TOWN COUNCIL MINUTES OF TOWN COUNCIL MEETING

OF AUGUST 11, 1992

Roll Call

I. CALL TO ORDER AND ROLL CALL Meeting called to order by Town Council President Heeke in the Town Hall Council Chambers on August 11, 1992 at 9:30 AM. On roll call, the following Elected Officials were found to be in attendance: Mayor Marix, President Heeke, President Pro Tem Weinberg, Councilman Ilyinsky. Absent were Councilwoman Douthit and Councilwoman Wiener. Also attending for all or part of the meeting were: Mr. Doney, Mr. Randolph, Mrs. Peters, Chief Terlizzese, Chief Elmore, Mr. Zimmerman, Mr. Jakubiak, Mr. Elwell, Mr. Dusey, Mr. Bowser, Mr. Moore, Mr. Bitzer, Mr. Frank, Mr. Ackerman, Mr. Crouse, Mr. Ugi, and Mrs. Martinuzzi.

Invocation

II. INVOCATION AND PLEDGE OF ALLEGIANCE - Invocation was given by Mrs. Peters. Pledge of Allegiance was led by President Pro Tem Weinberg.

Presentations

III. PRESENTATIONS

A. Retirement of Frank Passavanti, Electrician - Public Works Department - Deferred to the September 8, 1992 Town Council Meeting.

Comments of Mayor

IV. COMMENTS OF THE MAYOR - Mayor Marix commented on how much this community will miss Lee Olsen who recently passed away. Mrs. Olsen was involved in the North End Property Owners Association, as well as many charitable organizations.

V. APPROVAL OF AGENDA -

APPROVED AGENDA (ITEMS VI. THROUGH VII.)

Motion was made by Mr. Weinberg, seconded by Mr. Ilyinsky to approve the "Approved Agenda" with the removal of the minutes of April 16, 1992 which will be heard at the September 8, 1992 Town Council Meeting and to approve the Regular Agenda with the deferring to the September 8, 1992 Town Council Meeting of Items XI.C.1, Var. No. 43-92, D. Dixon and Pauline B. Boardman, Item XI.C.2 Var. No. 47-92, C. W. Miller; and addition of Item VIII.C.3 - Consideration of application of Mr. Robert Bouchlas and addition of Item IX.B.2, Resolution on 315 Chapel Hill Road Drainage Easement. On roll call, the motion carried unanimously.

VI. APPROVAL OF MINUTES OF APRIL 14, 16, MAY 12, AND JULY 30, 1992 - Removed the April 16, 1992 Minutes from the agenda and deferred them to the September 8, 1992 Town Council Meeting.

Licenses & Permits

VII. LICENSES AND PERMITS

A. Charitable Solicitations

Char. Sol.

1. March of Dimes Birth Defects Foundation; No. 12-92
2. Adam Walsh Child Resource Center; No. 314-92
3. Growing Together, Inc.; No. 339-92
4. African American Cultural Arts Organization, Inc.; No. 340-92
5. Arthritis Foundation; No. 87-93
6. Visiting Nurse Association of Palm Beach County, Inc.; No. 166-93
7. The Preservation Foundation of Palm Beach, Inc.; No. 192-93
8. Hospice Guild of Palm Beach; No. 205-93

Bev.Lic.

B. Beverage Licenses

1. Request for Transfer of Ownership and Change of Classification from a 4COP-SRX to 4COP by Margaret Heiman/Absolutely Ltd., Inc. d/b/a AUBAR at 336 Royal Poinciana Way from Marc Roger Van Laer/Italian Fine Foods Corporation d/b/a Palm Beach Club

REGULAR AGENDA

VIII. OLD BUSINESS

Old Bus.

A. Ordinance - Second Reading

Ord. 9-92

1. Ordinance No. 9-92 - Amending Chapter 8 of Town Code of Ordinances - Garbage and Trash

Attorney Randolph read Ord. No. 9-92 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 8 OF THE TOWN CODE OF ORDINANCES RELATING TO GARBAGE AND TRASH AT SECTION 8-15 THEREOF SO AS TO PROVIDE THAT TRASH PLACED IN THE RIGHT-OF-WAY BE ADJACENT TO THE PROPERTY FROM WHICH IT CAME; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Motion was made by Mr. Ilyinsky, seconded by Mr. Weinberg. On roll call, the motion carried unanimously for approval of Ordinance No. 9-92.

B. Appointment

Appt. - Code En. Board

1. Code Enforcement Board - Two Alternate Members for a Term of Two Years to Expire April 1994 - Deferred from July Meeting.

A motion was made by Mr. Weinberg, seconded by Mr. Ilyinsky to defer this matter to the September 8, 1992 Town Council Meeting when there would be a full Council in attendance. On roll call, the motion carried unanimously.

C. Other

1. Consideration of Department of Environmental Regulation's "Intent to Issue" Permit/Water Quality Certification to Dredge and Fill for Port of Palm Beach Proposed Expansion (Slip No. 3) - Deferred from July Meeting. DER - Port of PB

Attorney Randolph reported Attorney Jay Jurgens of his office has written to Mr. Doney on August 6, 1992 with an update on where we stand on this matter. He noted that through discussions with agency personnel and other staff, a determination has been made that those matters have been either addressed or mitigated. He stated there could still be other approaches taken and in the event they did not move forward with the 120 Hearing, there are other things which can be looked at in conjunction with the City of Riviera Beach as to whether or not the proposed plan meets the requirements of the Comprehensive Plan.

Mayor Marix knew that Riviera Beach is extremely concerned about this matter and what they are all trying to do is, if possible, stop this slip from being built for many reasons and she believed they had a mutual problem with the City of Riviera Beach and she would like to work with them as closely as possible to try and solve it. Mr. Heeke believed there was a limited amount of success they would hope to achieve with the 120 Hearing and a lot of energy and effort will be expended needlessly when those efforts would be better directed by coordinating with Riviera Beach. Mr. Ilyinsky made a motion to not pursue with their efforts on the 120 Hearing, however, staff and elected officials who wish to exercise personal diplomacy in this matter and informal discussions with the City of Riviera Beach should feel free to do so and report their efforts to the Town Council. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

2. Status Report on P&P Reef Project at Mid-Town Beach. PEP Reef

Attorney Gary Lickle reported there is a barge on the way to install the units and yesterday two units were installed. He advised there have been 270 some odd units fabricated, waiting for the installation and they will be loaded on the barges. He felt that in spite of a two month delay in receiving the Notice to Proceed from DNR, it looks as if the installation will be timely, if the weather holds.

Mr. Lickle stated he wished to report on the progress regarding an issue which has come up with AT&T, who has put the Town on notice that at the Clark Avenue area there are three submarine cables which are used for telephone calls overseas. He stated AT&T were concerned that the installation of the Reef would in some way interfere with those cables. He advised they have no resolution, other than the suggestions they have discussed with the staff as alternatives.

Attorney Lickle explained the cables are installed just south of Clarke Avenue. He advised the primary alternative is to determine the download pressure be the reef segments sitting in the sand, and they have calculated the download pressure is as little as two pounds per inch, which may not be a problem, in the opinion of American Coastal Engineering, Inc. He stated the objective is to convince AT%T that this is not a problem.

He advised AT%T has offered to install their cables at a four foot depth (they are now at three feet) and shielding them with an armored protection. He stated American Coastal could install a bridge type effect which would secure the segments and allow them to be placed in a staggered effect and would allow repositioning of the reef so they could actually be turned in order to conform with the shore line. He stated the bridged effect would allow the cable to pass under it which would mean there would be no download pressure whatsoever. He believed in addition the reef segments would be pinned in four different locations to ensure there would be no movement. He advised this is also the position they presented to the Town Staff with regards to the emergency outfall system, so there would be no impact on that also. He stated this is a preferred alternative and they expect to have some engineering data within the next few days, after which they will confer with the staff and the AT%T representatives in order to resolve this. He did not see this as slowing down the installation schedule currently planned. He advised the point of beginning is at Hammond Avenue to continue up to Clarke Avenue and presumably there will be a solution to present to the staff prior to that time.

Attorney Lickle stated the second alternative, in the event that either the Town or AT%T would not sign off on the risk factor, would be to eliminate the north section of the reef for approximately 575' and relocate the northern section to the southern section. He realized if they did that, they would only be able to add 400' as there is a interfering groin approximately 400' in the sound end. Mr. Weinberg pointed out that would not be public beach at the south end. Mr. Heeke noted they are talking about going further south and he did have a problem with that as Clarke Avenue is a public beach and he is not convinced that the area in front of Hammon Avenue is truly public as there are upland land owners there and he has a problem with that personally. He stated he also has a problem with diminishing any protection to Clarke Beach as that did suffer greatly in the October 31, 1991 storm and threatened damage to the roadway at that point. He felt Clarke Avenue Beach had the higher priority. Attorney Lickle appreciated the vote of confidence in that section and they are working to try and keep the reef sections in that area.

Mayor Marix believed the gap or the bridged area would not be too big to which Attorney Lickle stated it would depend on when the final unit is placed next to the cable, because there is a bit of an adjustment when the sections are hooked together which could be several inches added up over the 250 some odd units, so the bridge could be narrow or it could be as wide as twelve feet, which would be the maximum. Mayor Marix asked how long were the units to which Attorney Lickle responded they were twelve feet. Mayor Marix asked if there would be any problem with the current if they were twelve feet apart? Mr. Lickle responded he believed that engineering had demonstrated that was not an issue.

Mr. Weinberg asked if there was a large gap between the interlocking devices? Mr. Lickle stated there was not. Mr. Weinberg asked after they were locked, how much space would be between two units? Mr. Lickle response was it would be negligible, and it might be as much as an inch but more like a quarter of an inch, as they are designed to be tucked together.

