY92 Annual Property/Casualty Insurance and Claims Management Services - Request for Authorization for Town Manager to Execute Agreements and to Proceed with Related Details. Motion was made by Mrs. Douthit to authorize the Town Manager to execute the Agreement and proceed with related details with regards to the recommended program for the next fiscal year with regards to the Property/Casualty Insurance and Claims Management Services. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Banking Agreement

8. Consideration of Renewal of Agreement with First Union National Bank for Banking Services for FY92 - Mr. Doney explained he has been in contact with First Union who have the current contract and have provided good service for the past four years and this agreement expires November 2, 1991. He advised the bank has not confirmed they will hold the terms and banking service fees at the current rates and he would like to evaluate if the proposed increase is a reasonable increase and if not, he would recommend the Town seek bids for this competitive service. He commented that it is a major effort to change the banking services. Mr. Heeke believed the contract should be renewed as there is a thirty day cancellation clause in the contract and in the event the proposed increases are exorbitant, Mr. Doney could bring it back to the Council in October. Mrs. Douthit moved the Town Manager proceed with the renewal of the existing banking relationship agreement and in the event the proposed increases are not to our liking, the Town Manager report to the Town Council. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

XI. APPROVAL OF WARRANT LIST AND FUND EXPENDITURES FOR August 1991 - On motion of Mr. Ilyinsky, seconded by Mr. Weinberg, the Warrant List and Fund Expenditures for August, 1991 were approved. On roll call, the motion carried unanimously.

XII. DEVELOPMENT REVIEWS

Major Matters - Arch.Comm.

A. Major Matters Previously Considered by the Architectural Commission at Their Meeting of August 28, 1991 - Excerpt Available in Town Manager's Office - Motion was made by Mr. Ilyinsky, seconded by Mr. Weinberg that the major matters considered at the Architectural Commission meeting of August 28, 1991 be approved. On roll call, the motion carried unanimously.

[redacted]

The major matters were:

B3-91(a) Facade Renovation of Tiffany's, 259 Worth Ave. Deferred.
B12-91 - Landscape plan for Mr. & Mrs. Eugene Applebau, 325 Via Linda, removed from the agenda.
B28-91 - Remodeling of Rubell and Phillips Galleries at 238-240 Worth Avenue, approved.
B37-91 - New residence for Mario Mendoza, 255 Mockingbird Trail - approved.
B43-91 - Landscape Plan for Meridian Condominium, 3300 South Ocean Blvd. Approved.
B46-91 - Demolition and new residence for Carl Asplundh, Jr., 1100 North Lake Way. Approved.
B47-91 - New residence for Mr. & Mrs. Bud Hansen, 1375 South Ocean Blvd. Approved.
B50-91 - Alterations and additions to residence of Mr. & Mrs. L. F. Larsen, 1070 North Ocean Blvd. Approved conditionally.
B73-90 - Landscape Plan for David J. Mahoney, 1296 South Ocean Blvd. - Deferred.
B51-90 New Townhouses for Josephine DeFina Stetson, 147 Seminole Avenue - Extended the approval time for one year.
B52-91 - Remodel residence of Ann Manson, 291 Jamaica Lane - Approved conditionally.
B53-91 - Remodel residence of Mark Goegelman, 239 Barton Ave., Approved conditionally.
B55-91 - Remodeling of residence of Mr. & Mrs. Peter Stanley, 1332 N. Ocean Blvd. - Conceptually approved the project with conditions.
B56-91 - Addition to residence of Downs Mallory, 247 Southland Road. Approved.
B57-91 - New Townhouses for Barbara Tuck, 235 Chilean Avenue - Deferred.
B58-91 - Awning carport for Barnard Komer, 201 Queens Lane - Approved.
B59-91 - Addition to residence of Ben and Sandra Tabakin, 1431 N. Ocean Way. Approved.
B60-91 - Drive-through teller at Citibank FSB, 400 Royal Palm Way. Approved with conditions.

[redacted]

B. Variances, Special Exceptions and Site Plan Reviews

Old Business

Old Business

Var. 38-91

1. Variance No. 38-91 - Donald Trump, Mar-a-Lago, 1100 South Ocean Boulevard; to consider expansion of non-conformities as per Section 8.23 of the Town Zoning Ordinance and allow the existing property manager's cottage to front a new street at a setback of 18' in lieu of 35' as required, and allow the garage to the property manager's cottage to setback 8' when 35' is required, and allow the garage, staff and service quarters to the main structure to be setback 12' from the means of ingress and egress when 35' is required. R-AA District. Deferred from August meeting. This matter was deferred until the October 8, 1991 Town Council meeting.

[redacted]

Ten minute break was taken.

President Heeke called the meeting back to order.

Var. 44-91

2. Variance No. 44-91 - J. Harvey, 225 Barton Ave.; to allow installation of an awning carport providing a side yard setback of 5' in lieu of 15' required and increasing lot coverage to 27.8% thereby exceeding the 25% maximum allowed. R-B District. Deferred from August meeting. Mr. Harvey addressed the Council, noting the house he lives in was built in 1935 and he purchased it in May of 1991 and he has requested this variance which would allow him to erect a 22' awning over a part of his driveway and this awning will provide shelter from the rain on that portion of the driveway and for the western entrance to the house. He advised it will

not be close to any neighboring property. He reported a variance is needed because the side yard setback would be 5' rather than 15' and the awning would result in lot coverage slightly over the allowable. He stated the house is on the extreme westward end of the lot with only a 5' setback between his garage and his neighbor's property to the west. He believed if the house was built in the center of the lot, there would be no problem and he felt if he is not allowed to do this, he would be penalized for a situation which has existed for 56 years, and he did not create the problem but inherited it and he cannot change it. He has contacted seven of his neighbors and has heard from six of them who have no objection. He was requested by the Council last month to look into reducing the length of the awning and he has done so and finds it can be shortened by two feet and he is willing to accept that modification, if this is acceptable to the Council.

Mr. Moore advised the application was deferred and the applicant was asked to modify the awning and the lot coverage problem would remain even if the house was built in the center of the lot and the applicant has addressed it by modifying the awning. He recalled there was no hardship shown, however, he believed the applicant has done what he has been asked and has taken steps towards mitigating the problem. Mr. Heeke asked what the lot coverage would be with the reduction of the two feet? Mr. Moore responded it would be two or three tenths of a percent.

