Mayor Marix said the bottom line of all of the people's objections and, under the threat of a possible law suit the bottom line was, that between now and their final hearing the School Board should definitely begin to reduce their budget.

Mr. Doney said that in FY84, of a Town tax payers total tax bill, 35.5% was related to the Town of Palm Beach taxes. In the FY92 proposed budget the Town will receive a 21% of the total tax bill. He said that represents a decrease of approximately 40% in the comparative percentage of Town taxes v.s. total taxes for this period.

Adjournment

VI. ADJOURNMENT

Mr. Ilyinsky moved that the meeting be adjourned. Seconded by Mr. Weinberg, on roll call motion carried.

TC. Meeting 8-13-91

TOWN COUNCIL MINUTES OF MEETING HELD ON AUGUST 13, 1991

Roll Call

I. CALL TO ORDER AND ROLL CALL. President Heeke called the August 13, 1991 Town Council Meeting to order at 9:32 AM in the Town Hall Council Chambers. On roll call, the following were found to be in attendance: Mayor Marix, President Heeke, President Pro Tem Weinberg, Councilwomen Douthit and Wiener and Councilman Ilyinsky. Also attending for all or portions of the meeting were Mr. Doney, Attorney Randolph, Mrs. Peters, Mr. lwell, Mr. Jakubiak, Mr. Moore, Mr. Zimmerman, Mr. Dusey, Mr. Bowser, Chief Terlizzese, Chief Elmore, Assistant Chief Frazier and Mr. McPhail.

Invocation

II. INVOCATION AND PLEDGE OF ALLEGIANCE. Invocation was given by Rabbi Feldman. Pledge of Allegiance was led by President Pro Tem Weinberg.

III. APPROVAL OF MINUTES OF JUNE 11, JULY 8, 9, AND AUGUST 1, 1991
Motion was made to approve minutes of July 8, 1991 with corrections by Mrs. Douthit. Seconded by Mr. Ilyinsky. Motion carried unanimously on roll call. Motion was made by Mr. Ilyinsky, seconded by Mr. Weinberg to approve the minutes of August 1, 1991. Motion carried unanimously on roll call. The minutes of June 11 and July 9 were deferred to the September Town Council Meeting.

IV. APPROVAL OF AGENDA. Motion was made by Mr. Ilyinsky, seconded by Mr. Weinberg to approve the agenda with Item XIII. C.2, Variance No. 38-91 postponed to the September Town Council meeting. On roll call, the motion carried unanimously.

Pre-[redacted]ntation

V. PRESENTATION: A. Recognition of Retirement of Wavell B. Darville, Fire-Rescue Department - Deferred from April meeting. Mr. Darville was presented a plaque in recognition of his 27 years of service.

Comments of Mayor

VI. COMMENTS OF THE MAYOR: Mayor Marix asked that an item be added under Any Other Matters and there be discussion about the length of the Town Council meetings.

VII. PUBLIC HEARING

A. <u>Landmark Designation</u>

Res.28-91

1. Landmark Designation for 25 Middle Road - Consideration of Resolution No. 28-91 - Deferred from July meeting. Mrs. Peters advised this was advertised in June and at each meeting this item was postponed to a date certain, so it is in order. Mrs. Peters gave the oath to those who would be participating in the public hearing. Mr. Moore reported the staff has met with Mr. Mason, the property owner to work out a possible compromise in the designation which had originally recommended all of the property be designated and have reached a compromise to landmark the western facade of the building five feet into the building, which would include the right to apply for a circular drive at a future date.

Mr. Randolph read the resolution by title:

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY HEREINAFTER DESCRIBED MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, AND DOES HEREBY DESIGNATE SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III, OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Mr. Moore reported the criteria is "C" which is it embodies the distinguishing characteristic of an architectural type or is a specimen inherently valuable to the study of a period, style, method of construction or indigenous materials or craftsmanship.

Mrs. Douthit moved that Resolution No. 28-91 be adopted with the change in Section 2 and the statement that it meets the criteria as stated in the Ordinance under "C". Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Res.43-91

B. <u>Abandonments</u> 1. Request for Abandonment and Re-Dedication of a Public Utilities Easement by Palm Beach Tamarin, Inc. at 165 Atlantic Avenue - Consideration of Resolution No. 43-91. Mr. Bowser noted the applicant has purchased 25' of a lot to the north of this property and want to relocate the aerial lines by burying them underground around the perimeter of the newly acquired property to the north. He requests, if this is granted that all the relocated facilities be located underground and all poles required to be installed or relocated be constructed on their property and not on any neighboring property and that all costs associated with the preparation of the easement documents and recording and all costs associated with the relocation of the utilities as well as restoration costs be paid by the owner requesting the abandonment.

Mr. Bowser stated the neighbor to the east and west have been in touch with him and neither have objection, as long as their property is not disturbed but he has not heard from the neighbor to the north.

Mr. Randolph read the Resolution by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, VACATING AND ABANDONING A CERTAIN PRESCRIPTIVE UTILITY EASEMENT ON PROPERTY LOCATED ON 165 ATLANTIC AVENUE, PALM BEACH, FLORIDA, AND DEDICATING A NEW UTILITY EASEMENT ON PROPERTY LOCATED AT 165 ATLANTIC AVENUE BEACH, FLORIDA.

Mr. Randolph advised there was an error in the legal description of the utility easement. Attorney Schilling, who represents the property owner, addressed the Council, stating they could find no record on the prescriptive easement which has been used for many, many years, and his client proposes to reroute the utility lines around the perimeter of the property. He reported when the legal description was prepared by his office and distributed to the Town, it appeared that it might be abandoning more than what needed to be abandoned, however the new easement's legal description seems to be quite correct. He indicated they cannot begin construction or secure the building permit until this matter is resolved, and since the legal description needs to be revised, he would appreciate the Council giving this their consideration. Mr. Randolph advised this can be approved, subject to the legal description being revised and being approved. Motion was made by Mrs. Douthit, seconded by Mr. Ilyinsky that Resolution No. 43-91 be approved with the proviso the revised legal description be furnished and approved by the Town Attorney and the conditions as outlined in Mr. Bowser's memorandum dated August 5, 1991 to Mr. Doney be a part of the approval. On roll call, the motion carried unanimously.

VIII. LICENSES AND PERMITS

Licenses & Permits

A. Charitable Solicitations

1. Palm Beach Community Chest/United Way; No. 8-92.
2. Hadassah Angel of Mercy; No. 14-92
3. Hospice Guild of Palm Beach; No. 205-92
4. Big Band Hall of Fame; No. 234-92
5. Florida Conservation Association; No. 251-92

Mrs. Peters advised all of the charitable solicitation applications are in order and recommended for approval. Mrs. Wiener moved for granting of the charitable solicitation permits to the applicants listed on the agenda. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

IX. COMMITTEE REPORTS

Committee Reports

A. Public Safety Committee Meeting Held on July 23, 1991

Public Safety Comm.

REPORT OF THE PUBLIC SAFETY COMMITTEE MEETING HELD ON JULY 23, 1991

I. CALL TO ORDER AND ROLL CALL: A meeting of the Public Safety Committee was called to order at 1:30 PM in the Town Hall Council Chambers on July 23, 1991 by the Chairman, Councilman Paul R. Ilyinsky. Public Safety Committee member, Bernard A. Heeke also was in attendance. Other attendees were Councilman M. William Weinberg; Robert J. Doney, Town Manager; James Bowser, Town Engineer; V. K. Elmore, Chief of Fire-Rescue; Peter B. Elwell, Assistant to the Town Manager; D. Eugene Frazier, Assistant Chief of Fire-Rescue; Grace T. Peters, Town Clerk; and Mr. Robert G. Currie of Currie Schneider Associates, Architects.