Attorney Lickle explained the third alternative, which is the least preferred by his client, would be to eliminate the northern section of this Reef, which would be approximately 375'. He commented that the Town staff did ask them to discuss what saving there would be, if any, if that were to happen and he wished to advise that initial projections by American Coastal are the savings would be rather insignificant simply because the cost of the engineering design and construction

PEP Reef (cont'd)

have all been spread over the 330 units and as they reduce the number of units, the cost rises. Mr. Heeke pointed out they would not have the cost of delivery and the fabrication of the units not as yet completed. Mr. Lickle stated the fabrication and delivery yes, but the per unit costs on those items were spread amongst the 330 units, therefore, the cost of the fabrication and installation would probably go up per unit.

Mayor Marix noted the cost of the permitting, etc., has already been worked into the figure and that cannot be recovered to which Mr. Lickle agreed, noting the forms have already been built and if the cost of the forms were spread over the 330 units, the cost of the form per unit is far less than if it were compressed into lesser units.

Mr. Lickle advised the Council the DNR is on notice of the problem and their initial reaction is they will work with American Coastal on ways to resolve it. He stated this will require some modifications to the permit which American Coastal is now working on.

Mr. Heeke stated his initial feeling is Clarke Avenue or to shorten the project. Mayor Marix agreed about the Clarke Avenue Beach. Mr. Weinberg agreed they needed to have it at Clarke Avenue if at all possible. Mayor Marix stated she was troubled about having the gap or the bridges there as since the reef will be very closely monitored for several years, and if there is more sand coming in or out of there or whatever, that this would be taken into consideration in the monitoring process. Mr. Heeke agreed but thought that should be left to the agent to work it out with DNR but he thought the results there would be less predictable. Mr. Lickle believed the modifications to the permitting and the test monitoring plan would specifically state there is a bridge in this area and they would monitor it very closely.

Mr. Weinberg asked if a shield is to be provided to cover the cables, who would provide it? Mr. Lickle answered that was still open for discussion, but the original letter written by AT%T appeared to indicate that they might be cooperative in picking up a part of the cost, but they have not gotten to that point as yet, however, if they don't pick it up, that would be a consideration for the Town.

Mr. Adrian Winterfield addressed the Council asking if there was anything in the contract that relates to this as it would have been simple enough to have requested of all possible users of the ocean bed and he was not convinced that this oversight should fall upon the Town.

John Mattich, 3475 South Ocean Blvd. addressed the Council asking if the cable location was not known before this project was started and why wasn't that taken into consideration at that time? Mr. Heeke understood that AT%T couldn't even tell them where their cables were until someone went out there and checked on it. Mr. Lickle recalled that AT&T has now paid for the location of the cables and they are now marked with buoys. Mr. Heeke commented there was also a delay in the project as a result of them not having that information.

Mr. Doney recommended that with regards to the timing, this matter again be scheduled for the September Town Council Meeting, after American Coastal pursues the potential solutions to have a decision of the Council so there will be no further delays. Mr. Heeke understood suggesting that perhaps there should be a special Town Council meeting, if necessary. Mayor Marix recalled there is a Special Town Council Meeting on August 27, 1992 and perhaps this can be considered then.

Mr. Weinberg asked why this was the responsibility of the Town when it seemed to him this was something that should have been thought about before this point in time. Mr. Lickle indicated there were certain scopes of work defined in the contract and this is to be done in accordance with the permit as issued by the various agencies and at the time the permit was issued, all underwater structures and surveys were made and a finding was made and there was nothing referenced with regards to the AT%T cables. Mr. Weinberg wondered if it was surveyed why this was not discovered? Mr. Lickle responded the cables were buried and could not be seen and the survey was an environmental survey and the underwater obstructions, such as the groins, were noticed, but the cables were not possible to see. He stated American Coastal is the designer and installer of the units but also acts as the agent for the Town in the development of the project and for the installation. Mr. Weinberg stated that now it has been discovered, he didn't see why it was the Town's responsibility. Mr. Lickle pointed out this is simply because the terms of the contract do not provide for those type of items to be absorbed by American Coastal. Mr. Heeke believed the Town Attorney would have to advise them on that point. Mr. Lickle commented he will be discussing this with the Town Attorney. Mr. Weinberg stated he didn't want to carry it on any further. Mr. Heeke noted there wasn't any projected cost on this as yet.

Mayor Marix pointed out that even the Army Corps of Engineers did not know about these cables. Mr. Lickle responded that was correct. Mr. Heeke believed it was something that had to be dealt with and obviously this is not the end of the discussion, and he will try to schedule a Special Town Council Meeting, if it is found to be necessary, but he hoped they could work it out administratively. Mr. Lickle responded they are working with AT%T to see if they would pick up the cost.

Mr. Doney believed this matter does need to come back to the Council and his recommendation would be that the permitting agencies provide written statements as to the solutions, so the Council has that on hand, along with any other information.

Shipwreck Archeology

3. Application by Mr. Robert Bouchlas for a Proposed Shipwreck Archeology Project Offshore from the Town of Palm Beach - Notice of Permit Issuance by the Florida Department of Environmental Regulation (FEDR).

Mr. Doney explained Robert Bouchlas, who is a shipwreck archeologist has proposed a project offshore from the Town of Palm Beach and initially it was going to be in the monitoring area for the PEP Reef Project and Miss Mitchell of American Coastal and Mr. Elwell of the Town Manager's Office has met with the Department of Environmental Regulation and believed an appropriate area has now been cordoned off where Mr. Bouchlas will not be able to have any potential interference with the actual installation of the PEP reef modules.

Mr. Doney reported Caroline Hanes, Environmental Specialist with DER wrote a letter under date of August 5, 1992 to Mr. Bouchlas clarifying two concerns of the Town and he believed they have now been addressed sufficiently and there should be no further conflict. He stated they will be monitoring what Mr. Bouchlas does and should the need occur for the Reef project to be modified, they would need to approach DER about amending the permit issued to Mr. Bouchlas to ensure it does not conflict in any way with the installation of the reef and the monitoring area.

Shipwreck Archeology (cont'd)

Mr. Doney explained the deadline for submission of any additional comments or suggestions is today and that is why he has brought this up at this time.

Mr. Heeke recommended a written statement should be secured from DNR that what is proposed by Mr. Bouchlas will have not adverse effect on the monitoring of the PEP System and there should be a specific reference to the Town's permit. Mayor Marix noted the Permit for Mr. Bouchlas refers to the recovery of small articles, such as coins and pottery, etc., and she wondered when they would be doing it. Mr. Elwell advised he attended a meeting with Ms. Hanes and Mr. Bouchlas and others and there was discussion as to what exactly they were going to be doing and the Town's concerns were aired together with the fact that we did have a legal responsibility that no-one should be permitted to go into that area and Carolyn Hanes supported that position and the way the permit was written it was intended to keep Mr. Bouchlas from doing any excavation at all within the monitoring area, and the only activity would be for individual divers to pick up whatever is lying on the surface of the sand and there will be no movement of sand and they can use no machinery and nothing to help them pick up something heavy.

Mr. Heeke stated he takes comfort in these statements, however, he would like DNR to pass off on this.

Beth Mitchell of American Coastal addressed the Council indicating she shares these concerns on the DNR's position on this matter and Mr. Elwell spent a great deal of time explaining to Mr. Bouchlas how he needed to contact someone at Beaches and Shores through his permitting process. She recalled Ms. Hanes' letter showed someone in the DNR was copied but they don't know who that person was. She stated they took a very strong position with him in reference to that and explained what the permitting process was in terms of excavation. Mr. Heeke stated he would like to have something coming back from DNR stating it is alright for Mr. Bouchlas to do this and it won't hamper the monitoring operation.

Ms. Mitchell stated they tried to tie the two permits together but Ms. Hanes explained she didn't have the authority to do that. Mr. Heeke believed that a letter should be sent to Kirby Green expressing the Town's concerns and ask the issuance of the permit be held up until the Town receives DNR approval? Ms. Mitchell recalled the standard language is contained in the permit issued stating that all other permitting agencies need to be involved in their permitting process, but she doesn't know what that does to the DER Permit, if Mr. Bouchlas doesn't comply with that requirement.

Mr. Ilyinsky asked just exactly what are they going to do? Mr. Heeke responded it is not known and that is where the problem lies, as it looks very innocent but it is not known. Mr. Ilyinsky noted there was a comment about "sand overburden" and asked what exactly what that was? Mr. Heeke didn't believe that was what the Town should be worrying about, but it should be for the people who devised the test for the monitoring system and they would be the ones to tell the Council what activity there would be at the site. Mr. Ilyinsky asked if that was part of the DNR's permitting devices and he read from the permit. Ms. Mitchell explained what they have done is reached an agreement within the monitoring area. Mr. Heeke suggested this be taken up with DNR immediately so they could notify Mr. Bouchlas if they had any concerns also.

Mr. Elwell indicated he would fax this to them and request a response as the timing is of the essence. Ms. Mitchell stated she was not sure where Mr. Bouchlas was on the permitting as he may have the DER Permit and not be ready to go with the other agencies. Mr. Heeke stated Mr. Bouchlas' endeavor is a commercial venture and that is fine, but this project is something the Council has worked too hard to get to this point and they didn't want anything to hamper those efforts.

Mr. Doney understood the independent action advocated today by the Council is the Town write a strong letter to Kirby Green and whomever the DNR local person is, and indicate the concerns expressed regarding ensuring Mr. Bouchas stays well out of the monitoring area and the timing of his excavation does not conflict with the installation of the Reef. He reminded all there is a three year monitoring period also. He stated Ms. Hanes did not believe that they could hold off for a three year period to issue Mr. Bouchlas a permit for the excavation outside of the monitoring area. Mr. Heeke believed that Ms. Hanes should be more explicit in the permitting of the project and that it should not proceed until DNR has approved it. Ms. Mitchell responded that approach has been tried and Ms. Hanes evidently does not have the ability to do that. She expounded on the subject stating in her file on Mr. Bouchlas, there was an indication that a year ago, he had contact with Beaches and Shores so apparently he made some effort at that time and wished to point out there would be a conflict.

Mr. Doney believed they should go on record with Carolyn Hanes and copy Kirby Green so they are all aware and there would be no interference in the monitoring area and Mr. Bouchlas not be allowed to do any of his work until the installation of the reef is completed and thereafter there be no intrusion in the monitoring area. Mr. Heeke believed there should be strong language that the Town would object to the issuance of the permit without approval of DNR.