Mr. Ilyinsky believed that Mr. Harvey has shown good faith and has made an effort to reduce the awning and while the hardship may be a difficult one to define, he agreed that some of the older houses in Palm Beach do not lend themselves to modern conveniences and he would move the Variance No. 44-91 be granted. Seconded by Mr. Weinberg. Mr. Heeke indicated he could see no hardship and would be voting against the motion. On roll call, the motion carried 3-1 with Mr. Heeke voting against the motion.

3. Variance No. 50-90 - Ronald Perelman, 641 N. County Road; to allow construction of an addition to a 22' south side yard setback in lieu of 30' currently required. R-AA District. Request for time extension to May 1, 1992. Attorney Gus Broberg addressed the Council on behalf of Mr. Perelman requesting the extension of time. Mr. Ilyinsky moved the extension be granted. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously. Var. 50-90

New Business

New Busines

4. Variance No. 51-91 - Josephine DeFina Stetson, 439 Worth Avenue; to allow construction of a carport providing a 3' street rear yard setback in lieu of 25' required. R-D(2) District. Attorney Gus Broberg addressed the Council on behalf of Mrs. Stetson stating this property goes from Worth Avenue to Peruvian and there has never been a covered parking space and his client wishes to construct a carport with open ends on either side. He explained there is a large paved parking lot to the west of this property and on the east there is a large condominium with a porte cochere on Peruvian Avenue and her hardship would be not be able to conform with the adjacent properties as far as the parking is concerned. Mr. Heeke pointed out another hardship would also be the double fronted lot. Mrs. Douthit asked if they would agree to placing a large six foot to six and one half feet hedge across the entire property? Mr. Gus Broberg responded his client would be happy to do that and that is what is shown on the plans with an entrance to get her car in and out. Var. 51-91

Motion was made by Mrs. Douthit to approve this Variance No. 51-91 with the condition that a six foot hedge be installed all the way across the property line. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

5. Variance No. 52-91 - Ralph MacDonald, 300 El Brillo Way; to allow construction of a tennis court providing a rear yard setback of 6' in lieu of 10' required and providing 1' side yard setback in lieu of 10' required; and to allow continued existence of an 8'8" high wall along the rear and partial side yard lot lines exceeding the maximum allowed 6' and with a portion of the wall (35') nearest the street side yard exceeding the 4' maximum allowed. R-A District. Mr. Moore reported there was a letter received this morning to object to this application from the neighbor to the west, Mr. Cunningham and he will call him to inform him the proposed wall will run east and west and will not interfere with any view of his new home. Mr. J. Kenneth Brower of Smith Architectural Group, Inc., addressed the Council, exhibiting his plans, noting the reason they are asking for the height is because there is no privacy and currently Lot 41 has a restriction on it to be used for access only and his client wishes to increase the length of the wall and maintain the existing height of the current wall. Var. 52-91

Mr. Moore reported the application is in three parts, one request to raise the wall height to match that which is directly across the alley on the rear of the property; secondly, there is an request for a tennis court and it is assumed the wall would be part of the rear portion of the tennis court. He advised the property has an irregular "notch" in the rear and there would be zero setback if the wall were allowed, and further complicating the matter there is a historic tree that occupies a portion of the area where the tennis court would be located. Mr. Moore advised he has no objection to the increase in the height of the wall as long as it does not exceed the height of the wall across the alley.

Mr. Moore stated the hardship is the shape of the property and he believed if the issue of the historic tree can be resolved, staff would have no objection to the tennis court setback because of the unusual configuration of that corner.

Mayor Marix asked if the wall behind the tennis court would be used as a backboard? Mr. Moore believed it was to be used as a containment wall and that is one of the reasons they wish to raise it. He recalled there is a prohibition on night-lighting and backboards on tennis courts in the Town, and they should ask the applicant if he wished to use this wall as a backboard, as that would not be allowed under the Ordinance.

Mrs. Douthit suggested the issues be addressed individually. Mr. Brower exhibited the plan showing where the historic strangler fig tree is located and two-thirds of it would be in the area proposed to be where the tennis court would be located. He pointed out there is quite a bit of deterioration on the tree and exhibited photographs. He had called Joe Ugi, who in turn called Robert Haley, who is the Town Forester and he read into the record a letter dated 8-15-91:

> On 8-15-91, I met with Joe Ugi, Jeff Blakely, landscape architect, and Ken Brower, Architect, at 300 El Brillo Way to get a condition report on a Ficus Aurea Strangler Fig on the property. The tree is located where a proposed tennis court is to be sited. The tree in question is in fair to good condition but cold damage was noted from prior years on the top of the tree which has recovered to a large extent. The tree has been growing in a natural state for many years without pruning. There are some dead stubs present throughout the tree canopy. There are some major rotten areas on the north side of the street - ficus is very soft wooded and extra prone

to rotting. There are other historic trees on the property both ficus, a Lofty Fig and another Strangler Fig have been designated at 300 El Brillo.The property contains some other potential specimens, including a very large Traveler's Tree, a Madagascar Tree and some Pigeon Plum and Cocoa Plum. There are also some palms of potential interest.

Var.52-91

signed Robert Haley, Historic Consultants

Mr. Brower indicated he did contact the Garden Club and Mr. Jeffry Smith met with Mrs. Lesley Smith and then in turn, they met with the President, Mrs. R. J. Wean, Jr., and took her to the site and showed her the tree in question and pointed out the specimen trees and the potential specimen trees on the property and a letter was received from her which he read into the record:

September 10, 1991
MADAM MAYOR AND TOWN COUNCIL
Re: Designated Trees at 300 El Brillo Way

As President of the Garden Club of Palm Beach, it has been brought to my attention that Mr. & Mrs. Ralph MacDonald would like to have one of the three designated trees on their property undesignated. The tree that they would like to have undesignated is a Ficus Aurea, Strangler Fig. In exchange for the undesignation of this tree, they have proposed to designate two other trees on the property. One being a Lofty Fig which is situated along El Brillo Way and another tree to be selected at a later date by the Garden Club. Because the property contains several other potential specimen trees the Garden Club has no objection to the MacDonald's proposal.

signed: Adelaide M. Wean (Mrs. R. J. Wean, Jr.) President

Mr. Brower pointed out on his plans the location of the potential trees on the property which he believed were worthy of historic tree designation, two of them being Banyan trees. He recalled the previous owner, Mr. Huntington did not trim the trees on his property as he preferred the jungle-like look and they are quite huge, thirty to forty feet in height and that is what makes them interesting to the Garden Club.