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

III. CONSIDERATION OF FEASIBILITY ANALYSIS REPORT FOR SOUTH FIRE STATION - REPORT BY CURRIE SCHNEIDER ASSOCIATES, AIA, PA. After discussing the exhibits and the Feasibility Analysis Report dated May 24, 1991 and hearing the comments of Mr. Currie, Fire-Rescue Chief Elmore, Mr. Bowser, and Mr. Doney, the Committee made the following recommendations to the Town Council:

A. The Town should pursue construction of a new replacement South Fire-Rescue Station, rather than renovation of the existing station. The building footprint for the new South Fire Station should be limited to the minimum functional requirements of the Fire-Rescue Department and should be smaller than what is existing, if possible. The existing building should continue to be utilized and occupied during the construction period, in order to provide uninterrupted service to the Town residents.

B. The architect should provide a cost proposal for the revised scope of work for Phase 2, which would be to design a new facility with the best traffic circulation for the Fire-Rescue vehicles while occupying the minimal amount of area pavement surface and structural surface so as to minimally impact the recreational areas, in Phipps Ocean Park, while complying with the requirements of the Town's Zoning Code and other Town Ordinances and regulations. The Architect's proposal should also include his proposed cost to study and report on the comparative costs, including advantages and disadvantages, of a one-story vs. two-story facility.

IV. ANY OTHER MATTERS: None.

Adjournment

V. ADJOURNMENT: Meeting adjourned at 2:05 PM.

signed by Mr. Ilyinsky and Mr. Heeke.

Motion was made by Mr. Weinberg to receive the report. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

B. Finance and Taxation Committee Meeting Held August 9, 1991

Finance & Taxation Committee

REPORT OF THE FINANCE & TAXATION COMMITTEE MEETING HELD ON AUGUST 9, 1991

I. CALL TO ORDER & ROLL CALL. The Finance & Taxation Committee Meeting was called to order by Chairman Heeke on August 9, 1991 at 9 AM in the Town Council Chambers. On roll call, Chairman Heeke and Committee member Douthit were found to be in attendance. Other Elected Officials attending were Mayor Marix, Councilwoman Wiener and Councilman Weinberg. Also attending were Messrs. Doney, McPhail, Dusey, Elmore, Frazier, Crouse, Terlizzese, Shetron, Zimmerman, Bitzer and Myers, Mrs. Peters and Mrs. Zamecnik.

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

III. CONSIDERATION OF HEALTH INSURANCE PROGRAM: Mr. Doney advised the Committee that at this Committee's meetings on May 30 and 31, 1991, the Committee asked for a total review of the health insurance program and other alternatives be sought in terms of other types of plans and what the costs would be, as well as looking at the program structure and related issues of the current health insurance program. Jeff Angello, Area Vice-President of Gallagher Benefits Services addressed the Committee on the Town's Self-Funded Health Care Program, and provided a written report. After hearing his extensive remarks and discussing same, it is the Committee's RECOMMENDATION that the proposal and recommendations of Gallagher-Bassett dated August 9, 1991 be implemented, including a change in initial eligibility to six months from date of employment.

The Finance & Taxation Committee also requested Mr. Angello to investigate:

1. the possibility of providing temporary insurance for new probationary employees, at their expense;
2. "cafeteria" plans, including the possibility of offering supplementary insurance to the employees of the Town, for an additional premium;
3. any alternative plans which would be cost effective and would be a further refinement;
4. what relative savings could be realized after the 9-30-91 Actuarial Report is completed with regards to considering increased premiums for retirees, if possible, taking into consideration the younger retiree in their forties and the elderly retirees, over sixty years of age;
5. development of additional cost containment measures and management of future medical costs.

IV. CONSIDERATION OF FY92 PROPOSED CAPITAL IMPROVEMENT PROGRAM. After hearing comments from Mr. Doney, Mr. McPhail and Mr. Dusey on the "revised" proposed Capital Improvement Program dated June 7, 1991, it is the COMMITTEE'S RECOMMENDATION that $500,000 be removed from the FY 92 Proposed Capital Improvement Program for the South Fire Station project and same be placed in the FY 93 Capital Improvement Program, which would allow for the architectural, engineering and design work be formulated in FY 92. It is further RECOMMENDED the sealed bids for the construction of a new South Fire Station be received at the October 1992 Town Council Meeting in order that this project may be completed.

V. CONSIDERATION OF FY92 PROPOSED BUDGETS - GENERAL FUND AND ALL OTHER FUNDS. The Committee discussed in detail the memorandum (with attachments) from the Town Manager dated July 23, 1991, and the memorandum (with attachments) dated August 8, 1991 from Mr. Jakubiak. Until the survey of the surrounding municipalities is received, the Committee will have no recommendation with regards to the general pay increase issue. The Committee heard the comments of Mayor Marix on the opportunity for additional revenues by providing public parking in the Beaumont Lot with the addition of parking meters and this matter was referred to the Public Works Committee for consideration.

Mr. Doney advised if there are any proposed major changes which arise relative to the proposed budget, same will be reported and the proposed millage will be adjusted accordingly before the September 4, 1991 5:01 Public Hearing.

VI. ANY OTHER MATTERS: The Chairman reported there will be ample opportunity for additional Finance & Taxation Committee meetings if the need does arise.

Ad-[redacted]ournment

VII. ADJOURNMENT. Meeting was adjourned at 11:15 AM.

signed by Mr. Heeke and Mrs. Douthit.

Motion was made by Mr. Ilyinsky, seconded by Mr. Weinberg to receive the report of the Finance & Taxation Committee Meeting of August 9, 1991. On roll call, the motion carried unanimously.

Mr. Heeke reported his Committee addressed the implementation of a health insurance program which had been recommended by Gallagher-Bassett, with the objective to minimize the cost to the Town and to the employees for their medical costs, and is an approach for self-containment of costs. He stated the Committee recommends to the Council that they proceed with the implementation of the Preferred Provider Organization approach as recommended by Gallagher-Bassett. He stated it has been recommended that new employees have an eligibility period of six months, however, it is recognized that not everyone applying for a job with the Town would be in a circumstance where they would have insurance that would carry them over this six months period, and

Gallagher-Bassett is looking into the possibility of providing supplemental policies available to those people during this period of eligibility. He noted there will be a change in the deductible.

Mr. Doney advised that every employer, be it public or private faces these same issues and what is recommended is a modification of the Town's current plan, however, it is still a plan which provides the service at competitive premium rates. He stated the uncontrollable are the major large claims, which we have experienced for two consecutive years and 21 of the large claims represented 49% of the claim cost, and was approximately 1.6 million dollars and came from less than two per cent of the program participants.

Mayor Marix recalled the possible advantage to adopting this plan is that next year, there may be some savings and would reflect a reduction of something which may not have been the case, had we not made these changes, however, it will not effect this year's budget in any way. Mr. Heeke stated there are various methods of providing insurance and 61% of the plans are self-funded, which is where we are at this point and he believed that is where they should be, and that means on the national advantage the insured vs. self-insured is about a five per cent savings per annum.

Mrs. Wiener recalled one of the facts they discussed at the Committee meeting was this plan is made up of active employees and their dependents and retirees and their dependents and in the retiree area, there are the younger retirees, aged 45 up to 60 and when they retire from the Town, they can opt to stay on this insurance program forever, and that is where the real problem lies.

Motion was made by Mrs. Douthit, seconded by Mrs. Wiener to approve the health program as recommended by Gallagher-Bassett.
Motion carried unanimously on roll call.

Mr. Doney asked for consideration of one of the items in the Public Safety Committee Report, which would be the authorization of the architectural services and the scope of revised work by Currie Schneider, Architects, and this would be Phase 2. Mr. Ilyinsky moved the architectural services be authorized as outlined in the letter from Currie Schneider, Architects and there be additional athorization for the funding of this fee. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Old Business

X. OLD BUSINESS

A. Other

Regulatory Signage

1. Reconsideration of Regulatory Signage and Related Issues - North County Road from Wells Road to Palm Beach Country Club. Mr. Heeke indicated he requested this item be placed on the agenda as there have been many complaints about the no-passing signs and it would be his recommendation that the areas from Miraflores to Country Club Road be restored to passing, but the no-passing be retained from Wells Road to Miraflores. Mrs. Wiener moved that the regulatory signs on North County Road from Miraflores Road northward to Country Club Road be removed. Seconded by Mrs. Douthit.