Mr. Elwell stated the permit has been issued but there is a "comment" time and if there are any concerns, they could file for a 120 hearing. Mayor Marix asked if there would any drawback to having a 120 hearing. Attorney Randolph pointed out today is the deadline date. Mr. Elwell stated they could get the minimum paper work filed by the end of the day if the Council wished to proceed with the Hearing. Mr. Heeke stated he didn't want to run the risk of not doing the filing for the Hearing. Mr. Weinberg moved the staff file for the 120 Hearing immediately. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

IX. NEW BUSINESS

New Bus.

A. Bid Award

1. Sealed Bid No. 020-91/92 - Re-Roofing of a Portion of Town Hall - Consideration of Resolution No. 34-92. Attorney Randolph read the Resolution No. 34-92:

Sealed Bid 020-91/92

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING A BID TO CARPENTER'S ROOFING AND SHEET METAL, INC., FOR REROOFING TOWN HALL OVER FINANCE/TOWN MANAGER'S OFFICE.

Mr. Heeke noted there is a memorandum from Mr. Dusey recommending the bid be awarded to Carpenter's Roofing for a base bid of $23,500 with a twenty year guaranty. Mr. Weinberg moved for adoption of Res. No. 34-92. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

B. Other

1. Consideration of Transition Plan for Americans With Disabilities Act.

Americans with Disabilities Act

Mr. Doney noted there is a memorandum from Mr. Jakubiak to the Mayor and Town Council and staff has reported several times on this matter and several procedures have been completed to bring the Town into compliance. He advised they have consulted with the Town Attorney and an individual in his office who is an expert on the ADA. He reported there has been a review of all of the Town's facilities and a list has been prepared, after consultation with Mr. Ugi of Public Works and Mr. Ackerman of Planning, Building & Zoning and this list shows where physical improvements need to be made to ensure the Town does comply with this Act with the improvements completed by January of 1995 and the list identifies the program based upon priority and the physical circumstances of each surveyed area. He stated the funding was identified as one of the additional policy considerations within his July 27th memorandum to the Mayor and Town Council and this included a ten per cent contingency and 15% engineering costs for each of the projects. He hoped that these projects could be done at a lesser cost if they are bid together. There are some projects which will be funded from the individual enterprise funds. He noted this is a very broad Act but he believed the Town had made good progress as they have accomplished the revision of the job descriptions and taken several other actions to do what they believed would protect the Town's interest.

Mayor Marix believed there were some communities who had not advanced in this project as far as the Town has, as there are some questions which need to be resolved and wondered if the Town had resolved all the questions relating to all of the items of the proposed Plan. Mr. Doney explained that all of the items identified the necessary width or height changes or other physical modifications to the facilities which will comply with the ADA, but since these are very broad issues, there may be additional items that they will have to report on. Mayor Marix asked if those would affect the items they have on the Plan, such as the elevator as if we do that work now, will they come up later with a different elevator plan? Mr. Doney responded that is always a possibility, but to the best of their knowledge and ability, what they have proposed is within the guidelines at this point in time. Mayor Marix stated she knows it has to be done by the deadline given, but she would hate to have it done now and then have to do it again as the guidelines change.

Mr. Doney advised Mr. Ackerman of the Planning, Building & Zoning Department has been involved in the technical end of this, as well as Mr. Jakubiak so they will all be approaching the project and obtain the best possible costs, but they won't do anything they don't have to do. Mr. Heeke stated this is something they want to do to be in compliance and the Mayor's comments are right on target as there are always areas of expiration and further developments and requirements and they need to be aware of that and shouldn't be doing work which might have to be done and undone and then done again, but he believed some of it seems to be automatic, such as the elevator repairs.

Mr. Weinberg moved that the ADA Plan be accepted as presented. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

2. RESOLUTION NO. 35-92 FOR 315 CHAPEL HILL ROAD. Mr. Randolph read the Resolution No. 35-92:

Res. 35-92

A RESOLUTION OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA ACCEPTING A REDEDICATION AND GRANT OF A DRAINAGE EASEMENT IN SUBSTITUTION FOR A DEDICATION AND GRANT OF A DRAINAGE EASEMENT PREVIOUSLY GRANTED TO THE TOWN, FOR THE PURPOSE OF SERVING AS A DRAINAGE EASEMENT FOR THE USE AND BENEFIT OF THE TOWN OF PALM BEACH ON THE PROPERTY LOCATED AT 315 CHAPEL HILL ROAD, PALM BEACH, FLORIDA.

Mr. Randolph recalled on June 11, 1991 a Resolution was passed abandoning a certain drainage easement and accepted a substitution for a new dedication, but the drainage easement as finally built varied from the dedication previously received so the description of the drainage easement was redrafted and a rededication of the easement is being proposed to be given to the Town. He advised the purpose of this Resolution is to reflect that and allow for the rededication and grant in the form attached to the Resolution. He stated Mr. Bowser has reviewed the legal description and tentatively approved it but would like the opportunity to review it with his records and the property owner who is dedicating the easement and this also is subject to receiving an agreement from the property owner that certain plantings placed over the easement will be removed in the event the Town needs to use the easement. He stated this is a housekeeping measure to allow for the acceptance of the rededication of the drainage easement.

Motion was made by Mr. Ilyinsky to approve Resolution No. 35-92, subject to the agreement that the landscaping will be removed in the event the Town needs to use the easement, and subject to the approval of the Town Engineer. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

X. APPROVAL OF WARRANT LIST AND FUND EXPENDITURES FOR JULY 1992.

Motion was made to approve the Warrant List and Fund Expenditures for July, 1992 by Mr. Weinberg, seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously. On roll call, the motion carried unanimously.

XI. DEVELOPMENT REVIEWS

Major Matters - Architectural Comm.

A. Major Matters Previously Considered by the Architectural Commission at Their Meeting of July 22, 1992 - Excerpt Available in Town Manager's Office -

Motion was made by Mr. Ilyinsky to approve the Major Matters considered by the Architectural Commission at their meeting of July 22, 1992, with the exception of B-55-92. Allied Dunbar Property, Inc., 237-243 Worth Avenue. Mr. Adrian Winterfield pointed out B31-92 refers to a conceptual approval of a dock location for new residence at 910 South Ocean Blvd. and he thought it was appropriate that the conceptual approval has not yet been transmitted to the Council, to which

Mr. Randolph agreed. Mr. Ilyinsky amended his motion to exclude B31-92 Dock Location for New Residence at 910 South Ocean Blvd. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Major Matters (cont'd)

The major matters were:

B22-91 and B26-91 - Revisions to residences of Robert Eigelberger, 109 Atlantic and 240 N. Ocean Blvd. - Removed from agenda.

B32-92 - Bungalow addition for Mr. & Mrs. Ronald Perelman, 641 N. County Rd. Approved.

B37-92 - Satellite Dish, Sign and Remodeling of Testa's, 231 Royal Poinciana Way. Deferred the satellite dish and sign. Approved remodeling of the front facade.
B4-90 - Gates, Posts, Fountain, Planters for Leonard Sessa, 5 S. Lake Trail. Deferred.

B11-91 - Revisions of privacy walls for Euro-Homes, Inc., 252/254 Atlantic Ave. Approved.

B41-92 - New Commercial Building for A. Paul Prosperi, John Whelton at 275 Sunrise Ave., DEFERRED.

B28-90A - Landscape Plan for Robert W. Gottfried, Inc., 133 Wells Rd., APPROVED.

B43-92 - Demolition and new residence for Daniel Manella, 685 Island Drive. DEFERRED.

B47-92 - Sign for One Royal Palm Way Condominium, Inc., 100 Royal Palm Way. DEFERRED

B51-92 - Awning Revision for Alexis Kirk, 134 Chilean Ave., APPROVED CONDITIONALLY.

B4-92 - Revision for Mr. & Mrs. Joseph Berkow, Sloan's Curve, Lot One. DEFERRED

B50-92 - Addition for Arnold Newberger, 288 Sandpiper Dr. APPROVED CONDITIONALLY.

B51-92 - Demolition of existing resident of J. Sirigots, 256 Miraflores Dr. DEFERRED.

B52-92 - Remodeling of residence of H. David Seegul, 210 Kawama Lane. APPROVED.

B53-92 - Additions to residence of Dave Barton, 216 Jamaica Lane - APPROVED.

B54-92 - Remodeling of Palm Beach National Bank, 125 Worth Avenue. APPROVED CONDITIONALLY.

B55-92 - Demolish/Remodel 237-243 Worth Avenue - Allied Dunbar Property, Inc., DEFERRED

B56-92 - New residence for Solcon 3000, Inc., 127 Everglade Avenue. APPROVED.

B58-92 - New residence for Rosenberg Development Co., Inc. DEFERRED.

B59-92 - Demolition and new residence for Bernard Green, 583 N. Lake Way. APPROVED DEMOLITION CONDITIONALLY AND DEFERRED CONSTRUCTION OF NEW RESIDENCE.

B60-92 - Pool Cabana for Barbara Rogers, 1435 S. Ocean Blvd., APPROVED.

B61-92 - Remodeling for Linda A. Gary, Worth Avenue and S. County Road. APPROVED PARTIALLY AND DEFERRED.

B62-91 - New residence for Robert W. Gottfried, 1415 S. Ocean Blvd., APPROVED CONDITIONALLY.
B63-92 - Addition to residence of David Mack, 958 N. Lake Way. APPROVED.

B64-92 - Sculptures at residence of Stephen Levin, 446 N. Lake Way. APPROVED.

B. Appeal

1. Appeal of Architectural Commission's Decision for Failure to Approve Demolition of Rear Building, and Postponement Without Consent of the Applicant Regarding Zoning Variance No. 45-92 With Site Plan Review, 237-243 Worth Avenue - Letter Dated July 30, 1992 from James McCartney Wearn.