Mr. Moore stated his staff has no objection to the tennis court or the wall, but there are requirements that involve the Town Manager's Office and the Public Works Department with regards to the historic trees and he is not sure that by having this notice from the Garden Club one day before the meeting was appropriate.

Mrs. Douthit moved that they split the two issues of the wall and the tennis court. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Mrs. Douthit moved that the Town Council approve the requested variance for the wall, with the condition that it would not be used for a backboard for the tennis court. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Mrs. Douthit moved that the tennis court issue on Variance No. 52-91 be deferred until the October 8, 1991 Town Council Meeting and it be presented to the Executive Committee of the Garden Club and the Town Manager's Office with regards to the historic tree problem. Mrs. Ilyinsky did not know if that would be time enough for the Garden Club as they did not meet until after that time. Mr. Brower did not believe there would be serious opposition to designating one of the trees which is a large and beautiful specimen and the letter was written that they would be able to make the choice and he viewed the letter as giving the Garden Club the flexibility to at least not oppose this so the tennis court issue could be addressed. Mr. Heeke stated the motion then is to defer the tennis court until the November meeting until after the Garden Club meets on this topic. Mr. Brower stated in defense of the partial position of the Garden Club, the content of the letter addresses future designations and the issues of meeting with the Executive Committee of the Garden Club. He didn't believe there would be serious opposition to designating the one tree that is shown on the plan. He believed the way the letter was written from the President of the Garden Club, it states the Garden Club had the right to come in and make a future designation, which is true, and that they had hoped by this letter would be to give the Garden Club the flexibility of at least not opposing this. Mrs. Ilyinsky explained they would have to go by their Bylaws. Mr. Heeke felt that was something that the Council had no control over. Mrs. Douthit believed the Garden Club may be able to meet prior to the October meeting if everyone is back in Town. Mrs. Ilyinsky stated they meet on the second Thursday of October. Mr. Brower stated the applicant would like to get started on this and would be appreciative if it could be scheduled for October. Mrs. Douthit restated her motion to defer this until the October 8th Town Council Meeting. Mr. Weinberg as seconder agreed. On roll call, the motion carried unanimously.

Mr. Heeke called to Mr. Brower's attention there may be a temptation to use this wall as a backboard for the tennis court and he may wish to discuss with his client the possibility of putting a fence inside the wall, so that it could never be used as a backboard.

Var.53-91

6. Variance No. 53-91 - Rolla & Kim Campbell, 257 Dunbar Road; to allow installation of a satellite dish antenna 8 1/2' in diameter in lieu of 6' maximum allowed per Section 5.51(f) of the Town Zoning Ordinance. R-B District. Attorney Doyle Rogers addressed the Council on behalf of Rolla and Kim Campbell stating his clients had purchased an eight and one half foot dish, after contacting the Town Engineer and being told they could have a satellite dish, but unfortunately they did not inquire about the size. He indicated his client was quite willing to completely screen the dish and it will not be greater in height than required under the Ordinance. He advised that his client had already purchased the dish together with the hardware and has had it in storage for some time.

Mayor Marix stated her concern on the fact that someone would make an inquiry and receive a vague reply.

Mr. Moore commented that in his office they refer matters to the Departments that have control of a particular problem. He reported the Zoning Commission is going to be reviewing the placement of satellite dishes in the various zoning districts at their zoning hearings later this year. He advised this property is only 500' short of being able to have a larger dish and in view of that, his office has no objection to this variance request.

Mrs. Douthit asked if it needed a set-back variance to which Mr Moore responded they did not. Motion was made by Mrs. Douthit to approve the Variance No. 53-91 with the condition they will properly landscape it from view. Seconded by Mr. Ilyinsky. Mr. Rogers exhibited the landscape plan.

Mayor Marix asked if in the future there are inquiries like this, that the staff is very, very sure that the proper information is disseminated.

On roll call, the motion carried unanimously for approval.

7. Variance No. 54-91 - Bruce Lustman, 1047 South Ocean Boulevard; to allow construction of a waterfall and wading pool providing a rear yard setback of 4' in lieu of 15' as required. R-A District. Mr. Stephen Yeckes, a registered architect, addressed the Council on behalf of Mr. Lustman and he exhibited a rendering of a proposed waterfall his client would like to construct over what exists there now which is a fairly large pool equipment room. He would like to essentially cover that equipment roof and the exhaust stack that sticks out of the pool equipment room. He wishes to install a planter. He showed a rendering of what the actual waterfall would look like and it would provide a nice screen for the exhaust pipe and the pool equipment room. He would not be building a structure of any kind but merely masquerading what is there now. Mrs. Douthit asked how the pool equipment room was installed so close to the line? Mr. Moore stated he would have to check the past records, however, he believes that the pool equipment room has been there for a long period of time. Mr. Yeckes stated they are doing some work there to redo the pool, which has been there for many years. Var. 54-91

Mr. Moore stated he believed that no hardship has been demonstrated and staff believes this can be constructed to meet the Code.

Mayor Marix believed that waterfalls are lovely but wondered if it would be a bother to the neighbors if it would run all night? Mr. Yeckes seriously doubted the neighbors could hear it as it stays well below the wall as the actual noise would occur where the waterfall would hit the wading pool and that is lower than the waterfall and the wall to the adjacent owner and he didn't believe there would be much noise, but if this was a stipulation, it could be turned off.

Mr. Heeke viewed this as not much different than other requests made of the Council and he can see no hardship, as this is an aesthetic case, and it would look more attractive, however, the Council has a lot of difficulty if a hardship cannot be demonstrated.

Mayor Marix wondered if they would be making matters worse if this building already exists by covering it up with water? Mr. Yeckes explained there was no other area on the property where this could be located and this is a very substantial structure and he is not increasing that structure but landscaping it with a waterfall. He stated the pool equipment room is very unsightly and this will be a tremendous improvement.