Mayor Marix indicated she was not against what they were doing, but they shouldn't forget how they got into this situation, as the Town Manager and the Police Department brought this to their attention about the unsafe conditions and the problems they were having there, and if they remove the signs, they will still be having the problem and that double line in the middle seems to be the problem, in that no-one should pass over it and if there is a slow driver, they would pass on the right, which is unlawful. She thought perhaps a way to handle this would be to change the double yellow line into a single yellow line, thereby allowing a person to pass a slow moving vehicle on the left.

Mr. Dusey addressed the Council noting the motion was to remove the regulatory signs and he didn't believe the Council wanted to remove the speed limit restrictions and what they wanted to do was to remove the "No Passing" signs. Mrs. Wiener indicated she made her motion from the verbage on the agenda. Mr. Doney explained this was described in that manner since the entire issue of the speed limits, potential for pavement markings, no passing zones were the issue, all of which was discussed at the Public Safety Committee. Mrs. Wiener withdrew her motion.

Mr. Dusey advised the lane widths are too narrow to allow passing within the confines of the center line and the pavement. Mayor Marix believed it should be striped as it is further north, where passing is allowed as long as there is no oncoming traffic.

Mr. Heeke suggested there could be signs instructing slow moving traffic to stay to the right.

Mr. Dusey suggested since there has been a lot of activity on this matter since the signs were posted, perhaps the Mayor and Town Council would want to refer this matter back to the Public Safety Committee.

Chief Terlizzese addressed the Council, noting he was not in attendance at the meeting when this was discussed. He recalled in 1990 a two page memorandum was written suggesting that the roadway from Wells Road north to the Country Club was too wide to be two lanes, and too narrow to be four lanes, reporting there were 31 accidents recorded in that area, which primarily involved improper passing or lane changing.

He recalled the original recommendations made by the Police Department and which were concurred with by Mr. Bowser and Mr. Dusey were that the highway either be narrowed to be two lanes, or striped on both outside edges to clearly define it as a two lane highway, but there was no mention made about putting double yellow lines for no passing. He did not believe the No Passing signs were working as they have had about 143 violations, with forty per cent being Town-residents.

Mrs. Wiener moved the No Passing signs be removed. Mr. Ilyinsky recalled they did follow Cpt. Croft's advice on this at the last Public Works Committee meeting and suggested this be referred to the Public Safety Committee. Mrs. Wiener amended her motion that the No Passing Signs be removed from Miraflores Drive to the Country Club, and that all other safety considerations in this matter be sent to the Public Safety Committee for their research, who will report to the Town Council at their very earliest convenience. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Mid-town Seawall

2. Consideration of Contractual Cost Estimates to Install a Topping on Parapet Wall at Mid-Town Seawall. Mr. Heeke advised it is hoped that this would discourage people from sitting on the wall and also discourage the skateboarders from skating on the wall, as there have been two incidences of people falling off this wall. Mayor Marix recalled reading a story about people falling off the wall onto the sand, but the problem is there is no sand and they fall off the wall onto the rocks placed there and hoped this could be publicized. Mr. Weinberg believed this would also help with the litigation costs as well. Mrs. Douthit moved the approval of the installation of topping on the parapet wall at Mid-Town Seawall and

the allocation of $15,000 be transferred from the undesignated General Fund balance. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

PEP Reef

3. Consideration of Cost Proposal and Scope of Work from the University of Florida regarding the Necessary Computer Studies and Related Evaluations of the Proposed PEP Reef Project at Mid-Town Beach in Conjunction with the Proposed Mid-Town Beach Nourishment Project. Mr. Dusey reported a proposal has been received and he believed it addresses some of the questions raised and the fee consideration of $7200 is reasonable and recommended this be approved and the allocation from the undesignated General Fund balance for the completion of this study. Mrs. Douthit felt it sounded reasonable and she moved for approval. Seconded by Mr. Ilyinsky.

Mayor Marix stated she was under the impression the University was doing this work and Dr. Dean was the head of that department, however, it looks like the University is not involved as on the proposal it states "Consultant and Coastal Oceanographic" and it is signed by Professor Dean and the report is submitted by him alone. Mr. Dusey stated he was contacted at the University of Florida, but obviously he has his own consulting firm, as most do, and he would be doing the work independent of the University, however, he is the guru of this type of work and very well known. Mr. Heeke asked if this study would be acceptable to DNR? Mr. Dusey recalled DNR has suggested that Professor Dean do the study. Mrs. Wiener asked if Mr. Ryder of DNR could be sent a letter asking if this is acceptable? Mr. Dusey believed that was possible.

Beth Mitchell of American Coastal Engineering addressed the Council indicating they have no objection to this being done by Dr. Dean, however, she would like to suggest that since Mr. Ryder came to the Town and requested a workshop and also mentioned in his July 31, 1991 letter that the State was interested in combining or coming up with a solution that would ultimately benefit the State, they be requested to help pay for this study.

Mr. Heeke felt that was an excellent suggestion. Mr. Ilyinsky asked what was the time frame to which Mr. Doney responded ten weeks after the authorization to proceed.

Mrs. Douthit amended her motion that it be approved, once it is a proven fact that Dr. Dean is the proven person that DNR will listen to. Mrs. Wiener believed that would be contingent upon them agreeing to this in writing. Mayor Marix didn't believe they were going to get a completely impartial study if this is indeed the man they want to do this study. Mrs. Douthit felt the lobbyists were in there ahead of us in any event, so it wouldn't matter.

Mr. Heeke recalled he wrote to DNR and asked for the comments concerning the validity of models as the issue was raised by Mr. Campbell and he is not sure the response he received addressed the sand size as an issue.

Mr. Heeke asked if the motion approved the $7200 contingent upon receipt of written affirmative response from DNR that Dr. Dean's report will be an acceptable one, and to proceed with State assisted funding to which Mrs. Douthit agreed. Mr. Dusey didn't believe there was a problem as Dr. Dean was recommended.

New Business

XI. NEW BUSINESS

A. Resolutions

1. Resolution No. 39-91 - Application for Funds from the Palm Beach County Emergency Medical Services Awards Program. Mr. Heeke noted they are requested a $2116 grant to purchase

Res.39-91

three flotation stretcher baskets. Mr. Randolph read the resolution:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING THE APPLICATION FOR FUNDS FROM THE PALM BEACH COUNTY EMERGENCY MEDICAL SERVICES AWARDS PROGRAM TO BE USED FOR THE IMPROVEMENT AND EXPANSION OF EMS SERVICES FOR THE TOWN AND HELPING MEET EMS GOALS. SUCH FUNDS SHALL NOT SUPPLANT EXISTING EMS BUDGETED.

Mrs. Douthit moved for approval of Resolution No. 39-91. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Mayor Marix requested a list of the donations and the donors be furnished to the Mayor and Town Council, so they have an idea of the donors and how much they have given. Mr. Doney believed these reports would be provided on a quarterly basis. Mrs. Wiener asked how they would list the anonymous donor.

Mr. Doney advised it would be listed as anonymous. Mayor Marix thought it was something that should be known to which Mr. Heeke agreed, noting it is a public record and it should be included in the report.

2. Resolution No. 40-91 - Proposed Amendment to Resolution

Res.40-91

No. 35-91 regarding the Legal Description Relating to the Abandonment and Rededication of Easements at 185 Woodbridge Road. Mr. Randolph advised the attorney for the applicant recognized a mistake in the legal description which had been provided to the Town and the Resolution has now been amended with the correct legal description, and he read by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, VACATING AND ABANDONING A THREE FOOT SEWER EASEMENT, A FIVE FOOT PUBLIC UTILITY EASEMENT AND AN UNRECORDED EASEMENT FOR DRAINAGE ON PROPERTY LOCATED AT 185 WOODBRIDGE ROAD, PALM BEACH, FLORIDA, AND DEDICATING A NEW FIVE FOOT DRAINAGE EASEMENT ON PROPERTY LOCATED AT 185 WOODBRIDGE ROAD, PALM BEACH, FLORIDA.