Appeal Var. 45-92

Attorney James Wearn addressed the Council representing the owner of the Allied Dunbar property located at 237-242 Worth Avenue, noting that last month the Town Council unanimously approved the Site Plan Review for Variance No. 45-92 and he is here today as an appeal of the Architectural Commission's ruling to defer this application. He advised the application achieved zoning conformity on all elements, except the parking, and a non-conforming situation was substantially reduced. He advised in reliance on the approval of the Site Plan Review, the owner had gone ahead with plans for the demolition and construction with the intended tenant, Armani. He advised the work needs to be completed by December 1, 1992 and if it cannot be completed by that time, the work would have to be put over until next Spring.

He reported the approval given by the Town Council was quite clear for the Site Plan Review and he read some of the comments of the Council, all of which were positive and the motion to approve the Site Plan was unanimous. He believed there were major benefits to the Town:

1. Square footage reduction on Worth Avenue of retail space - 4284 square feet.

2. Saving of fifty parking spaces for the space to be demolished.

Mr. Wearn advised the action by the Architectural Commission to defer this consideration was contrary to the Director of Planning, Zoning & Building at that meeting and Mr. Moore advised the Architectural Commission that the Council had already ruled on the demolition and he didn't believe the ARCOM could negotiate on the Site Plan Review as it was not negotionable as it was the Town Council's function to act on the Site Plan Reviews. He stated the Architecural Commission appeared to want to reconfigure the Site and its development, and reconfigure it in a way that would provide for the public to have up front on Worth Avenue the green space, which was approved by the Town Council to be in the rear. He reminded the Council that this is private property and is not public

Appeal - Var. 45-92 (cont'd)

property and it appeared from the Architectural Commission's action, there was some discussion about the "Via" and this area did have an alleyway there which allowed access to the back building which is contemplated to be demolished. He believed that any development which is contemplated involved the demolition of the rear building and renovation of the front building and an entire redevelopment of the site as a whole. He stated the jurisdiction of the Architectural Commission's consideration of the rear building's demolition has now generated contradiction and creates ambiguity and doubt concerning the governance of the Town Council. He advised the appellant owner submits the record documents on the Site Plan Review by the Town Council, including the demolition and the record documents of the Architectural Commission's consideration (B-55-92) and the appellant owner respectfully requests the appeal be granted commensurate with the Site Plan.

Mr. Moore indicated the Architectural Commission's action on Site Plan Reviews is after the fact and he endeavored to explain to the Architectural Commission that this application had been before the Town Council and had received its' approval. He recalled ARCOM had concerns about the placement of the green space and wanted the applicant to restudy placing the green space in the front area or allowing the walkway which now exists to remain open so there could be access from the street to the green area. He stated the authority for that is the Worth Avenue Guidelines which states vias should be encouraged, wherever possible.

Mrs. Leslie Smith, Vice-Chairman of the Architectural Commission addressed the Council, indicating in their discussions on this project, statements were made that architecturally the project was not attractive. She stated that is why it was deferred for the applicant to have an opportunity to study this and place the green space in front of the property, since these buildings are being redesigned. She stated an alternative was to keep the walkway open to allow for access to the green space in the rear. She stated the building they wish to demolish was originally residential and was the apartment of Wilson Mizner and people are interested in it. She stated they didn't deny the demolition but merely deferred it until the entire package could be reconsidered by the Town Council. She didn't know if the architectural renderings were presented for what was proposed for the front building, but ARCOM was concerned by the fact that this will be done in several phases and if the property should change hands, perhaps the style would change also for the shops to be done sometime in the future. She stated ARCOM wanted this to be reconsidered by the Town Council. She stated the shops going in are being given a variance for an increase of the square footage, and this is being done because they are Town-serving and ARCOM felt since they are Town Serving, it would be nice for the residents in the area to have access to a green space either in the rear or on the sidewalk.

Attorney Wearn indicated the appeal is to defer and he requested the Town Council to grant that appeal, as it the deferral was not agreed to by the applicant and the time frames will not allow this work to proceed without the demolition and they are willing to have the front of the project approved by the Architectural Commission. Mr. Ilyinsky asked Mr. Wearn if he is willing to have changes on the front if the Architectural Commission wishes to have them to which Mr. Wearn agreed.

Mr. Ilyinsky agreed with Mrs. Smith that the walkway should probably be kept open so people can walk back and look at the area, but this walkway is hardly a Via. He knew there were restaurants in the back there and the Code Enforcement people were constantly after the restaurants to remove their menus from Worth Avenue, where the restaurants posted them. He knows Brooks Bros has a garden behind their store but the only access is through their store and he doesn't know how many people do take advantage of that. He recalled he voted on the Site Plan Review and he would vote the same way a second time as he viewed this as a good project and he wouldn't be changing his vote. Mr. Weinberg agreed with Mr. Ilyinsky and he too would not be changing his vote.

Mrs. Smith addressed the Council pointing out the Architectural Commission was not questioning the demolition approval of the Town Council as part of their concern was the approval of the footprint of the building and with they wanted to see green space either in the front or the back and recommended that there has been new guidelines for Worth Avenue which were reviewed by the Architectural Commission, the Landmarks Commission and the Council and it was their recommendation that these guidelines be studied by the applicants, so in deferring their approval of the demolition, they were also deferring their approval for Council's approval of the footprint as any changes would change the previously approved footprint made by the Council.

Mayor Marix asked Mrs. Smith if she was telling them they didn't mind the demolition as long as it is made clear that the approval of the demolition does not approve the overall footprint. Mrs. Smith stated they did not review the demolition as the Town Council is the authority on that and it was not up to ARCOM to review that approval so it was not considered, but their concern was of the approval of the footprint, as that would close any access to the rear.

Mayor Marix asked if it would help Mr. Wearn to have the Council approve the demolition without approving the footprint? Mr. Wearn responded it would not as they appealed solely and only the question of the Site Plan Review by the Architectural Commission insofar as it involved anything varying with the Site Plan Approval that was granted by the Town Council, which included the demolition of the rear building and the connection of the two front buildings and the expansion of same. He pointed out there is an ultimate saving of 4400 square feet in retail space and the elimination of 50 parking spaces. He stated the connection of the two buildings across the six foot alleyway is integral to the Site Plan Review. He wished the Site Plan Review to remain in tact.

Mrs. Smith pointed out the fifty parking spaces were not actually there, but grandfathered in. She stated ARCOM is looking at it architecturally and by approving the footprint, there was no leeway for ARCOM to discuss whether or not the green space would be more beneficial to Worth Avenue in the front or the rear, under the new guidelines. She noted this building has been before ARCOM several times in the last three years and at one time, they wished to put green marble on the building which was denied by ARCOM. She stated ARCOM is concerned that this is a building as a whole and will not be broken up into tiny store fronts with huge glassfront windows and bullnose awnings and that that part of Worth Avenue will become a solid wall of glass on the north side. She stated another concern was losing the walkway since there was open space there with light coming through and they are not crazy about the pink cast stone or the Art Deco style but it is there. She stated these are the things they took into consideration to defer and hoped they would restudy the project and the architectural design. She urged the Council to look at the design before a decision is made, as ARCOM had to do.

Mayor Marix asked how long it would take to demolish the building? Mr. Wearn responded the timing is crucial to each phase of the work. He stated they are willing to study how the front of this building will be treated, provided the Site Plan is in tact and they know where they are going. Mr. Heeke recalled the full Council approved the Site Plan and he doesn't recall any discussion on the Via, as it was not on the Site Plan. He asked if there was a motion on the demolition or a motion to reconsider the Site Plan Review. Mr. Wearn indicated what he was requesting is Council confirm the Site Plan approval and on the demolition of the rear building that the Council overrule ARCOM's deferral so the Site Plan may move forward. He pointed out the Building Department cannot issue a permit absent this appeal. Appeal - Var. 45-92 (cont'd)

Mr. Heeke commented he was not sure the Council had to reaffirm the Site Plan Review as it has been approved and the only issue before the Council is the appeal on the deferral of the Architectural Commission with respect to demolition. Mr. Randolph indicated this statement is correct but both ARCOM and the applicant need to know what the Council's position is with regards to the Site Plan Review as if the Council acts only on the demolition, ARCOM wants to know what the Council's position is as ARCOM needs to know if they have any authority as to whether the alleyway should be closed and the other things they were considering on the front building, so that needs to be addressed.

Mr. Ilyinsky made a motion to reconfirm Council's approval of the Site Plan Review, approve the demolition and overruling the decision of the Architectural Commission. Mrs. Smith asked if this meant the alleyway would be closed as shown and the Architectural Commission would not be able to state they would like to view the green space in either the front or the rear of the property for the benefit of the residents of the Town? Mr. Heeke stated that is what it would mean. Mr. Weinberg noted the alleyway would be lost but the facade in the front building can be modified. Mrs. Smith pointed out the green space and the alleyway will be lost to the residents of the Town.

The motion was seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

C. Variances, Special Exceptions and Site Plan Reviews

Old Business Old Bus.

1. Variance No. 43-92 - D. Dixon and Pauline B. Boardman, 5 South Lake Trail; to allow construction of a 12' high property line fence along a portion of the south lot line in lieu of the 6' height limitation in Zoning Ordinance Section 5.36(a), (c), (d), and 5.45. R-A District. Deferred from July Meeting. Letter dated July 31, 1992, from William E. Corley, III requesting postponement to September 8, 1992 meeting. Var. 43-92

This item was postponed.

New Business New Bus.

2. Variance No. 47-92 - C.W. Miller, 1 Leaman Lane; to allow a permitted six-foot fence at the north property side yard to exceed six feet when measured from the grade of the north neighbor's property. R-B District. Letter dated August 4, 1992, from Peter S. Broberg requesting postponement to September 8, 1992 meeting. Var. 47-92

This matter was deferred.

3. Variance No. 48-92 - Mr. & Mrs. Jay Ryan, 250 Osceola Way; to allow applicant to rebuild a portion of the rear of the residence which would increase lot coverage from 26.4% to 27.1% (77 square foot increase) in lieu of the 25% maximum permitted. R-B District. Var. 48-92

Susan Gracey of Walsh Engineering, Boca Raton, addressed the Council on behalf of the applicants, noting this is a single family residence and the request is to increase the lot coverage by installing a second level. She stated the existing foundation is not strong enough to carry the second level and they wish to remove the existing family room and extend it by putting in a proper foundation. She stated they will not exceed the maximum FAR which is 45% for this area, and with the addition they will be at 37%. She stated they are not infringing upon the rear setback. She noted the request is essentially for an increase of 77 square feet so they can construct this two level addition.