Mrs. Douthit wondered why the pool equipment required so much room as most pool equipment does not require to be housed in such a structure. Mr. Yeckes stated if it would have to be a small waterfall, it would not do justice to this area but the expanse of the pool equipment makes a nice waterfall within the scale of the entire area. Mayor Marix wondered if they were not making the structure bigger, why does the waterfall become a zoning problem? Mr. Moore stated it is the wading pool associated with the swimming pool and it is a part of the structure and has to have a setback from the property line. Mr. Yeckes stated this is a very expensive project and will add to the asset of this property. Mayor Marix asked if the wading pool could be made smaller? Mr. Yeckes responded if they did that, the pool house would be sticking out and wouldn't be camouflaged. Mr. Heeke understood what he was trying to do but he doesn't see a hardship. Mr. Yeckes felt the hardship could be that he has an existing situation that he cannot move and has to remain there and all he is asking to do is to cover it up. Mr. Heeke believed it could probably be screened with vegetation. Mr. Yeckes felt this was a nicer improvement functionally and the hardship is to conform to the Code which restricts them to do something nicer and that is the hardship. He felt if he was trying to beautify something but was restricted because of a technicality in the Code, that is what a variance is all about. He stated the building is actually 2.7 ' from the property line and the wading pool is four feet, and all he is asking for is the ability to build a waterfall in lieu of the planting.

Mrs. Douthit viewed this as an increase to an already existing non-conformity. Mr. Heeke recalled equipment, such as air conditioning units, etc., has been permitted to be closer to the setback in the past but there are always problems with the neighbors in trying to screen it.

Mr. Ilyinsky believed this was a highly imaginative way of solving a problem and he moved the Variance No. 54-91 be granted although the hardship may not be there, however, to think in terms of beautifying bits and pieces of Palm Beach is something they should let the applicant do. Seconded by Mr. Weinberg.

Mayor Marix asked if the architect would be able to make this a lesser variance by reducing the size of the wading pool? Mr. Yeckes responded he could come up with other solutions, but as an architect, he feels this is the best solution and the problem that he has is the pool equipment room that exists, and he doesn't wish to carry the waterfall inward of that room so that it will stick out and the location of the stack that now exists would preclude him from narrowing down the waterfall as it would then not cover the stack

On roll call, the motion carried 3-2 with negative votes cast by Mrs. Douthit and Mr. Heeke and the Mayor breaking the tie by voting for the granting of the Variance.

Lunch break was taken.

President Heeke called the meeting back to order.

8. Variance No. 55-91 - Palm Beach Historic Inn, Inc., 365 South County Road; to allow conversion of garage space to retail space without providing 6 required off-street parking spaces; said proposal would eliminate 3 existing off-street parking spaces which is prohibited by Section 6.21(c)(2) of the Town Zoning Ordinance. C-TS District. Attorney Doyle Rogers addressed the Council noting this property has been purchased by his client, Mr. Frank, over a year ago and he has been contemplating making improvements. He stated his client would like to turn a portion of the area used for garage space into retail space. He believed the hardship was the spaces that were being used by the hotel tenants have been turned into parking for the neighborhood or Town employees. Var. 55-91

Mayor Marix felt that this is part of the historic district, and the Town was the one encouraging the Preservation Foundation to convert the area across from Town Hall into a lovely park and this is a lovely building and they have renovated it somewhat and she would like to take this opportunity to speak about her great concern about all of the parking in this area has been taken away, especially in the Beaumont lot, and there is residential parking on the streets. She felt if the Council wanted this area to be viable, she felt some of the parking spaces in the Beaumont Lot should go back to revenue making and to be a convenience for the people who live in this area. Mr. Heeke agreed stating he remembers the discussion about the Beaumont Lot sometime ago and thought the staff had to look at it administratively and return some of the spaces to the public at large, although that is not the issue here today. He felt the improvements were welcome and in a historic district with landmarked properties, as a Council, they should try and encourage and foster preservation and maintenance of this type of improvement.

Mrs. Douthit felt it would be an improvement to the building and she moved for approval of Variance No. 55-91 with the two spaces remaining in the rear and if with measurements, they find they can get three spaces, they should provide them, but two minimum should remain, and with the one inch drainage as requested by the Town Engineer.

Mayor Marix pointed out that they said they wanted 800' and she believed it was more like 900'. Mr. Smith responded what they would like to do is park two cars and he believed it was closer to 900'.

Mr. Weinberg commented that for the benefit of beautification and historic preservation, he would be willing to trade off the two car parking problem for the sake of the Town in this situation and he viewed the pluses more than the minus and he seconded the motion.

Mr. Heeke stated the parked cars will not be visible except from the rear of this property.

On roll call, the motion carried unanimously.

Spec. Excep. 10-91

9. Special Exception No. 10-91 - The Royal Poinciana Chapel, 60 Cocoanut Row; to allow construction of an 11,150 sq.ft. addition to the Chapel for accessory uses. R-B District. Robert Nichols, Architect addressed the Council requested permission to add to the Chapel, with demolition of 1780 square feet of sub-standard space now existing in the rear and the addition of 11,150 square foot for a net increase of 9,367 square feet. He advised the existing sanctuary will remain unchanged. He stated the addition will be two stories with 3400 square feet on the second floor and on the first floor it would be 7752 square feet. He advised they would be using this addition as a Fellowship Hall, kitchen facilities and a small meeting room with toilet facilities, stairs and an elevator. He advised the second floor will have five offices for staff. He advised at the present time the Chapel is without a suitable location to meet informally. He advised the site of 100,007 square feet will easily provide for the expansion, with lot coverage at 17% which is well within the 25% limit. He requesting the Special Exception be granted for the following reasons:

(1) It is a permitted Special Exception (2) It is located and designed for the public health, safety and the morals will be protected. (3) Will not cause substantial injury to the value of the neighborhood.

(4) The use is compatible with existing and adjoining development.

(5) It will comply with existing and adjoining development.

(6) It will comply with all yard, space and bulk requirements.

(7) It will comply with the Comprehensive Plan.

(8) It will not result in substantial economic, noise, glare or odor impacts.

(9) It will have adequate ingress or egress.