Mr. Ilyinsky moved for adoption of Resolution No. 40-91. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

B. Bid Awards

Sealed Bid 017-90/91

1. Sealed Bid No. 017-90/91 - Police Facility Exterior and Selected Interior Painting; Consideration of Resolution No. 41-91 Mr. Randolph read the resolution by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN

OF PALM BEACH, PALM BEACH COUNTY, FLORIDA,
AWARDING A CONTRACT TO PAT PAULIN & SON PAINTING
AND DECORATING, INC. FOR THE PAINTING OF THE
POLICE FACILITY.

On motion of Ilyinsky/Wiener, the Resolution No. 41-91 was adopted. On roll call, the motion carried unanimously. Res.41-91

2. Sealed Bid No. 024-90/91 - Callahan Seawall Replacement at 880 South Ocean Boulevard; Recommendation to Reject Bids. Motion was made by Mrs. Douthit to approve the recommendation as contained in Mr. Bowser's memorandum of August 5, 1991 to reject the bids. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously. Sealed Bids: 024-90/91 027-90/91 028-90/91

3. Sealed Bid No. 027-90/91 - Two Trailer Mounted Electric Generators. Motion was made by Mrs. Wiener to approve Sealed Bid No. 027-90/91 with award to Engineered Computer Environment in the amount of $55,000. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

4. Sealed Bid No. 028-90/91 - Central Fire Station Renovation; Consideration of Resolution No. 42-91. Mr. Randolph read the Resolution by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN
OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING A
CONTRACT TO KLK BUILDERS, INC., FOR THE CENTRAL FIRE
STATION RENOVATION.

Mr. Dusey indicated they have included the temporary construction trailer in the cost of $39,000 and have allowed a slightly larger contingency which will be returned if not needed in the amount of $47,040. Mr. Weinberg asked about the time frame? Mr. Dusey estimated the construction was to start in October and will be finished in March or April. Mrs. Wiener wanted to know if this trailer would be used to house the personnel in the South Fire Station during that renovation process? Chief Elmore responded that is not the plan at this time, as they are hoping the staff at the South Fire Station can stay in the old quarters during the construction.

Motion was made by Mr. Ilyinsky to adopt Resolution No. 42-91. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously. Mrs. Wiener asked if the construction work could be monitored very carefully as it is being done during the season to which Mr. Dusey agreed. Res.42-91

Motion was made by Mrs. Wiener to waive Section 22-2 of the Town's Code of Ordinance and the waiver to expire fourteen days after the Certificate of Occupancy is issued. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

5. Sealed Bid No. 029-90/91 - Diesel Dump Truck. Motion by Mrs. Wiener was made to award the Sealed Bid No. 029-90/91 in the amount of $39,725 to Boebinger International and the shortfall of $4725 come from the street resurfacing program within the Streets Bureau program. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously. Sealed Bid 029-90/91

6. Sealed Bid No. 031A-90/91 - Memorial Fountain Renovation. Mr. Moore explained the memo from Mr. Zimmerman dated August 7, 1991 recommends the bid be awarded to Keystone Restoration, Inc., and the State is reimbursing the Town up to $9,000, which is the proposal and the Garden Club is assisting with the landscaping. Motion was made by Mrs. Douthit to accept the bid of Keystone Restoration, Inc. and authorize Mr. Boggs to act as the contractor in this renovation. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously. Sealed Bid 013A-90/91

Short break was taken.

President Heeke called the meeting back to order.

C. Other

1. Consideration of Draft Ordinance Proposed by Palm Beach County Water Resources Management Advisory Board regarding Water and Irrigation Conservation. Mr. Heeke noted the recommendation is the South Florida Water Management District is the appropriate agency to handle this matter and a draft letter is in the Council's packet for consideration. Mr. Weinberg moved the proposed letter be sent over Mr. Heeke's signature. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously. Water Resources

2. Recommend Renewal of Sealed Bid No. 030-89/90 with John's Towing for One (1) Additional Year (FY92). Motion was made by Mr. Weinberg, seconded by Mrs. Wiener to authorize the renewal of Sealed Bid No. 030-89/90 for an additional year. On roll call, the motion carried unanimously. Sealed Bid 030-89/90

3. Consideration of Proposed Mutual Aid Agreement for Fire-Rescue Emergency Services between the Town of Palm Beach and the City of Lake Worth. Motion was made by Mr. Weinberg to authorize the execution of the Mutual Aid Agreement with the City of Lake Worth. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously. Mutual Aid Agreement for Emer.Ser.

4. Consideration of Request for Authorization for Town Manager to Execute the Medical Director's Contract for FY92. Mr. Heeke noted the fee has been increased slightly and this is a renewal of Dr. McCurdy's contract who has been with the Town for eleven years. Motion was made by Mrs. Wiener to authorize the Town Manager to execute the Medical Director's Contract for FY92. Seconded by Mr. Ilyinsky. ON roll call, the motion carried unanimously. Med. Director Contra

XII. APPROVAL OF WARRANT LIST AND FUND EXPENDITURES FOR JULY 1991
Motion was made by Mr. Weinberg, seconded by Mrs. Douthit to approve the Warrant List and Fund Expenditures for July, 1991. On roll call, the motion carried unanimously.

XIII. DEVELOPMENT REVIEWS

A. Major Matters Previously Considered by the Architectural Commission at Their Meeting of July 24, 1991 - Excerpt Available in Town Manager's Office. Motion was made by Mr. Weinberg to receive the minutes of the Architectural Commission's July 24, 1991 Meeting. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously. Major Matters-Arch.Comm.

The major matters were:

B3-91A Facade Renovation for Tiffany's, 259 Worth Ave., deferred.
B12-91 - Landscape Plan for Mr. & Mrs. Eugene Applebaum, 325 Via Linda. Deferred.
B28-91 - Remodeling of Rubell Gallery and Phillips Galleries, 238-240 Worth Avenue, Approved courtyard plan but deferred other portions to the August meeting.
B30-91 - Addition to resident of Mr. & Mrs. Harry Williams, 115 Via Palma, approved.
B36-91 - Facade renovation of Chanel, 247 Worth Avenue - approved.
B37-91- New resident for Mario Mendoza, 255 Mockingbird Trail. conceptually approved.
B38-91 - Facade renovation for 400 Building Limited Partnership, 400 Royal Palm Way. Approved conditionally.
B41-91 - Addition and renovation to residence of Ms. Lourdes Aspuru Llanas, 233 Tradewind Drive. Approved.
B43-91 - Landscape Plan for Meridian Condominium, 330 S. Ocean Blvd. Deferred.
B46-91 - Demotion and new residence for Carl Asplundh, Jr., 1100 N. Lake Way. Conceptually approved with conditions.
B47-91 - New residence for Mr. & Mrs. Bud Hansen, 1375 S. Ocean Blvd. Deferred.
B48-91 - Demolition and new residence for Mr. & Mrs. Martin Cannon-Mochorowski, 220 Kawama Lane. Approved conditionally.
B49-91 - Demolition and new residence for Stuart Scharaga, 210 Wells Rd. Extended original approval for one year.
B50-91 - Alterations and additions to residence of Mr. & Mrs. L. F. Laersen, 1070 N. Ocean Blvd. Deferred.

B. Appeal

Appeal of App. 19-91 - 61 Middle Road

1. Appeal of Landmarks Commission Decision by Mr. & Mrs. Louis D. Root, Application COA No. 19-91 for a circular drive at 61 Middle Road. Mr. Root addressed the Council, indicating he was the owner of the property and introduced Michelle Ackerman of the architect's office, SDA Management, who advised the Mayor and Council they had been before the Landmarks Commission, who denied their request for a circular driveway, citing the reasons that it would destroy the front elevation of the house; and they did not feel there was adequate space for this drive. She stated the problem is there is no parking allowed on Middle Road and the existing driveway would only accommodate two cars, therefore, whenever anyone is invited to a party or to dinner, special permission must be secured to park in front of the house and she thought a small circular drive would accommodate enough people so it would not be an inconvenience to the owners. She noted there are many houses along Middle Road which do have circular drives. She advised Mr. Root owns three cars and would like to have this driveway.