Mr. Heeke noted the room is now 15 x 24 and they will be extending it, if the request is granted, to 18.5 by 25.4. Mr. Moore indicated staff has reviewed this and this is a minimum request and the existing lot coverage is already over the maximum allowed, at 26.4 and the increase would take it to 27.1, which he viewed as a minimum request. He asked for the hardship to be identified.

Mayor Marix asked if this was a non-conforming use request as it is already over the allowed lot coverage and it is not the fact that the request is minimal at 77' but the fact that a non-conforming residence is being enlarged, to which Mr. Moore agreed. Mr. Heeke noted the lot is irregularly shaped.

Mr. Weinberg moved for approval of the Variance No. 48-92. Mr. Ilyinsky noted the question raised by Mayor Marix about the non-conformity he believed had happened many times with older houses in the Town. Mr. Moore recalled the Council has reviewed many applications of this type and some have been granted and some have not, as it depended upon the hardship and the amount of square footage which was being requested. Mr. Ilyinsky noted this is not a precedent. Mayor Marix asked if they couldn't reduce the addition? Ms. Gracey responded they have to put in a proper foundation and it was felt that the increase would not make it look like an addition but as part of the structure. Mayor Marix did not believe a foot or so would make that much difference to which Ms. Gracey stated she has reviewed this with her client and it was their feeling that it did and for the sake of continuity and the neighborhood, the plan presented would be more appropriate. She noted that this structure has 27% for the two levels.

Mr. Heeke recalled they denied a request on Esplande which was less than this request. Mayor Marix noted there is a swimming pool with patio in the rear and this addition requested is not in line with anything particularly so if one took a foot or two off of the addition, she could not see how it will hurt the building as it isn't breaking any building lines. Ms. Gracey noted there is landscaping there which they don't wish to disturb. Mr. Heeke noted this type of request has been before them and the Council has been adhering pretty much to the lot coverage requirement.

Mr. Heeke noted the motion did not have a second. Mr. Ilyinsky moved the Variance No. 48-92 be postponed for further study by the applicant. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Var. 49-82

4. Variance No. 49-82 - Coats Asset Management Co., 350 Royal Poinciana Plaza; to allow a 2' diameter dish antenna to be on the roof, a variance per Section 5.51(f) Town Zoning Code. C-PC District.

Mr. Moore explained this is a two foot dish and needs a variance because of the placement on the roof, and these requests have been before the Council and granted conditionally with the proviso they be sightscreened. He stated the location would be well inside the parapet walls of the existing building and it is a communication dish. Mr. Heeke noted this was smaller than the one granted on Sunset to which Mr. Moore agreed. Lisa Pisaro, Mr. Coats' assistant indicated she was here to answer any questions. Mr. Ilyinsky moved the Variance No. 49-82 be approved. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Var. 50-92

5. Variance No. 50-92 - Malcolm S. Healey, 1341 South Ocean Boulevard; to allow construction of a residence at a height measured from the grade of the property, approximately 23', in lieu of the permitted elevation of 7.5'. R-AA District. (See Item XI.D.3.)

Mr. Moore explained there is an appeal to be considered which has no connection with this variance. Mr. Heeke noted this is a topography problem. Mr. Moore advised the point of measurement was taken from the land directly abutting the building rather than the roadway which is at a considerably lower elevation. Mr. Ilyinsky recalled this type of request has been approved for many homes in this particular area.

Attorney Vegosen addressed the Council indicating this is a request for a variance to allow the point of measurement to be from the abutting property. Mr. Ilyinsky moved for approval of Variance No. 50-92, recalling this type of variance has been granted for many of these properties along this stretch and it is acknowledged that that part of Palm Beach's topography is awkward when measurements are taken from the roadway. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Mr. Heeke stated the lunch break will be taken for the Mayor and Council to view the installation of the modules of the artificial Reef.

Lunch break was taken. Mr. Heeke reconvened the meeting.

Var. 51-92

6. Variance No. 51-92 - Robert Deziel, 319 Brazilian Avenue; to allow construction of a second story addition providing a 6.3' side yard setback in lieu of 10' required, and to allow a rear yard awning providing a 6.6' side yard setback in lieu of 10' required. R-C District.

Attorney Robert Deziel addressed the Council indicating he has a contract to purchase this home from the Estate of Miriam Wells. He wished to make improvements to the rear of the residence which will require a variance, which are a new second story addition and a new one story awning area which will be open in the setback area and the encroachment of a structure into the setback area will be removed. He wished to line up the second floor with the first floor footing and on the first floor, there will be no enclosed air conditioned space but an awning which will line up with the rear of the house. He stated the hardship is the fact that this lot is 50', and a second hardship is because of the Federal Flood Insurance requirement, this house has a 5.5 flood elevation and unless he wishes to raise the entire house two feet, he is limited to less than 50% of the existing appraised value, which is not practical. He felt this was a minimum variance.

Mr. Moore gave the staff comments: ARCOM believes the house is large enough as existing. Building Department has no objection as it is a minimum variance. Town Manager's Office asks for an addition explanation on the hardship. Mayor Marix felt the hardship could be the 50' lot. Mr. Moore stated there are some letters of objection. Mr. Deziel stated he met with Attorney Broberg who represents the neighbor to the west and she now has no objection. He advised the other letter of objection is from a gentleman who lives more than one or two homes away from the property and he didn't believe he would be affected.

Motion was made by Mr. Ilyinsky to approve Variance No. 51-92 as presented. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Spec.Excep. 19-92

7. Special Exception No. 19-92 - Giorgio Armani, 241-243 Worth Avenue; to allow applicant to occupy 3,709 square feet in lieu of 2,000 square feet maximum permitted and the 2,857 previously approved. C-WA District.

Attorney Wearn addressed the Council, indicating he represents two parties, Allied Dunbar, Inc., the owner and the intended tenant, GAPB, Inc. He recalled this has been before the Council in May of 1992 at which time Attorney Doyle Rogers represented the applicant. He stated the Armani customer profile was proved to be Town-serving and the reasons for granting the application were the applicant to demonstrate the Town-serving aspect and a copy of the auditor's report is attached to the application before them today. He stated at least 65% of the customers at the Giorgio Armani Shop were Palm Beach residents. Mr. Heeke noted the facts as represented are unchanged from the May 12, 1992 Town Council meeting when this was granted previously.

Mr. Moore recalled the Town-serving aspect was identified and acted upon in May and the current application must also be deemed by the Town Council as Town-serving.

Mr. Ilyinsky moved for approval of Special Exception No. 19-92. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Spec.Excep. 20-92

8. Special Exception No. 20-92 - Temple Emanu-el, 220 and 222 Seminole Avenue; to allow construction of a 10,713 square foot addition of 8 classrooms and additional accessory/support facilities to Appleman Fellowship Hall. R-C District.

Attorney Dennis Koehler addressed the Council for Temple Emanu-El introduced Executive Director Mark Weinberg, Cantor David Foyer, Architect Ted Davis, Landscape Architect Bob Bentz, Project Engineer Kashavars and the owners of the property, Mr. & Mrs. Robert Radkay.

Cantor David Foyer explained the needs for the expansion is to provide room for the teaching the children of members of their Congregation in Palm Beach and from other areas in the County. He stated they have 70 children and only two small classrooms existing and they rightly deserve a school wing to understand their cultural heritage and their religion. Spec.Excep. 20-92 (cont'd)

Attorney Koehler advised the request is to expand classroom facilities and it is important to understand they are not increasing the capacity of the sanctuary but to expand the accessory use, or the classroom facility. He asked them to keep in mind there are concerns of the neighbors about potential parking places and in their backup material, they will find a letter from St. Edward's confirming the existing parking agreement between the Temple and St. Edwards to handle the excess parking. He stated the proposal will be in architectural harmony with the existing Temple facilities and have minimal impact on the surrounding residential neighborhood. He stated the lot coverage will be at 35%, the maximum and on the traffic, they have submitted a professional traffic study to the Town which showed when the 70 trips per day attributed to the apartment units now existing, there is an increase on the town's street of an additional eight trips per day, which he did not view as a major impact.

Ted Davis, Architect, addressed the Council and reviewed the proposed Plan for the new classroom addition. He noted the building footprint for the classroom addition is 35% of the site area. He noted the property is 100 x 116 and the building face of the new addition is 90' from the buildings from the north and 48' from the west property line and 33'8" from the south property line to the new addition. He advised the three structures on the new site are in poor condition and will be removed. He commented the traffic plan is to relocate the exit underneath the new addition. He proposed to relocate some of the parking spaces and there will be a net gain of three spaces. He advised the finished grade at the new building will be more than one half of the floor height above the basement parking level. He noted there will be new landscaping added, with new Royal Palm trees installed. He reported the architectural expression will continue the stained glass windows and the sculptured frieze panel along the front of the building will be extended from the existing building to the new building. He advised a new window element will be introduced on the west side, which will be more of a reflection of the existing Temple. He noted there will be covered walkways between the existing Temple and the Fellowship Hall and from the Fellowship Hall and the classrooms. He felt this was more in keeping with the Town's tradition with Spanish barrel tile roofs, which will blend in with the neighborhood.

Mr. Davis advised there will be new colored vinyl canopy on the rear which will go from the walkway to the new entrance in the rear. Mr. Heeke asked how many students will they be having on a daily basis? Mr. Koehler advised the classes will be held twice a week and they are expanding for a total of seventy students, which will be the maximum ultimate capacity. Mayor Marix asked how that will tie in with the parking at St. Edward's which is used heavily on Sundays? Cantor Foyer advised they don't use the St. Edward's parking lot on Sundays. He advised most of the parents pick up their children after the school session and they also have a van which brings children from Jupiter and returns them to their homes, so the only vehicles using the parking spaces on the site on Sundays would be the van, his own personal vehicle and the Rabbi's vehicle. He advised the classes will be held on Tuesdays and Sundays for the children and the adult classes are held on Wednesday mornings from 9 AM to Noon.