Mr. Moore advised staff has no objection and recommends the use be restricted to church activities or community-service functions recalling at one time, there was an attempt to use the church for profit.

Mayor Marix asked if they would be holding Sunday School services in this addition? Mr. Nichols responded they do provide this right now, but they do have inadequate space for it. Mr. Heeke asked if they had adequate parking for the addition? Mr. Nichols stated they do as they do not see an increase in the congregation and the Fellowship Hall is an accessory use merely an accessory use to the capacity of the chapel and by itself would not create any kind of an impact.

Mayor Marix recalled there are many weddings in the Chapel and asked if this building would be used for the receptions? Mr. Heeke felt it would be an accessory use of the property.

Mr. Moore recalled they do have an arrangement with the Breakers to use the property across the street for parking overflow.

Motion was made by Mrs. Douthit to approve Special Exception No. 10-91 conditioned on the landmarking of the property and also the addition being used for church and civic functions, but limited to just that.

Mr. Nichols advised this is on the list for landmarking in December but there is some reservation from members of the congregation to the landmarking and he requested that in an attempt to achieve an approval for this project, that it not be tied to a voluntary landmarking designation by the congregation. Mr. Heeke stated it would still have to meet the test of the Ordinance that it is worthy of landmarking.

Mr. Moore stated the Chapel was put on the list for landmarking for next Season but they are awaiting a decision of Mr. Randolph on the acceptability of having the Landmarks Commission review this again, recalling this was up for landmarking at a previous time and he agreed that this application should stand on its own merits and not be tied to landmarking.

Mr. Gaston Jones addressed the Council, indicating he was a member of this church and he wished to be sure that they would consider the fact that the church would still be permitted to have organ concerts or a choral group and he doesn't recall them charging admission for these concerts, however, if this is too tight, they would not be permitted to have these functions which are Town-serving.

Mr. Heeke advised what the Council is concerned with is using the premises for fund raising for another entity, whether it is charitable or profit making.

Mr. Heeke announced he had a problem with the landmarking request and he doesn't know if this was ever determined by a prior Council or not and in that event, he would have difficulty revisiting the issue and asked Mrs. Douthit if she would be willing to amend her motion?

Mr. Weinberg stated if Mrs. Douthit withdraws the landmarking provision, he would be happy to second the motion. Mrs. Douthit amended her motion.

On roll call, the motion carried unanimously.

10. Waiver Requested - C. Claude Mimun, 1144 North Ocean Boulevard; waiver to story height limitation permitting construction of a two story addition to the existing two story dwelling now prohibited under Town Council enacted zoning in progress. R-B District. Attorney Robert Deziel addressed the Council exhibited pictures of the existing building with the proposed second story addition. Mr. Moore advised if the addition were built, it would remove the other portion of the property as a buildable lot, or a defacto Unity of Title. Mayor Marix reminded all that would be true whether they built one story or two.

Waiver - Mimun dwelling

Mr. Deziel stated he represents Mr. Mimun and is here for a waiver of the story height limitation which has been imposed from Queens Lane northward. He stated this property is located at the southern part of that area and it is important to know the applicant is the owner of the home and he is constructing it for his family use and not for resale; secondly, this home is surrounded on all sides by existing two story structures. He stated if the waiver is granted, it would be in conformity with the immediate vicinity surrounding this home. He advised the applicant's property is a double lot and the addition would occupy only a small portion of the second lot and with the addition, the setback that would be provided between the west property wall of the house and the west property line of the house would be approximately 70'. He believed the waiver should be granted because:

1. this would provide for lesser density (in lieu of a single family home on this lot).
2. there will be more green space.
3. it would be an eye-sore to have a one story house on the empty lot as it would be surrounded by three story and two story residences.
4. the addition complies with all zoning laws, with the exception of the waiver.
5. they will not be establishing a precedent because this is the only property that would qualify for a waiver in that the building plans were approved prior to the adoption of the Zoning In Progress.

Mrs. Douthit asked if there was going to be a pool and tennis court? Mr. Deziel advised the pool has been provided for in the original site plan and he doesn't believe his client contemplates building a tennis court or any further building. Mrs. Douthit stated he has come for this addition prior to the completion of the first floor and she is trying to think of what future steps would be entailed in the overall scheme.

Mayor Marix thought he wished to add to the house because he was having another baby. Mr. Deziel stated the bottom floor of the addition will be the cabana and the second floor will be another bedroom.
Mayor Marix asked if he would be contemplating building a separate one story house?

Mr. Deziel responded he didn't believe that was his client's desire or his real intention.

Mr. Moore advised the pool is already on the southwest corner in the site plan.

Mr. Deziel stated they are on the south end of the area where the Zoning In Progress is in effect and most of the homes in that area are already two stories or more and they should have started the Zoning in Progress one block northward at La Puerta.

Mr. Moore responded the purpose for making this from Queen's Lane northward is because it is the ridge district, which is a valid district, and in fact the existing house, which was permitted prior to all of the Zoning in Progress does take advantage of the "ridged" area and has a basement area which would be included in the construction now ongoing.

Mayor Marix felt from all practical purposes, this already is a huge three story house, massive, gigantic and solid and she felt if this addition were granted, the mass would be unbelievable. Mr. Deziel responded he didn't think it was quite as bad as the adjectives describing it by the Mayor but his client would have to go back to ARCOM and he may receive the direction that the addition has to blend in, but he felt this addition tapers off the mass of the house. He advised if the square footage of this addition were put on the first floor, the house would be about twice as long.

Mayor Marix didn't think they would be able to do that as the length of the building would be too long. Mr. Moore stated there is no limit on a single family residence.

Mr. Deziel advised if this is not granted, and when the Zoning In Progress is done and the study is completed, his client would probably come back to get the number of square feet he needed.

Mayor Marix asked Mr. Moore that the attorney did say that this could not set a precedent and she asked if they could come in later and ask to build something else on the empty lot. Mr. Moore responded each case would have to be looked at on its own merit and to put this in perspective, he is correct about the fact this is the only house currently under construction and further, they have a unique situation in that they do have a very large lot and it is dividable and a second home could be built if they elected to do so on that lot. He felt that through no fault of his own, the applicant came before ARCOM, needed no variances and did not have to come before Council and designed a home that he wanted to build on that property for his own use, and before the permit was issued, he realized he needed more space and the Mayor is correct in that this house has three levels, not three stories, as the garage was not counted as a story.