Mr. Moore stated when this was before Landmarks, they felt the applicant had presented this for a circular driveway but found the other homes which had circular driveways along Middle Road have larger setbacks from the street and felt this would not be acceptable because it would take away much of the existing green area and would destroy the entranceway.

Mr. Root indicated there are two houses which have exactly the same setback as his house does and that is twenty-five feet and there are others which are thirty feet which also have the circular driveways.

Mrs. Volk, Chairman of the Landmarks Preservation Commission, addressed the Council, indicating the Roots have done a wonderful job in restoring their house and she was not aware of the fact that there is no parking allowed on Middle Road and she would have no objection to the driveway. Motion was made by Mrs. Wiener that the appeal of the Landmarks decision on the Louis D. Root home at 61 Middle Road be granted and they be permitted to install a circular driveway. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

C. Variances, Special Exceptions and Site Plan Reviews

Old Business

<u>Old Business</u>

Var.67-89

1. Variance No. 67-89 - Michael Burrows, 1495 N. Ocean Boulevard; request for a one (1) year extension to allow the creation of a buildable lot providing a lot width of 115' in lieu of 125' required. R-A District. Mr. Burrows addressed the Council, noting this this is his second request for an extension. Motion was made by Mrs. Douthit to approve the extension of this additional year, providing this would be the last. Seconded by Mr. Weinberg. Mr. Burrows indicated he too hoped he would not have to come back for another extension but the economic times are the reason behind his request. Mr. Weinberg announced he would take back his second unless the proviso is removed. Mrs. Douthit amended her motion to approve the extension without any conditions to the granting of the extension. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Var.38-91

2. 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 July meeting. Postponed to the September 11, 1991 Town Council meeting.

<u>New Business</u>

New Bus.

Var.44-91

3. 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. Mr. Harvey addressed the Council on his own behalf requested the variance. Rick Guenot from Anchor Awning addressed the Council indicating he hoped to be able to install the awning, indicating shrubbery is located on the north, east and west sides of the home and they would like the canopy to be installed n the north and west corner. He had written approvals from all the neighbors and is only one neighbor which he could not contact. He advised the canopy is not free-standing but attached to the residence and can be easily removed in the event of a storm and would provide protection from the sun and the elements. He believed the lot coverage would be exceeded by 2.8%. Mr. Moore advised the staff does not find a hardship.

Mrs. Wiener asked if the awing could be reduced so the percentage of the lot coverage could be reduced? Mr. Guenot felt it could be cut back in the front. He indicated the hardship is that his client needs to park his car out of the elements. Mr. Guenot stated this is a double carport awning and will not proceed past the edge of the home and it could not be seen as the shrubbery will conceal it. Mr. Harvey indicated the object is not really to park two cars, but the problem was the carport awning could not be erected because of the construction of the driveway, and the vertical stanchions on which the carport awning would be supported would have to be installed in the middle of a driveway, were they to accommodate a single car. Mayor Marix believed they could be cantilevered so that there wouldn't have to be stanchions. Mr. Heeke asked if it could be reduced somewhat?

Mr. Guenot stated they are trying to conform with the overall structure of the home itself and for the aesthetics. Mr. Heeke stated they have denied these in the past and if this is denied, he would not be able to come back for a year and suggested perhaps he might like to try and work out a compromise. Mr. Guenot asked if Council would be agreeable to the reduction of the awning which would reduce the lot coverage. Mr. Heeke stated they would like to see what it would look like and suggested he come back next month. On motion of Mr. Weinberg, seconded by Mrs. Douthit, the application for Variance No. 44-91 be deferred to the September 11, 1991 Town Council Meeting. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Var.45-91

4. Variance No. 45-91 - International Deli-Cafe, Inc., 277 Royal Poinciana Way; to allow conversion of take-out restaurant to a 12 seat restaurant without providing the two required parking spaces per Section 6.21(c)(1)(c) of the Town Zoning Ordinance. C-TS District. Gladys Kennedy addressed the Council indicating she was the new owner of the delicatessen and requested the variance. Mr. Moore advised staff finds the request not to be in contravention of this style of an operation and has no objection, however, requested that if this is granted, it would be for this owner only and any subsequent owner would have to return to the Council with their request. Mr. Ilyinsky moved the Variance No. 45-91 be approved with the condition that should there be a change in ownership, the new owner would have to seek permission from the Town Council. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Lunch break was taken.

Meeting called back to order by the President.

Var.46-91

5. Variance No. 46-91 - Peabey Associates, 249 Royal Palm Way; to allow a variance from Zoning Ordinance Section 6.40 (n) extending the two year time limit to three years and 2 months for revival of a special exception use thereby avoiding involuntary abandonment. C-OPI District. Stephen Gelvin, President of Sutton Group of Palm Beach, Inc. addressed the Council as the management company of the Plaza Center, requested the extension of the current zoning, Mr. Heeke asked why he didn't come back in January when they have a signed lease in their possession to which Mr. Gelvin responded there is a problem as the use expires in November of 1991 and he doesn't believe he will have a signed lease at that time. Mr. Ilyinsky asked the Town Attorney if what the applicant has suggested would have any legal ramifications? Attorney Randolph referred to paragraph "N" which provides for two means of abandonment, one being an intentional abandonment on the part of the owner and the other is not intentional abandonment, where a use has been discontinued for a period of two years. He stated the Ordinance provides that upon discontinuance of the use for a period of two years, without the intention of the owner, "shall be an abandonment." Mr. Randolph stated he had a problem with this as he didn't think it was the intent of the Code to grant a variance to allow a use which is not already allowed therefore once the use is abandoned, he didn't believe the Council could grant this variance from a legal standpoint. Mrs. Wiener asked if it was asking for an extension and not a variance, would he still have the problem? Mr. Randolph explained that either way they would have to go against the direct prohibition in the Code. Mrs. Wiener believed that everything not permitted is prohibited, recalling a few months ago they had a request for a flagpole which was not allowed under the Ordinance, but they were eventually allowed to erect the flagpole. Mr. Moore advised Banks and Financial Institutions are Special Exception Uses and in order to provide for the use, one must come to the Council for relief by way of a Special Exception. He didn't dispute the statement made by Mr. Randolph that it would be in effect granting a use that would have expired, vis a vis the Special Exception. He believed that the point made by Mr. Randolph on the granting of the use which would not normally be permitted and the request is to extend it is correct. He didn't believe the Council could grant the variance and his department therefore, objects to it.

Mr. Adrian Winterfield addressed the Council pointing out the Council has no choice and even if the owner came forward with a new tenant today, they would have to require a new Special Exception. Mr. Moore responded the Bessemer Co. was in the building prior to the enactment of this particular requirement, and they would lose their grandfather status upon the passage of the time of two years. Mr.Winterfield believed the former tenant was occupying the premises under a Special Exception and an amendment has been adopted to the Zoning Ordinance that if a holder of a Special Exception vacates, the successor tenant is required to file for a new Special Exception and he thought this was not properly before the Council as it is a request for a variance, and he didn't believe they could agree to a tenant whose identity was not known.

Mrs. Wiener asked how this came before them on the agenda? Mr. Zimmerman responded it was his interpretation that an existing non-conforming use, and he knew Bessemer took occupancy of that space in the early seventies and were in there until they occupied their new quarters approximately eighteen months ago. He stated it was his opinion the use could continue and the only request before the Council today has nothing to do with use but a request for a time extension and he advised the applicant to file a variance. Mr. Randolph stated it was his opinion that any new use should come before the Council to make a determination as to what the Special Exception would be? Mr. Moore believed they were asking for more than an extension, but to give an approval for a business they have no idea what it would be so they would not have the opportunity to examine what the impact would be on parking and traffic, etc. and he agreed with the Town attorney's opinion and not Mr. Zimmerman.