Mr. Moore advised the staff has no objection as long as each of the items have been addressed for the Special Exception application, which he believes has been done. He advised there are letters of objection. Attorney Koehler stated he has received those letters and he was very pleased with the treatment he received from the staff in Palm Beach who have provided him with the letters. He advised one is from a resident of Oleander Avenue concerned about parking problems during the worship days, and he felt that was addressed in two ways, as the days in which the classrooms will be used will have no impact as they are not held on worship service days and secondly, the letter from St. Edward's confirming an already existing parking agreement. He wished to assure the Council that the leadership of the Temple will commit to publicize to its members the fact that the parking is available at St. Edward's which he was sure would minimize, if not eliminate the parking problem raised by Mr. Cathey.

He indicated the other letter was from Mr. Zeymour and Volasaro, who are residents of Oleander Avenue who basically object to extending the school into a residential neighborhood. He was sure the Council was aware that schools are appropriate in residential areas, not only in the State of Florida, but also in Palm Beach and the key is whether they can meet the test for Special Exception approval as contained in the Code, which they have done.

Mr. Heeke noted there was also a letter of objection from Dr. Rose. Max Skelly of 223 Seminole Avenue, addressed the Council indicating he has a residence across the street from the two lots in question. He stated his concern was the same as it was seven years ago when he was before the Council on the building of the Fellowship Hall. He stated he had no problem with the building of the Fellowship Hall and he has no problem with the building of an educational facility but the problem he does have is the 10,713 square feet which increases the overall size of the Temple by 92%, which he viewed as a massive structure. He has no problem with the traffic as traffic does move through there quickly as this is a wide street, however, there is speeding and he felt the Town needed to address that, especially since there will be children involved. He stated his questions on the parking as there are five parking places there for the apartment house and they stated there will be an additional three and he wanted to know if that meant there would be eight total parking spaces? Mr. Moore responded it will be a net increase of three parking spaces over what currently exists on the property for the Temple.

Mr. Skelly noted the application states the proposed addition is "primarily" for the classrooms and asked exactly what does that mean and what other use are they proposing by this statement? Mr. Koehler responded it is primarily going to be an educational facility. He stated there will be some library storage facility on the basement level and other storage but all of the space would be for education and there is no hidden agenda. Mr. Skelly asked if the Plan had a proposed area for a store to sell educational items of about 3000'? Mr. Moore reviewed the Plan noting it was all for storage not for a store.

Mr. Skelly asked how many students would be in each classroom. Mr. Heeke responded they have already told us there will be approximately 70 children. Cantor Foyer responded their maximum would be 70 students and they do not intend to take any more, and the average classroom attendance would be from ten to fifteen children in each classroom as they are proposing eight classrooms.

Spec.Excep. 20-92 (cont'd)

Mr. Skelly asked if there was any anticipation in having pre-school children or are these classes going to be for older children. Mr. Heeke responded the classes are to be held after school hours on Tuesdays. Mr. Koehler responded there are no pre-school classes anticipated.

Mr. Skelly wondered if there were eight classrooms necessary as there are two now and he wondered if they needed ten classrooms to accommodate 70 students? Mr. Koehler responded the size of the proposed classrooms is 20 x 25 and would accommodate very nicely eight students and there will only eight classrooms. He advised according to the Code the basement rooms are limited to storage and are not for human habitation. He stated the Temple has complied with the land development regulations of the Town and no variances have been requested and they are seeking to develop, within the limited zoning regulations, this facility and their plan is to have comfortable facilities for about seventy students in the limited periods they told the Council about. He believed the parking has been addressed and they have their traffic expert who will tell them whether or not the parking will be adequate. He advised there are no additional parking spaces required, but they have provided an additional three spaces.

Mr. Skelly responded although they don't believe so, parking is a problem in the neighborhood. He pointed out he cannot entertain on Friday nights or Holy Days unless the people he is entertaining walk to his home or ride their bikes. He believed parking was a problem throughout the Town and there is not much that can be done about it as there is a finite amount of space available. He wished to know what they would be doing with the two classrooms that now exist. He didn't know why they didn't fully utilize the classrooms five days a week. He knows classrooms are necessary but the building is huge and Seminole Avenue is basically a residential street with eighteen residences on the street and the architectural make-up of the street is of a Mediterranean Revival nature and he was glad to see the barrel tile on the covered walkways, as he personally does not like the Regency Style and he didn't believe it fit into the architecture of the street. He recalled in 1986, when the Fellowship Hall was being constructed, there were questions raised about the height of the building and the possible blockage of air. He felt the height of the proposed building is higher than the Fellowship Hall. He recalled twenty-four feet was adhered to for the height of the Fellowship Hall and he would like to have that height extended to this building as well. He felt the proposed addition is an additional eighty to ninety feet on Seminole Avenue and there will be a straight line of buildings for 235' and he was concerned about the blockage of breezes which he moved to Palm Beach to partake in and he views that as a problem. He stated there already has been a reduction in the amount of air from the Fellowship Hall being erected there. He stated he knows it is open underneath but not much air penetrates that because of other buildings and hedges behind it. He believed there would be a problem with the air circulation in that area.

Mr. Skelly wished to address the landscaping and was happy to see on the Plans that the landscape architect is going to install a hedge which will hide the parking lot, which was a condition on the granting of the Fellowship Hall addition. He stated all that is there is a three and one half foot hedge which doesn't hide anything and he asked if they could raise the six foot hedge proposed in front of the new addition which could handle the problem of lights outside his bedroom window. He asked a question on the 35% coverage, wondering if that applied to the entire property or is that lot-by-lot. Mr. Moore responded this is for the entire property, as a portion of the property is in C-TS District and another portion in the R-C District and the Temple is in the C-TS District and the Fellowship Hall and the classrooms are in the R-C District.

Mayor Marix asked if the lot coverage they are talking about is for the Fellowship Hall and the classrooms separate from the Temple, to which Mr. Moore responded, the property is in two separate Zoning Districts, the C-TS permits more building in that District than in the R-C residential, which permits less lot coverage and requires more green space. Mayor Marix asked if he didn't say the lot coverage is treated separately for the Fellowship Hall and the Schoolrooms but the parking is looked at as a whole? Mr. Moore responded the parking is looked at for the Sanctuary which is in the C-TS District. He stated there is no additional parking requirements for the classroom facility or the existing Fellowship Hall.

Attorney Randolph noted for one purpose they are lumping the property together for the determination of parking and for the lot coverage purpose, they are separating the property? Mr. Moore stated that is so and it is more restrictive to separate the two zoning districts for the purpose of lot coverage. He stated the parking requirement is for the seating capacity in the House of Worship so the parking requirement is tied to the Temple not the accessory uses. Mayor Marix indicated she has had calls on this and she had another question pointing out she thought it was an excellent idea to have valet parking and she believed the Temple had valet parking. Mr. Skelly responded that is so, but he wished they wouldn't do it in the street as it is impossible for traffic to get by. Mayor Marix asked if they have extra parking available at St. Edward's, why do the valets park the cars on the surrounding streets, and maybe this is a matter of training the valet parkers to use the St. Edward's lot.

Mr. Skelly stated another problem is that people are left out of their cars on the street or blocking the driveways and that creates traffic problems also and he thought there should be a designated area where people could stop to get out of the cars. Mayor Marix agreed and thought also the valet parking could be at a point under the building for the drop-off.

Mr. Skelly asked again about the lot coverage wondering if there was a variance required for the Fellowship Hall to which Mr. Moore responded there was only a Special Exception application required. Mr. Skelly noted the size of the Fellowship Hall was 4,462 square feet and the 35% coverage on a 11,600 square foot lot is 4,060 so it means there was an overage of 402 square feet. He stated the additional of an educational building, there will be an additional 1000 square feet and he believed a variance was necessary. Mr. Zimmerman explained the 35% lot coverage is applicable only to the R-C zoned property. He stated only 4000 feet of the Fellowship Hall is located in the R-C District and add the additional 4000 square feet of the new classroom facility. Mr. Moore stated the issue is the R-C property stands on its own. The application before the Town is for the combining of the two pieces of property and the lots no longer stand on their own merits but are a combined piece of property in the R-C Zoning District and 35% of the combined R-C property equals what is on the existing Fellowship Hall and the new classrooms and that is the issue and that is their interpretation.

Mr. Skelly recalled when the Fellowship Hall was presented, the Temple did agree to a lesser building and he hoped that this educational building would be neighborhood-serving and the building will not hurt the neighbors with regards to air circulation, parking and any other issues. He stated they have always tried to be good neighbors and he would have preferred if the Temple had contacted the neighbors telling them of what was going to be proposed beforehand, as he thought that was what a good neighbor should do. He objected to a monster building and not to a building per se and he thought 10,713 square feet on a mainly residential street is keeping with the Town's requirement to protect neighborhoods from things like this and he hoped they would take this under advisement. Spec.Excep. 20-92 (cont'd)

Mayor Marix recalled there were two similar cases like this and the applicants were encouraged to not have a big long wall and wondered if there was some way there could be a separation of the building so that it doesn't look like a long wall and if this could be separated slightly, it would let some air through. Mr. Davis responded stating the addition is smaller than the Fellowship Hall and is narrower by 2.2'. He indicated this is an elevated structure as the parking is open and this will allow the breezes to blow under the building. He noted the facade will not be a solid wall type effect as it steps back and forth, by eleven and seven feet, so the facade is varied and has an elevation expression.

Mr. Koehler commented the Temple will commit on the high holidays to arrange to have valet parkers to the St. Edward's parking facility as they consider that as a legitimate concern.

Mr. Heeke noted a letter of objection in the file from Dr. Rose who owns two properties on Seminole Avenue and the concern was about the parking but he thought that was handled by the commitment to have valet parking on high holidays. Mayor Marix asked if there were any other times during the year when there would be excess parking needed and would they be willing to commit to having the valet parking when there are a lot of cars to be parked? Mr. Richard Weinstein addressed the Council indicating the Treasurer of the Temple has advised him whenever there is expected to be a major service attendance, they will commit to the use of Valet Parkers.