Mr. Moore stated Mr. Deziel alluded to the fact that with the 70' setback, it is in conformance with the study, however the study hasn't been finished but one of the concerns the study was addressing was the proximity of the construction to properties to the west along the ridge and obviously this scenario would not be objectionable as those in the past, which is the "looming" effect of looking down on the properties to the west. He stated the other aspect is the financial consideration is not the case, but in this particular case, the house is under construction and the applicant is forced to come to the Council as it would obviously cost a great deal of money to put on a roof and then after the study is completed come back and ask for a room addition which would necessitate the tearing off of the roof. He stated no hardship needs to be considered as this is a waiver but the financial aspects should be taken into consideration as the house is under construction.

Mr. Heeke asked if he was correct in assuming that there was no other house under construction, nor were they in the permitting process to which Mr. Moore agreed. Mr. Heeke believed this was unique to this particular applicant.

Mr. Weinberg asked how many square feet were involved in the second story addition to which Mr. Moore responded about 900' additional. Mayor Marix asked how much was the whole house? Mr. Weinberg asked if this was for one child? Mr. Deziel responded the first floor would be the cabana and the living area is on the second floor.

Mayor Marix asked how large was the total house as when one drives down the street, it looks very massive. Mr. Moore responded it is 10,000 square feet. Mr. Deziel responded with the addition it would be approximately 12,000 square feet on two lots. Mayor Marix recalled the lots were not that big and she felt the house was huge. Mr. Moore responded there is 26,000 square feet of land and the minimum size of a lot is 10,000 square feet. Mayor Marix advised usually a 12,000 square foot house is not put on a 10,000 square foot lot. Mr. Deziel believed it was almost the size of two and one half lots and actually at the end of this situation, there will be less square footage on those two lots and there would be less density as there will be a huge garden in the vacant area.

Mr. Moore advised they are here for the waiver and it has been verified that there were no variances needed because of the lot coverage. Mrs. Douthit stated one good thing is it will be one family on two lots, which reduces the density. Mr. Weinberg agreed it was a massive house. Mrs. Douthit agreed it was colossal with the addition.

Mr. Heeke asked with the proposed addition, what was the lot coverage? Mr. Deziel responded the lot coverage and density would be digressing from what is to be considered, but if they took one-fourth of the 26,000 square feet, there could be built on the two lots approximately 14,000 square feet of house. He recalled last month Mr. Stanley had approved a two story addition to an existing two story home and he in fact had two additions which were both approved. Mr. Heeke believed it was much less in size. Mr. Deziel did not agree as in a relative sense, when the two story additions were added, Mr. Stanley had to tear down some of the one story structure to be maxed out with the lot coverage percentage. He felt his client's home covers less percentage of the lot than what Mr. Stanley's did. He pointed out the surrounding neighborhood of the Stanley house is not the same as his clients as his client has two story homes surrounding his home. He didn't believe the Zoning in Progress was initiated for this particular house and is after the properties where one gets the feeling the house to the east on the oceanfront is falling over on the house on North Ocean Way and that is not the case here, as there is a 70' setback after the addition is place and that is all he ants to do on the property, there will be no more improvements.

Mr. Deziel recalled the application before them last month did not have a building permit and here they have a project which is being built and this addition would be consistent with what has already been approved, from a zoning, building permit and ARCOM standpoint.

Mr. Weinberg asked if this was not approved, would they continue with the single story addition? Mr. Deziel responded he could not answer the question as his client has not yet made that decision.

Mayor Marix indicated she could see no precedent difficulty with this, to which Mr. Heeke agreed but the matter that hasn't been discussed is that this addition does not front on North Ocean but on a side street and he is persuaded by the fact that it is already surrounded by two story houses.

Mr. Weinberg believed that in looking at the exhibits, the one story looks off balance and if he has to be pushed into this massive situation, he would prefer the two story from a beauty and balance standpoint, rather than the legalities.

Mr. Heeke called for the motion and a motion was then made by Mr. Weinberg to move the granting of the waiver with reluctance. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Mr. Randolph asked if there was going to be a Unity of Title on the property? Mr. Deziel agreed.

Mr. Weinberg moved that to his previous motion, he wished to add that a Unity of Title be submitted for both lots with one house. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

C. Other

Waiver - Dock Length Sect.6.34 -Holloway, 1574 So. Ocean Blvd.

1. Consideration of Request for Waiver from the Dock Length Regulations as set forth in Section 6.34 of the Town Code by Mr. Greg Holloway, 1574 South Ocean Boulevard. Mr. David Keir with Seminole Bay Land Company addressed the Council on behalf of Mr. Holloway requested the waiver to extend an existing dock on the property. He advised the dock is 94' and they wish to add 190'. He stated the reasons are he has met with DER, DNR and DERM on the project and Mr. Holloway would like to use his existing dock but because of the depth of the water in this area which is less than one foot, the dock has become unusable. He has done aquatic surveys and found there is no seagrass or aquatic vegetation which will be disturbed in a dredging process, which is what they originally applied for, however the regulating agencies have a concern with the dredging and that the length of the dock would not provide adequate flushing or water exchange. He advised the suggestion was made to them by the agencies that they try and get as much length onto the existing dock, so the dredging amount could be reduced which will insure an adequate exchange of water. e reported on the north side of the property there is an existing dock belonging to Dr. Spector and one of the considerations of the regulating agencies when they provide the permits for any type of dredging is they like for the dredging to serve multiple docks and towards that end, they have tried to bring their dock out to a reasonable length which would allow them to do maintenance dredging on the existing channel and add some dredging on a right angle to that channel which could serve Dr. Spector's dock and Mr. Holloway's dock, as well.

Mr. Moore recalled Dr. Spector was before the Council approximately two years ago and he was looking for 30' beyond the Town's pierhead line. Mr. Heeke recalled that was a new dock to which Mr. Moore agreed. Mr. Moore stated this property before the Council today is to the south of the Spector dock and at the time Dr. Spector was here, both DERM and Dr. Spector asked for permission to go an extra thirty feet because of the depth of the water. Mr. Moore stated he has talked with Mr. Wolensky and Mr. Jim Berry at County DERM to see whether empirical studies were done of the two feet and the three feet and Mr. Wolensky, under heavy pressure at a public meeting, conceded that it was an arbitrary three feet with no empirical data to support it.