Mayor Marix asked if they leased the space in November, would it have had to come before the Council? Mr. Moore responded if the applicant was able to lease the business within the two year grace period, notwithstanding the new Ordinance change, he didn't believe they would have had to come before the Council. Mayor Marix felt this is for 8000 square feet, which would lease for a great deal of money and if the new tenants are interested, she didn't see why they wouldn't go ahead and lease it and just not occupy it until January 1992. Mr. Heeke indicated they are constantly refining the Zoning Code and one of the practices of the Council for the past year or so has been to require new lessees or tenants to come back to the Town Council, so it is a known fact of what type of business would be using the premises and a judgment can be formed at that time, to ensure it is consistent with the Code.

Mr. Moore stated he will retract his former statement since Bessemer was a Permitted Use when it occupied the premises and enjoyed that status and they would be required to come back for a Special Exception. Mrs. Wiener believed it should not have been on the agenda. Mr. Gelvin did not agree as he believed he had the right to file the application since the two year grace period had not yet expired. He understood the purpose of the grandfather clause was to protect the owner of the property and if there is a change after the property is acquired, it is with the understanding that there was a grandfather clause and the first floor can be utilized for financial use. Mrs. Wiener explained the regulations have been changed and what has happened is a Special Exception cannot just be handed over to the next occupant, they have to first appear before the Town Council. Attorney Randolph explained the two year grace period expires in November and under that theory, the applicant should be coming before the Council prior to November, if the future tenant wants to be assured that he will be able to have the lease. Mr. Gelvin indicated he was trying to eliminate the condition of the tenant executing the lease that they had to come for prior approval. Mr. Heeke pointed out they still have the space available for other potential tenants, and it doesn't have to be a financial institution. Mr. Gelvin advised because this is the financial banking area of Palm Beach, they have been marketing this space for financial institutions and they have not had other inquiries of that type.

Mrs. Wiener noted there obviously is an error here that this is on the agenda, and wondered if this could be taken off the agenda? Mr. Randolph stated it could be if it is agreed that by legal opinion or by Council action that they do not want to extend the abandonment period, the application before them today can be denied and a Special Exception can be filed to either extend their use or get a Special Exception use for the new tenant, as if this taken off the agenda and November goes by, the use is lost. Mrs. Wiener believed the use has been lost in any event. Mr. Randolph suggested they take the action today of denying the application to extend the abandoned period beyond two years and in that way the Council has acted on it and the applicant is not prejudiced in coming back prior to November to get a Special Exception use for the use of the space.

Mr. Winterfield addressed the Council noting the applicant would not be impeded for coming before the Council for the Special Exception Use, and he believed if there were a new financial tenant ready to occupy tomorrow, Council would consider it as a Special Exception, and the only way that could be avoided is if Council would state they are not talking about a Special Exception but a non-conforming use and invited the Council's attention to the fact that in that particular section of the Code, it specifically addresses Special Exceptions and does not talk about a non-conforming use. He believed when the original language was drafted, it was for a user-owner but with a new party coming before the Council requesting what is currently a Special Exception Use, it would have to be heard as just that.

Mrs. Wiener moved that Variance No. 46-91 be denied. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously to deny.

Var.47-91 6. Variance No. 47-91 - Robert Wood, 116 Gulfstream Rd.; to allow construction of a one story addition providing an east side yard setback of 10' in lieu of 15'. R-A District. Mrs. Wood addressed the Council indicating her husband was out of Town and she was ready to answer any questions. Mr. Moore explained the application noting the non-conforming accessory building will be eliminated on the southeast property line and rebuild only ten feet from the existing property line the accessory building. He advised a letter of objection was received from the abutting neighbor, Mrs. Doerschuck, however he did not believe she understood about the demolishing of the non-conforming structure. Mrs. Douthit moved for approval of Variance NO. 47-91. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously. Mr. Heeke pointed out this lot does have a 79' front footage and is an undersized lot and the discontinuance of the non-conformity is of value to the Town.

Var.48-91 7. Variance No. 48-91 - Steven Rosenberg, 288 Queens Lane; to allow construction of a garage addition at a 7' west side yard setback in lieu of 15' required and to allow the roof eave at a 3'-6" side yard setback in lieu of 13' permitted. R-B District. Mr. Rosenberg addressed the Council, explaining the request for variance. Mr. Moore explained on this street for the most part, the properties are undersized lots and this is 76.2' and the addition proposed would be sort of a notched fill-in and would not exceed the overhang and staff has no objection. Mrs. Wiener noted the hardship was the undersized lot. Mr. Heeke noted a further hardship was the other properties in the same area have similar lots which already have had this privilege. Mrs. Wiener moved that Variance No. 48-91 be approved, on the basis of the hardship being the size of the lot. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Var.49-91 8. Variance No. 49-91 - Bernard Komer, 201 Queens Lane; to allow construction of an awning carport providing a west side yard setback of 7'-6" in lieu of 15' required. R-B District. Mr. Stephen Tresize, architect, addressed the Council for the applicant explained the variance which will be in line with the existing house. He noted this is an undersized corner lot and they have a dual setback hardship and this is to replace an existing awning with a new two car awning. Mr. Moore advised they are well under the allowable lot coverage. Mr. Tresize explained they are cutting a door to allow access to the house from the awning. He advised it would be preferable for his clients to have a two car garage, but thought perhaps an awning variance would be easier to obtain. Mr. Moore advised this is similar to the previous variance and is a double frontage lot. Mr. Ilyinsky moved for approval. Mayor Marix noted it wouldn't be much different if it were a garage. Mr. Moore stated staff would have no objection to the garage. Mr. Tresize stated his clients would vastly prefer a garage. Mr. Moore advised the application was for a carport and that is how it was advertised and even though the setback requirement would be the same, he suggested it be deferred. Mrs. Wiener suggested they grant the carport and have them come back to ask for the garage. Mrs. Wiener seconded the motion made by Mr. Ilyinsky to approve the Variance No. 49-91. On roll call, the motion carried unanimously.

Var.50-91 9. Variance No. 50-91 - Ben & Sondra Tabakin, 1431 N. Ocean Way; to allow construction of a one story addition at a lot coverage of 26.9% in lieu of 25% maximum allowed and at a field of vision angle of 116 degrees in lieu of 100 degrees maximum permitted. R-B District. Robert Bell, Architect addressed the Council for the applicants noting he was before the Council previously and was denied his request to build the two story addition, due to Zoning in Progress, and the fact that this was a split level residence and the two story addition would create in essence, a third floor. He has redesigned the plan and cut down the square footage of the addition, however, needs the variance for the lot coverage and for the field of vision. He advised the hardship is the lot is 28% wider than it is deep and they have reduced their square footage from their last presentation, but are still 1.9% above the required 25%. Mr. Moore indicated the hardship is a reverse one, as this is a wide lot and the angle of vision requirement needs a variance and he has no objection to that request nor to the request for the lot coverage, because it is a minute area, the garage area, which is really in effect a split level rather than a full two story. Mrs. Wiener noted the angle of vision requirement does not work correctly with the wider lots and she moved Variance No. 50-91 be approved. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Spec. Excep. 9-91 10. Special Exception 9-91 - Citibank FSB, 306 Cocoanut Row; to allow bank/financial use and supplemental parking in the C-OPI Zoning District permitting construction of an unmanned drive-through teller structure with parking spaces to be used in conjunction with Citibank's new branch to be in the 400 Royal Palm Way Building. C-OPI District. Mr. Moore noted the attorney for the applicant is not here at this moment and asked this item to be deferred to later in the meeting, to which the Mayor and Council agreed.