Mr. Ilyinsky asked if it could be arranged to eliminate all parking on Seminole Avenue, except for residents. Mr. Heeke stated they could survey this and see if it meets the criteria of the Gainesville Plan. Mayor Marix believed they could meet that criteria.

Attorney Koehler expected construction on this building will probably begin within several months, if the fund raising plan goes well.

Mr. Heeke reminded this is a request for a Special Exception and the Building Department tells us the setbacks, lot coverage, etc. are in compliance and they have heard the comments of Mr. Skelly on the impact to the neighborhood by the size of the building and these are the considerations the Council needs to address.

Mr. Randolph reminded the Council the items which are to be considered as set forth in Section 6.40 for Special Exception Uses which should be reviewed and a determination that they have complied with those requirements and in conjunction with these items, a Site Plan Review is given:

(A) The use is a permitted Special Exception Use.
(B) The use is so designed so the public health, safety, welfare and morals will be protected.
(C) The use will not cost substantial injury to the value of other property in the neighborhood where it is to be located.
(D) The use will be compatible with the adjoining development and the said purpose of the District in which it is to be located.
(E) The Use will comply with Yard and any other open space and other special requirements set out in the Schedule of District regulations.
(F) The Use will comply with all elements of the Comprehensive Plan.
(G) The Use will not result in substantial economics, noise, glare or odor impact on adjoining properties and properties generally in the District.
(H) That adequate ingress and egress to property and proposed structures thereon and off-street parking and loading areas will be provided, where required, with particular references to automotive and pedestrian safety and convenient traffic control and access in case of fire or catastrophe.
(I) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and economic impact be compatible and in harmony with properties in the District.
(J) Location, availability and compatibility of utility service for the use be satisfactory to ensure health and safety.
(K) Refuse and service areas for the Use not adversely effect automotive and pedestrian safety, etc.
(L) The proposed Use will not attract the principal portion of its customers and clients from off-island location, etc.
(M) That adequate landscaping and screening is provided as required.
(N) In the event an authorized or existing Special Exception is discontinued - (abandonment.)
(O) When any residential use is approved as a Special Exception Use - (does not apply).
(P) Reference to group homes or foster care facilities (doesn't apply).
(Q) CWA Districts (does not apply).
(R) Proposed Use will not place a greater burden than would be caused by a Permitted Use on Municipal Police Services due to increased traffic; or on Fire Protection Services due to the existence of or increased potential for fire safety.

Mr. Heeke believed the parking problem have been addressed by the representatives of the Temple who have committed to provide valet parking; and the parking underneath the facility for drop off addresses Item C.

Mayor Marix believed this area is really quite residential as the only shop would be the Purcell store across the street.

Mr. Heeke believed C and D come along together and have been addressed. He stated with regards to yard and open space, those requirements have been met. Mr. Heeke believed the elements of the Comprehensive Land Use Plan have been addressed.

Mr. Heeke asked for Mr. Koehler's comments on Item G, noise and glare. Mr. Koehler contended there would be no unacceptable levels of noise generated by this activity as the drop off and pick-ups will be in the same place underneath the building and only several days per week. He addressed glare, noting that any lighting proposed has been reviewed by the staff and nothing objectionable has been found. He stated there will be 8 traffic trips per day which is the amount generated by a single family residence, so there would be no significant traffic impact from that standpoint.

Spec.Excep. 20-92 (cont'd)

Mayor Marix asked how they would get their people to use the valet system with regards to parking, as many people don't want to give the parker a dollar, and also what will they do with the cars as the usual procedure is for the parker to move the car down the road a piece and leave it there until the cars stop coming and when there is no longer a great rush, they return to those cars and park them properly. Mr. Koehler responded Mr. Weinberg indicated the Temple will pay for the parking. Mayor Marix wanted to know how they would make people use the valet parking and what will they do with those people who don't use the valets and park themselves, will they be ticketed? Mr. Weinberg stated they will try and educate their people that the Temple will be providing this service at the Temple's expense. Mr. Koehler agreed it was a matter of communication and education and by speaking to the members during the services and letting them know the Town is concerned about the parking problems and the Temple will insist its members take advantage of the valet service.

Mr. Heeke commented that the residents of Seminole Avenue can talk to the Chief of Police and take a look on initiating the survey on limited parking on that street.

Mr. Koehler stated he wishes to commit to Mr. Skelly that they will do their best so that he does not experience problems during the Worship Service Days. Mayor Marix asked as they start their fund raising activities, they can start the communication process about parking.

Mr. Weinberg noted they have listened to this application for a long period and carefully listened to what has been discussed and following Mr. Randolph's suggestion on the enumerations listed under Section 6.40 and he finds no problem as it relates to this application, and with the hope there will be better parking control, he would move that they approve Special Exception No. 20-92. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Site Plan Review No. 2-92

9. Site Plan Review No. 2-92 - Arij Gasiunasen, 118 Seaview Avenue; to allow placement of 3 statues over 6' and under 12' in height per Section 5.50 (b) and 9.60 of the Town Zoning Code. R-B District.

Attorney Doyle Rogers addressed the Council on behalf of the applicant to place three sculptures on his property and to temporarily locate a fourth which will be removed at the end of September. He exhibited a survey of the property to show the locations and photographs of the sculptures. Mr. Moore indicated staff has no objection. Attorney Rogers advised there were no letters of objection and two in favor of the sculptures and they are from residents directly across the street from the property. Mr. Heeke noted only one is noticeable from Seaview Avenue. Motion was made by Mr. Weinberg to approve the Site Plan Review No. 2-92. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

D. Other

1. Reminder of September 18, 1992 Deadline for Submittal of 1992-93 Zoning Study Items -

Zoning Study Items

Mr. Moore reminded the Council the zoning items must be in before September 18, 1992 and one to be added to the list is the revisiting of the Charitable Solicitation Ordinance which sunsets in April with regard to having one fund-raiser per year in residential neighborhoods. Mr. Heeke noted the Beach House provision which states the main house must be located within 1500' of the site and the Building Department was asked to identify those existing as well as those which have Unity of Title with the beach houses and the main house.

Mr. Moore reminded all there was public comment on this matter by Mr. William Buckley, who lives on Seaview Avenue and he had comments on the issue which would require the Beach House be within 1500' of the main residence and he raised the issue of how many of these structures were similar to his wife's ownership of the Beach House above Colonial Lane on North Ocean Boulevard. He is researching the records to provide that information and will report back to the Council how many actually exist. Mr. Heeke wondered if this was something that needed to go to the Zoning Commission. Mayor Marix agreed it should not. Mr. Moore stated he will remove it from the agenda.

Mayor Marix believed the issue about the view access of the ocean should be an item, as there is not much of a view, as the beach houses and the walls keep the public from viewing the water and she thought that was an important item which should be kept on the agenda.

Mayor Marix wondered about logos as this had been decided some time ago to not allow them and asked why it was on the agenda? Mr. Moore responded they are going to be putting before the Zoning Commission a study of that item. Mayor Marix did not understand why it should be put back on the agenda as they have spent a lot of time in the past and it was decided no logos were the best for the Town. Mr. Moore responded he was directed by the Town Council to study this item.

Zoning - Sect. 8.12

2. Consideration of "Zoning in Progress" Regarding Section 8.12, "Conversion of Nonconforming Uses" of Town's Zoning Ordinance -

Mr. Heeke recalled this was an item discussed with regard to the property at the corner of Worth Avenue and South County Road. He thought that rather than get into a bind on this before the Zoning Commission has an opportunity to look at it, a suggestion has been made to declare Zoning in Progress. He didn't believe there were any pending applications so it would be in order. Attorney Randolph asked if they do not do that in September when the deadline for submissions was past? Mr. Moore responded it is normally in November when the notice is published. Mr. Randolph noted he hates to see Zoning in Progress overused and he does not see any confusion in Section 8.12 although he recalls a dispute between the Building Department and an applicant as to what the language meant. Mr. Heeke felt they could end up having this section tested although he agreed with Mr. Randolph that they don't want to overuse Zoning in Progress, but he visualizes this as a possibility on Worth Avenue due to the many vacant stores they presently have and the non-conforming uses already there. Motion was made by Mr. Ilyinsky to declare "Zoning in Progress" with regards to Section 8.12, the conversion of non-conforming uses of the Town's Zoning Ordinance. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Appeal - Sect. 6-36 Casa Apava

3. Appeal of Building Official's Decision Regarding Section 6-36 "Beaches; Dune Removal or Alteration" by Dean Vegosen, Attorney, Regarding Lot 7, Casa Apava (See Item XI.C.5., Variance No. 50-92) -

Attorney Dean Vegosen addressed the Council noting the reason he is here is the Building Official made a determination there is a dune on Lot 7 and that determination would result in a significantly different setback than was envisioned by his client. He stated it is his opinion there is no dune on the property as the Ordinance defines dunes in a way which do not deal with already developed property, which this is. He stated this property already has a lawn on it and dunes are defined as wind blown sand and things of that nature. He has met with Mr. Moore on this and a compromise has been proposed which Mr. Vegosen believes will settle this matter if the Council so agrees.

Mr. Vegosen stated the proposal is there not be a determination of whether or not there is a dune on the property and that would make the Coastal Construction Control Line be applicable as the place to mark the setback. He stated in exchange the building owner would agree that the portion of the property from the Coastal Construction Line eastward would not be kept in its present state, which is largely grass and landscaping, but would be restored to a dune-like condition and kept in that fashion.

Mr. Moore gave his comments noting the Town's Dune Ordinance which was put into effect to guard vegetation on the dune which exists in the natural areas, such as the Sloan's Curve area where sea oats are very prevalent. He noted staff recognized there would be changes and the Ordinance and the guidelines are reviewed annually. He indicated the problem does occur in the definition of the dune as the Dune Ordinance does not take into consideration the length and the depth of fully developed property, but took into account the natural areas but not pre-developed areas. He indicated they are in the process of revising that portion of the Ordinance and one of the issues will be properties that have pre-existing construction, such as the Bolton property.