Mr. Moore advised the Town undertook as part of its' Comprehensive Plan and a report will be coming to the Council regarding this, a bathymetric survey of the lake bottom from Everglades Island southward to Sloan's Curve. He stated in certain portions of the Lake, it is achievable to have the three foot requirement but in other portions of the Lake, it could not be obtained unless there was some dredging.

Mr. Moore reported this was done after Dr. Spector's request was granted and he told the Council this would be studied in detail and a report would come back to them and ironically, the first request they have received since Dr. Spector's request is right next to Dr. Spector's dock. Mr. Moore pointed out this applicant is not asking for-05 thirty feet but 190' of exception to the Town's Bulkhead and Pier Line and he felt that went beyond the spirit of trying to cooperate with a property owner to achieve a solution to problems created by dealing with other agencies.

Mr. Moore noted the presentation by Mr. Kier stated this was a "suggestion" of County DERM and not a requirement that he come to the Town to seek relief from the Town's bulkhead line. He stated County DERM has been successful in other municipalities of strongarming the municipalities to change their bulkhead or pierhead lines so DERM's conditions could be met. Mr. Moore stated it will be the staff's recommendation to them next month that any type of variance that is considered for granting the 150' be conditioned that the agency requiring they first deny the right of use to the applicant through their agency, rather than placing the Town in a position of having to act first.

Mr. Moore advised on this application it is the staff's recommendation that the applicant be returned to County DERM to get their opinions and denials, in writing, as to the dredging that they will or will not permit before this matter is considered any further.

Mrs. Douthit agreed that it should be in writing and recalled that was the procedure they followed on the Spector application. Mr. Ilyinsky recalled on the Spector application, there was concern about the seagrass and wondered if that was the concern here? Mr. Moore responded that DERM would prefer to not cut on an angle to the southeast to the existing dock. He believed they would be entitled to an additional 56' and could legally build that within the Town's bulkhead line, but DERM is asking the applicant to come see if the Town would allow them to go longer with their dock because DERM doesn't want them to cut across the angle to the southeast, but want to go parallel to the Spector dock southward as that would involve less dredging.

Mr. Moore viewed this as asking the Town to remove its' considerations in favor of DERM's considerations. He stated if DERM is going to deny the applicant the right to dredge, at that time the Town should give consideration to whether or not he should be able to add 190' to the length that would be permitted now, beyond the 150'.

Mr. Ilyinsky asked Mr. Kier if he had talked to DERM about the dredging of this channel to which Mr. Kier responded they had the Army Corps' permit but DERM would not give them a written opinion, one way or the other and told him they could push through and almost be guaranteed a denial at this point but first, DERM wanted them to come to the Town.

Mrs. Douthit suggested Mr. Kier get the DERM's opinion in writing before the Town further considers this. Mr. Kier asked if a motion is going to be made, could those conditions be attached to it as that would be clear to the other agencies that there are conditions attached and the Town wants to see their denial before the final determination is made by the Town Council.

Mr. Moore pointed out to Mr. Kier that this request is an extremely excessive request as a dock is an accessory use to a piece of property and there is no inherent guarantee in the Zoning Ordinance that a dock could be built and they already have a dock and they are asking for something way beyond what would normally be permitted. He didn't want them to have the opinion that just because DERM might refuse them, the Town is in favor of the granting of the waiver which would be twice the length of what would be permitted.

Mr. Kier asked what he could expect which would be more reasonable? Mr. Heeke responded they cannot speculate and they can all give their personal opinions but something could come up during the discussion which could change someone's mind completely.

Mr. Ilyinsky asked for a clarification on the purpose of extending the dock and was that to be in deeper water? Mr. Kier responded affirmatively indicating they are on a broad, shallow shelf with very scattered seagrasses. Mr. Ilyinsky asked how deep would it be at the end of the dock proposed? Mr. Kier responded they would only be picking up another foot and the purpose of this is the DERM, DER, and DNR are very concerned about prop dredging and they would like a proper channel to be created that multiple users would be able to enjoy.

Motion by Mr. Weinberg was made that this matter be deferred until all other permitting agencies have rendered their written and final decisions. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

2. Consideration of Request for Waiver to Section 12-51, "Hours of Construction Work," of Town Code by Mr. Jeff Smith, Architect for Construction Work at 259 Worth Avenue (Tiffany and Company)

Waiver - Sect.12-51 - Tiffany

Mr. Jeff Smith, Architect. addressed the Council indicating he has with him today representatives from Tiffany, Mr. Humphrey and Mr. Rafael and from Worth Avenue Association, Mr. John Maus. He has sent a letter dated September 4, 1991 which outlined structural work that was discovered when they did some of the demolition work. He stated there have been many rain days which were more excessive than what they had prepared for and there is some street work which needs to be done and they are requesting that in order to get all of this work accomplished before December 1st, they be allowed to extend their working hours from 8 to 6 to 7 AM to 7 PM.

Mr. Weinberg asked if there were any apartment dwellers in this area within 100'. Mr. Maus responded he knew of one resident above Brooks Bros, with whom he talked and he too is anxious for this work to be completed. He also talked to the retailers in close proximity and everyone lends their full support. He stated they are all concerned in having this project completed by December 1 and would have no objection to them working on Sundays also.

Mr. Moore reported he had not had an opportunity to talk to Mr. Smith but he did talk with the Chief of Police. Mr. Moore stated that staff felt it better the working hours be extended and there not be any Sunday work, but after talking with Chief Terlizzese, he indicated it was his preference that nothing be granted, but if Council did grant anything, he would prefer the work be done on Sundays and not extend the time on weekdays. Mr. Smith requested he be allowed both. Mr. Weinberg and Mr. Heeke believed both should be granted so there would be less impact to the neighborhood and they could get it over with, as this is a very crucial corner. Mrs. Douthit suggested they work vigorously on having the front of the building done first and she moved that the extra hours be allowed each day, 7 AM to 7 PM, plus Sundays. Seconded by Mr. Weinberg.
On roll call, the motion carried unanimously.