Var.2-91 11. Flood Insurance Variance No. 2-91 - Lourdes Lianas, 233 Tradewind Drive; permission to leave the existing first floor at elevation 7.0' USC&G Datum, while constructing interior alterations and a partial second floor addition, involving more than 50% of the existing building's floor area. R-B District. Ames Bennett, Architect, addressed the Council on behalf of his client requesting the Flood Insurance Variance. He stated they are thoroughly gutting this house and raising the ceilings and using the same layout. He stated it would create a structural problem if the floor had to be raised and the neighbors around them are at basically the same level and he would like to keep this house at the same level. Mr. Moore reported the Town's Flood Insurance Ordinance dictates a 7.6' requirement and the Federal requirement is 7', and there usually is no problem with a reqnest of this type. Mr. Heeke asked if the granting of this would put the Town in jeopardy to which Mr. Moore responded negatively. Motion was made by Mr. ilyinsky that the Flood Insurance Variance 2-91 be approved with the condition that the Hold Harmless Agreement be executed. Mrs. Douthit seconded the motion. On roll call, the motion carried unanimously.

Waiver- Stanley dwelling

12. Waiver Requested - Peter Stanley, 1332 North Ocean Boulevard; waiver to story height limitation permitting the construction of two story high additions to this existing two story residence now prohibited under Town Council enacted zoning in progress. R-B District. Mr. Abriggo representing Mr. Stanley addressed the Council stating this is an existing two story house which they wish to renovate and they will stay within the confines of the existing house and add small additions on the rear of the house, within the setbacks allowed. He stated the existing house which now overspills the setbacks will now be set back into the setbacks. He stated the height will remain as the existing house. He stated it is a small addition. Mr. Moore noted they are eliminating a portion of the house on the north and on the east and the addition will be placed on the one story up to 15' feet of the rear of the property.

Mayor Marix asked what percentage of the house would they be removing? Mr. Abriggo responded approximately 10% of the house, however, the area facing Ocean Terrace will not be disturbed. Mayor Marix asked how much of the house was two stories at this time to which the response was 75% and when the project is completed, it would be 100%. Mayor Marix asked if he was adding to the second story to which he responded affirmatively stating this would be in the rear.
Mr. Moore stated currently vast portions of the house are two stories and a small portion is one story, so it is a little over the .45 Floor Area Ratio and with the scheme that is before them today, it is on the money and some of the mass is being cut back and will be no higher than what is existing.

Mr. Moore stated what was approved last month was correct as far as Floor Area Ratio was concerned. Mr. Heeke noted this was a request for a waiver to the moratorium to which Mr. Moore responded affirmatively noting this is for the waiver only and no variance is requested. Mr. Heeke noted this structure is no greater height than presently exists, and they are improving the setback situation and does not exceed the Floor Area Ratio or the lot coverage, although the exterior surface will change, it won't be much of a difference. Mr. Moore indicated it will give the appearance of a new house, according to the plans and staff believes this is a better deal than what was offered last month.

Motion was made by Mrs. Wiener that the waiver requested for 1332 North Ocean Blvd., based on the fact that all requirements are being met and it seems to be the kind of waiver which would be in order, be granted. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Spec. Excep. 9-91

Item 10. Special Exception No. 9-91 - Citibanks, F.S.B., 306 Cocoanut Row. Mr. Heeke noted this has been deferred and he would like to consider this matter at this time. Mrs. Douthit believed the curb cut should be on Cocoanut Row as she didn't like the idea of any more curb cuts on Royal Palm Way. Mr. Moore pointed out there already is an existing curb cut on Royal Palm Way. Mrs. Wiener stated she was concerned about the safety. Mr. Moore stated there will be two curb cuts with the northern one going in and the southern most one being "out". Mr. Moore noted last month part of the problem was a deficiency in parking and the applicant indicated they were in the process of acquiring a piece of property directly south of the parking lot, adjacent to Cocoanut Row. Mr. Moore advised the Council took action on this Special Exception by allowing this financial institution to go forward on the first floor only, pending the hearing of a new Special Exception today, which would address the parking shortage and the automatic teller machine. He stated the applicant has delivered a plan, which has been reviewed by the Town Engineer and Mr. Zimmerman and is in compliance and provides the additional spaces necessary and provides some spaces over and above what would have been necessary but the building is somewhat deficient and the supplemental parking will actually become required parking. He recommended if they consider this on a favorable basis, there be a Unity of Title with the acquired property and that the traffic engineer do an analysis study during the peak season to make a determination as to how this intersection was being affected by bank traffic once the bank was in place and hoped the bank would not object to provide that information to the Town, as it would be useful information to have in the future. Mayor Marix asked how they would address these problems such as getting the traffic onto the residential streets. Mr. Moore recalled that was discussed when the 440 Royal Palm Way building was being renovated and they have had several considerations regarding that. He indicated the traffic would have to go back to the residential areas in any event and it would just be a determination as to which way they would want to return. He felt from the staff's standpoint, they would be encumbering the users of the bank that lived in the area to go a different route, or turn north when they came out onto the busy road and then double back to their street. Mr. Moore advised staff has no objection to the application, but the question is whether they wished the traffic study done on the intersection during the peak season. Mayor Marix advised that she didn't want any of the trees along this area to be removed. Attorney A. Paul Prosperi addressed the Council stating that most of the applicant's traffic study was accessibly conservative, and probably intended to over-estimate the traffic impact of the branch as the reference point used by that traffic engineer assumed a higher number of trips and peak volume trips than the Chief Engineer's report. He stated the Chief Engineer's report did not take into account that they will be able to store many cars on the site, so there will be no stacking which would come out on Royal Palm Way. He didn't believe there would be much of an impact on Cocoanut Row as they would have the option to turn right or left, so it shouldn't stack up too badly. Mrs. Douthit stated she would like to see them remove the Royal Palm curb cut. Mr. Prosperi noted the existing curb cut on Royal Palm Way works for the 400 Building and they would be willing to control it by signage and actually they don't have the authority to close this access way since they don't own the building.

Mr. Prosperi stated the access to Royal Palm Way is eastbound on Royal Palm Way and he envisioned this entrance or exit being used by the people who work in this building

Mr. Heeke believed the unity of title matter needed to be discussed. Mr. Prosperi explained the agreement that has been worked out is they will dovetail the terms of the lease so they will coincide. He stated in their traffic study, it has been discovered they have the capacity to exit the trips that will be generated there by not impacting the use of Cocoanut Row.

Mr. Heeke asked what the alternative was to the Unity of Title? Mr. Randolph advised it would be an agreement whereby they would agree to tie the use of the occupancy to the use of the parking spaces. Mayor Marix asked how long was the lease and Mr. Prosperi responded it is ten years with two five year options.

Mayor Marix asked if they would tie them into an agreement that after the lease expires, they would have to come back to the Council in the event there are any problems? Mayor Marix stated her concern was that perhaps the owner of the lot may want to sell it and that is why she would like them to come back. Mr. Prosperi clarified that they would have to come back if City Bank's tenancy which correlates to the tenancy of 400 Royal Palm Way and if the lease were to be terminated. Mayor Marix stated also if it was up for renewal? Mr. Prosperi agreed as long as both leases were renewed. Mr. Heeke felt if there were significant changes in facts ten years down the line, then they could address them then rather than speculate on them.

Motion was made by Mrs. Douthit to approve the Special Exception 9-91 with the proviso that this must be renewed at the end of the lease term of ten years, which would include an unmanned ATM Machine. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

D. Other

Landmakrs Consultants for Mar-a-Lago

1. Request for Authorization for Additional Appropriations from General Fund for Landmarks Consultants for Mar-a-lago Project. Mr. Moore reminded the Town Council did authorize the expense of hiring landmark consultants and they will be coming into Town on August 16, 1991 for the Landmarks Preservation meeting and he requested additional authorization to go into the Undesignated General Fund Balance to fund the deficit. He advised the first $17,500 came out of the Building and Zoning accounts for professional services and he is waiting for the final bill before they file for the grant which has not yet been applied for. He stated if a Subdivision is granted, they will be asking for reimbursement from the applicant. Mr. Heeke believed the Town Council would want the consultants to be available when it comes before them to which Mr. Moore agreed. Mayor Marix noted the air fare is quite high. Mr. Moore explained they were not able to schedule their flights thirty days before they came to Palm Beach and they had to pay the higher rate. Mr. Moore stated the amount they need is $13,470 from the unappropriated funds. Motion was made by Mrs. Douthit to approve the expenditure of an additional $13,470 from the Undesignated Fund Balance. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Zoning Study Items deadline

2. Reminder of September 1, 1991 Deadline for Submittal of 1991-92 Zoning Study Items. Mr. Ilyinsky advised Mr. Titcomb has moved out of the Town and he will need to be replaced on the Zoning Commission. Mr. Heeke advised Mr. Flower has sold his home also, and perhaps someone should check to see if he has moved out of the Town. Mr. Weinberg felt all of the nominees to the Zoning Commission should be interviewed by the members of the Council and asked to attend at least one meeting of the Commission or at least a Town Council meeting when the variances and Special Exceptions are being considered, before they are recommended for appointment. Mayor Marix agreed.