He advised there have been several applications involving areas that are still buildable lots because of the possibility the CCCL being moved landward and this application was stimulated by that possibility. He stated the Ordinance states the principal structure must be set back 25' from the CCCL or the dune, whichever is further landward. He noted in this case, the applicant has proposed construction further landward than what would be the high point from Lot 7, the south lot. He advised Mr. Gann-Madsen, who is the biologist and the Town consultant and he has been to the site and it was found the property on the north-east section is in lawn and this is east of the CCCL and there is a seawall even further east, or seaward of this area in question. He advised the southeast portion of the property has been in lawn and remnants of it can be seen, but probably from the October 31, 1991 Storm, there was some damage.

Mr. Moore pointed out as a compromise because of the fact they had not taken into consideration the location of the seawall which was further east than the CCCL and the fact that the property had been developed by a previous developer, they came up with the compromise they thought they could all live with. He stated the appeal is of a technical nature as he reads the Ordinance, the dune does exist. He stated the compromise which would be beneficial to the Town and would give the property owner some relief would be to move the proposed construction further back (landward) and set back 25' from the CCCL for the principal structure and 15' for accessory structures. He advised the property owner will provide the Town with a permit under the Dune Ordinance which would be a revegetation of that area getting rid of the grass and transforming that area into a manageable area as far as native habitat is concerned. He noted the technicality is that the Council must find Mr. Vegosen correct in his interpretation of the definition of "dune" under the Ordinance and Mr. Moore incorrect.

Mr. Heeke asked what kind of documentation would be needed and if it would have to be approved by the staff and the Town Attorney on the agreement? Mr. Moore advised there could be no building permit issued for this particular home until the Class One Permit had been applied for. Mr. Heeke stated he was referring to the compromised position. Mr. Moore stated this would be acceptable. Mr. Heeke asked that it be reduced to writing so there is no misunderstanding.

Mr. Weinberg moved the Appeal be in favor of the Appellant, and overrule the Building Official's decision, with a compromise made with the parties entering into the necessary recordable Agreement, subject to the Town Attorney's approval. Seconded by Mr. Ilyinsky. Motion carried unanimously on roll call.

XII. COMMUNICATIONS FROM CITIZENS - None.

XIII. ANY OTHER MATTERS

A. PRECINCT CHANGES. Mrs. Peters informed the Mayor and Council there has been a new precinct created with the southern boundary line being Royal Palm Way, which means all of the people between Royal Poinciana Way and Royal Palm Way who had been in Precinct 90 will now be Precinct 77A and the polling place will be at the Bethesda-by-the-Sea Church. She advised the precinct location for Precinct 90 for the first primary, due to the renovation of the Fire Station, will be at the Seaview Park facility. Precinct Changes

B. PROPOSED MAINTENANCE DREDGING IN THE LAKE WORTH INLET. Mr. Doney advised he wrote a letter dated 7-23-92 to Col. Terrence Salt of the Army Corps of Engineers and advised of the Town's continuing concern with the Inlet and requested that any beach quality material that is dredged be placed on the south side of the jetty. Mr. Doney stated he didn't believe there was any further action necessary at this time. Mr. Heeke made the comment that perhaps they may want to put the Federal Elected Officials on notice to intercede. Dredging Lake Worth Inlet

C. PALM BEACH COUNTY MUNICIPAL LEAGUE. Mr. Doney noted a memorandum has been received with regards to the Countywide Intergovernmental Coordination Program Task Force Appointments. After discussion, the Council decided to not be a part of this program. Municipal League

D. POTENTIAL ASSESSMENT ON THE TOWN'S PIKE ROAD PROPERTY FOR A PALM BEACH COUNTY WATER UTILITIES DEPARTMENT WATER MAIN PROJECT. Pike Road Property

Mr. Doney indicated this property is owned by the Town and has been held in reserve as a potential site for yard trash, should the need occur in the future. He advised a memorandum has been sent to the Mayor and Town Council on July 29, 1992 which explains that several abutting property owners on Pike Road are petitioning the County to install potable water for the area and if more than 50% of the property owners in the area are in favor of this, the County Commission will adopt a special assessment ordinance and the Town's assessment would be $35,640. He did not think it was an immediate benefit but because of the property zoned as industrial, it would cause the property to appreciate and if this is approved, the recommendation is that this be paid in a lump sum rather than the ten per cent per annum interest proposed by the County. Mayor Marix wondered if the Town could be exempt from this as she didn't like to see the expense for potable water at a trash site. Mr. Heeke didn't believe if it was approved by 50% of the neighbors that the Town could decline as it would mean an interruption of the water pipes, but perhaps they could offer to pay a large hook-up fee in the event water is needed there in the future. Mr. Doney will check to see if this was a workable procedure. Mr. Elwell noted two more property owners are needed and there are only four left who are holding out at this point in time.

Mayor Marix asked if the fees were ever reduced by the Solid Waste people due to the fact the Town is handling its own now and perhaps that could be a negotiation tool.

Beach Patrol Facility Plaque

E. NEW BEACH PATROL FACILITY DEDICATION PLAQUE. After discussion, a motion was made by Mr. Weinberg, seconded by Mr. Ilyinsky, the plaque should read:

TOWN SEAL

"We proudly dedicate this Public Safety Building to
all who visit and enjoy Phipp's Ocean Park,
a recreational facility of the Town of Palm Beach.

MAYOR - YVELYNE de MARCELLUS MARIX

TOWN COUNCIL: Bernard A. Heeke, President
M. William Weinberg, President Pro Tem
Nancy S. Douthit
Paul R. Ilyinsky
Hermine L. Wiener

ARCHITECT: Gee and Jenson Engineers
Architects-Planners, Inc.

CONTRACTOR: West Construction, Inc.

DEDICATED: November, 1992"

On roll call, the motion carried unanimously.

Towing Bid

F. TOWING BID. Mr. Doney advised this will come up at the September Town Council meeting. He recommend the bid specifications be issued which will not exclude those towing companies who own automobile body repair shops, and include text n the specs to require bidders to identify whether or not they do own a repair shop and their financial information. Mr. Heeke suggested they follow the recommendation set forth in Mr. Doney's memo.

G. UPCOMING MEETINGS. Mr. Doney reminded the Mayor and Council of the upcoming meetings.

H. ANNUAL AUCTION. Mr. Doney reminded the auction will be held this forthcoming Saturday at the Old Purchasing Warehouse.

Derelict Properties

I. DERELICT PROPERTIES. Mr. Moore noted the Building Department is having a problem with two specific pieces of property,one on North Ocean Boulevard and the other on Colonial Lane, which have been left in disrepair. He has notified the owners of record and the lien holders regarding the condition of the property and have even threatened demolition on the properties.

Mr. Randolph asked if there were mortgage holders on these properties to which Mr. Moore responded there were. Mr. Randolph asked if there were also foreclosures involved to which Mr. Moore responded there was a foreclosure on one of the properties. Mr. Randolph suggested if they wish to proceed with this, they ought to do it through a court action, as unless it can clearly be shown these properties need to be condemned from a standpoint of public safety, there should be a declaratory degree and injunction relief, as he views this as having too many outstanding issues. Mr. Heeke suggested perhaps what they needed to do on the one that is not in foreclosure, is if they can get the declaratory action, but on the foreclosure they should probably wait until it is complete as then they would be dealing with a new owner.

Mayor Marix believed there was no question the properties are unsafe.

Mr. Heeke stated he would like to proceed along these lines, with no delay, if at all possible.

Code Enforcement Liens

J. CODE ENFORCEMENT LIENS. Mr. Heeke asked how these were proceeding. Mr. Moore advised they have fines which have been placed against certain properties. Mr. Heeke believed that after the lien is placed, there is a certain time they had to wait until they could proceed. Mr. Randolph confirmed they had to wait ninety days before they could proceed and then foreclose within a period of five years. He pointed out what happens a lot of times is the lien is recorded and someone would come in and either pay it off or ask that it be abated or they pay a portion of it, or in the event nothing is done, they would go to foreclosure. Mr. Heeke thought the Code Enforcement liens are enforceable against personal property. He thought they should look at who owns the Town money and expend some effort to make serious collection efforts irrespective of who they are. Mr. Randolph indicated they will pursue this matter further.

Bonds

K. BONDS PRIOR TO ISSUANCE OF DEMOLITION PERMITS. Mayor Marix recalled she has asked several times that bonds be put up so people cannot be half demolished and she thought this was something they should look into. Mr. Heeke thought perhaps that could be a waiver that the Town could step in and demolish at a certain time. Mr. Moore advised the mortgagee consent would have to be secured. Mayor Marix thought it could all be a part of the permit procedure. Mr. Moore stated they could prepare language to modify the section of the Code under Building Demolition Permits to require that type of bond. Mayor Marix thought it should have a date certain and if it wasn't completed by that particular date, the Town would step in and demolish it and clean up the lot and landscape.

L. CHARITABLE SOLICITATION PERMIT RESULTS FORM. Mayor Marix wished to have more effective language on the form for showing the results of the Charitable Solicitations, feeling that since the Council is voting on the approvals of the Permit, the language should be modified as she believes that people raise money in this Town, complete the forms and hoodwink those who have donated the money. She would like to see the form changed to require the charitable organization to state on the form what monies have gone to the organization. Mr. Randolph noted she is looking for truth in reporting to which Mayor Marix agreed. Mr. Randolph believed perhaps the ordinance would have to be modified. Char.Sol. Permit Results Form

Mrs. Peters pointed out that fund raising is a line item in most audits, but it doesn't state exactly how much money was raised in the Town of Palm Beach. Mayor Marix stated she is not concerned about big organizations, like the American Red Cross or the Heart Association, but she had a concern about the smaller ones that arrive and then disappear.

XIV. ADJOURNMENT - There being no further business, the meeting was adjourned at 4:07 PM on motion of Weinberg/Ilyinsky which passed unanimously on roll call. Adjournment

Grace T. Peters
Town Clerk