XIII. COMMUNICATIONS FROM CITIZENS - 3-MINUTE LIMIT PLEASE
Mr. Heeke called for comments from citizens and there were none.

XIV. ANY OTHER MATTERS:

A. RESIGNATION OF MICHAEL T. MCPHAIL. Mr. Heeke recalled earlier today the Council appointed certain department heads and in recognition of the Finance Director/Treasurer, Mr. McPhail's resignation, he would like to recommend that in consideration of his tenure with the Town and his willingness to assist the Town in its transition, the Council approve a motion authorizing payment to Mr. McPhail equivalent of forty working days pay, along with health and dental insurance benefits for that period of time, pursuant to his entitlement to same under Federal Law, for which the Town should pay the premium for the forty day period and Mr. Ilyinsky so moved. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Resig- nation- McPhail

Budget Hearing

B. BUDGET HEARING: Mr. Doney advised the second and final budget hearing will be at 5:01 September 12, 1991 in the Town Hall Council Chambers chaired by Mr. Weinberg.

Comm. Development Block Grant

C. COMMUNITY DEVELOPMENT BLOCK GRANT URBAN COUNTY PROGRAM:
Mr. Doney advised he has sent a memorandum to the Mayor and Town Council on August 22, 1991 with a suggested response draft letter and asked if there were any recommended changes, they should let him know and otherwise, he will respond to the request from the Palm Beach County Commissioners. Mr. Heeke suggested the draft letter be sent as it looked fine to him to which the rest of the Council agreed.

Port of PB

D. PORT OF PALM BEACH. Mr. Doney suggested there be nothing done on this matter until such time as the Corps of Engineers makes the decision as to whether or not they will hold a public hearing with regards to the Port's expansion and the dredging request.

Town Man. Evaluation

E. TOWN MANAGER'S EVALUATION: Mr. Heeke encouraged the Mayor and the Council to discuss with Mr. Doney his performance and review with him his efforts before the next Town Council meeting.

Peanut Island

F. PEANUT ISLAND: Mr. Weinberg inquired about the status and Mr. Heeke informed him there is a meeting of the Port on this subject on September 18, 1991 and he has asked Mr. Elwell to attend and encouraged any member of the Council to attend also.

Acrylic Memento

G. ACRYLIC MEMENTO WITH TOWN SEAL AND NAME. Mr. Heeke advised he has distributed to the Mayor and Council a small memento with the Town Seal on it and their names and he suggested one of these be given to each member presently serving on any Town Commission. He believed these should be given to everyone as they are appointed and the cost is probably much less than the plaques that are now given to the citizens when they conclude their service to the Town. He thought at that time they could be recognized by the Mayor and Council with a certificate, rather than the plaque. Mrs. Douthit moved that in recognition of Town service, when a citizen is appointed to a Board or Commission, they be given an acrylic memento with the Town Seal on it and their name and at the conclusion of their service, a certificate be presented in lieu of the plaques which are now being used and the funding for the mementoes come from the Undesignated General Fund Balance. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

PB Country Club

H. PALM BEACH COUNTRY CLUB. Mayor Marix noted there is finally some beautification going on at the Country Club and asked Mr. Moore what the status of this was and wondered if they would be planting a hedge with the cars behind it. Mr. Moore explained the parking area dates back to the time when the Country Club had agreed to address that issue when the Club was rebuilt and subsequently they made a further promise when they built the storage shed on the Golf Course and this has been a cooperative effort with the Town's assistance in certain phases since part of our right of way is involved. He hoped when it was completed, it would be something of which they all could be proud. Mayor Marix asked if there would be a hedge by the road? Mr. Moore stated there will be some landscaping on it and he believed there would be ninety degree angle parking and recalled that portions of it will have the hedging but not the entire strip.

I. NEW BINDERS: Mr. Heeke thanked the staff for the new Council binders with the plastic cover inserts.

Consent Agenda

J. CONSENT AGENDA: Mrs. Douthit stated she was all for it but she objected to the name "consent". Mr. Heeke suggested they could call it "Items Approved Without Discussion". Mr. Randolph stated there would be a statement on the agenda which would state: "Items on the Approved Agenda will be considered approved by one motion, unless removed from the Agenda by the request of one individual." Mr. Heeke suggested it be called "Approved Agenda" and this will be an experiment. He stated some of the items to be included would be the approval of the minutes, the licenses and permits subject to prior clearance; Committee Reports, designations of the depositories, sealed bid items, all annual renewal items and the Warrant List.

Mr. Weinberg asked if this would mean that the Department Heads would not have to sit through the entire meetings? Mr. Heeke believed that for certain items, they would need certain department heads. Mr. Weinberg noted there was a phone available and perhaps they could be called when their item was coming up on the agenda.

Photographs re:Zoning matters

K. PHOTOGRAPHS REQUIRED ON PRESENTATIONS TO COMMISSIONS AND TOWN COUNCIL ON ZONING MATTERS. Mr. Moore stated currently they do have the requirement that photographs of the surrounding areas within 500' be submitted to the Architectural Commission and if the Council wished to have them in relation to zoning matters, he will try and get some, or they would attempt to make some changes to require it. He stated this has been resisted extremely heavily by residents and their advocates. He understood why the Mayor needed them but at this level, prior to going to finished drawings, if the applicants would be denied, would be a tremendous expense.

Mayor Marix stated what she was talking about was photographs be taken, prior to ARCOM, perhaps two or three from different angles and then superimpose what they proposed to do on the property on the photograph, and if that were done today with the Mimun house, it would have given the Council a clearer picture of the gigantic house. She believed the picture could be enlarged and she saw something like that in a catalogue which could be done for nine dollars, so that is not a massive expense. She felt when the presenters do a drawing, it is a misconception, since they always show the roadways at 40' wide with beautiful palm trees and a forest behind it, as that is a misconception and it is too misleading.

Mr. Moore indicated he will try to phase that in. He stated ARCOM already has that requirement but not the Council. Mayor Marix stated she couldn't believe that they are furnishing ARCOM with pictures as they just would not have allowed some of the massive residences and additions that are being built.

Adjournment

XV. ADJOURNMENT. There being no further business, the meeting was adjourned at 3:24 PM.

Grace T. Peters
Town Clerk