Mr. Heeke announced there will be a Public Safety Committee on Tuesday, August 20, 1991 at which time they will be considering the removal of the signs and matters pertaining to the roadway on North County Road north of the Fire Station.

Name Change of 300 Atlantic Ave

3. Consideration of Request to Change the Name of the 300 Block of Atlantic Avenue to Bradley Court. Mr. Doney advised he had received a request from Mrs. Esther Feldberg to change the 300 block of Atlantic Avenue to "Bradley Court" and each of the abutting property owners were asked if they supported the request. He stated they notified the Lake Towers Condominium and have received no comment. Mr. Weinberg asked if there was a reason for the name change request? Mayor Marix noted there is a Bradley Place and a Bradley Park and she thought it might be a bit confusing. Mrs. Wiener asked if there was any cost as the signs would have to be changed and the change would also have to be noted on the Town maps. Mr. Weinberg believed a precedent might be started. There was no action taken on the matter.

2000 Condo Assoc. vs. Town ofPB

4. Consideration of Appealing the Circuit Court's Decision - the 2000 Condominium Association vs. the Town of Palm Beach regarding the Trimming of Seagrapes. Motion was made by Mrs. Wiener that authorization be given to the Town Attorney to appeal the Circuit Court's Decision concerning the 2000 Condominium Association vs. the Town of Palm Beach regarding the trimming of seagrapes. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Bernard vs. Town of PB

5. Consideration of Appealing the Circuit Court's Decision - Bernard vs. Town of Palm Beach. Mr. Randolph advised the request for appeal is not the case itself, but the problem is the decision that was made as applied to the law and if this decision was upheld, the Council would not be able to grant variances as the decision of the court is that in order to grant a variance it must be shown there is no reasonable use for the property. Motion was made by Mr. Ilyinsky to authorize the Town Attorney to proceed with the appealing of the Circuit Court's Decision on the Bernard vs. Town of Palm Beach case. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Dredge & Fill Permit 1296 So. Ocean Blvd

6. Consideration of Request for a Dredge and Fill Permit at 1296 South Ocean Boulevard by Mr. David J. Mahoney per DER Short Form Application for Trimming of Mangroves. Mr. Moore requested there be consideration given to the extension of the Permit with the condition that the mitigation be completed to the satisfaction of County DERM and the Town of Palm Beach. Motion was made by Mr. Ilyinsky to extend the application pending the mitigation be approved by County DERM and the Town's consultant. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Communications from citizens

XIV. COMMUNICATIONS FROM CITIZENS - 3-MINUTE LIMIT PLEASE Mr. Adrian Winterfield addressed the Council on the question of the Police Department's handling of the recent Smith case, he recalled the Council was quick to commend the Police Department, however he would like to recommend to Council that a detailed accounting be required, so that Council and the public know exactly how much money has been expended on the primary case and the "secondary" matter under investigation, that is, the obstruction of justice and invited the Council's attention to the portion of Florida Statutes which indicates that expenditures of the proceeds of forfeitures shall be authorized by the Town Council.

XV. ANY OTHER MATTERS:

Limit on TC meeting

A. LIMIT THE TIME OF TOWN COUNCIL MEETINGS: Mayor Marix noted this was probably not the day to be considering this as they are just about finished with the agenda, but Mar-a-Lago was removed from the agenda which would then have run them into the evening hours. She recalled the length of the meetings due to the heavy items on the agenda have run them into the evening hours and she was not sure it was fair for the people who have to wait in the audience and perhaps they don't get sensible consideration from the Council, as by that time in the day everyone is tired.

She suggested different ways to handle this - one being after a certain time, or after reaching a certain point on the agenda, that the meeting be put over to the next morning; or Town matters be handled until the lunch break and anything that is not done could be carried over to the next day and then the variances and special exceptions be considered until five o'clock or thereabouts and anything that is not completed by that time should be carried over to the next morning.
She felt perhaps another way to handle it would be to have Town matters considered on one day and the Variances and Special Exceptions on another day.

Mr. Heeke believed if there was something scheduled which looks like it was going to take a significant amount of time, a Special Town Council meeting could be scheduled for that item. He felt the Chairperson of the meeting controlled the time it took for presentation of various matters. Mayor Marix did not think anyone should be curtailed as to the time they wish to address the Council as usually they have been sitting here all day and it wouldn't be fair to not let them have the time.

Mayor Marix suggested another way may be to have a Workshop meeting in the middle of the month. She knew other communities have meetings in the evening, such as Lake Clarke Shores. Mr. Heeke advised that Town Council does not handle zoning matters as that is handled by a separate board, which is the case in other communities.

Mrs. Wiener believed part of the problem is we have been running awry of what we are supposed to be doing as Section 2-59 of the Town Code states that no member of the Council may speak for more than five minutes on a subject and no more than twice and not without recognition by the Chair. She recalled the Charter states when they must meet so if there are going to be any changes, it would mean changing the Charter and the Code.

Mayor Marix was sure the meeting could be adjourned if it was getting late on one day to the next day without violation of the Town Code. Mr. Randolph believed that would mean that two days would have to be blocked out by attorneys. Mayor Marix thought it was better that way than to have a Council that was tired and handing out opinions late at night but she felt there had to be a way of fairly working around the problem.

Mr. Ilyinsky suggested they go back to the old way and hear the Special Exceptions and Variances first. Mrs. Douthit felt the Town still had to be run so those matters needed the Council's consideration also.

Mayor Marix thought perhaps that might be the answer and then they go onto Town matters and if it runs after six o'clock, then they put those matters over to the next day.

Mr. Winterfield addressed the Council and suggested better use be made of the Committee system. He recalled the Council spent over fifteen minutes earlier today discussing changes in the minutes and that need not be done during a Council meeting. He felt if they started their consideration of Variances and Special Exceptions at a time certain and allocated a specific period for each one, and if there are exceptionally long presentations, they should be placed at the end of the agenda so that those who have shorter presentations are not kept waiting. He suggested there also be a special meeting of the Council for presentations of the variances and special exceptions which would be an enormous time saver for the Building Department who now sit down on an individual basis with the elected officials.

Mrs. Wiener suggested that the President of the Council together with the Town Manager and others discuss this and come up with recommendations and report back to the Council. Mr. Heeke commented this was a good suggestion and he will get together with the Town Manger and various department heads and report to the Mayor and Town Council.

B. PUBLIC SAFETY COMMITTEE MEETING: Mr. Doney advised the Chief of Police will be on vacation on August 20 but Capt. Croft will attend the meeting, as well as Mr. Dusey.

C. MEETING OF FLORIDA SHORE & BEACH PRESERVATION ASSOCIATION: Mr. Doney advised this meeting does fall on the same day as the September Council meeting. Mr. Heeke noted Mrs. Wiener will not be in Town at that time and it is imperative to have a quorum and the Mayor in the event of a tie vote and perhaps one of the staff members could attend this meeting. Mr. Doney indicated he will secure the agenda for the Florida Shore & Beach Preservation Association and make it available to the Mayor and Council. Meeting of FL. shore & beach preserv. assoc.

XVI. ADJOURNMENT: Meeting was adjourned at 4:15 PM. adjournment

Grace T. Peters
Town Clerk