TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL MEETING HELD ON AUGUST 10, 2004

I CALL TO ORDER AND ROLL CALL

The regular Town Council Meeting of Tuesday, August 10, 2004, was called to order by President Allen Wyett at 9:30 a.m. in the Town Council Chambers. On roll call the following elected officials were found to be in attendance:

Mayor Lesly Smith
President Allen Wyett
President Pro-Tem Samuel McLendon
Councilman William Brooks
Councilman Norman Goldblum
Councilman Jack McDonald

Others in attendance were:

Town Manager Peter Elwell
Assistant Town Manager Thomas Bradford
Assistant to the Town Manager Sarah Hannah
Town Attorney John Randolph
Russ Bitzer, Recreation Director
James Bowser - Town Engineer
Paul Brazil - Public Works Director
Paul Castro - Zoning Administrator
Veronica Close - Assistant Director of Planning, Zoning & Building
William Crouse - Human Resource Director
Andrew Cox - Assistant Fire-Rescue Chief
John DeIorio - Acting Fire-Rescue Chief
Jim Hay - Tennis Pro
Jon Luscomb - Dock Master
Robert Moore - Director of Planning, Zoning & Building
Michael Reiter - Police Chief
Jane Skittone - Finance Director
Sandy Tate - Coastal Management Coordinator
Mary Pollitt - Town Clerk

Post Office Box 2029 • 360 South County Road • Palm Beach, Florida 33480
Telephone (561) 838-5416 • Facsimile (561) 838-5417
E-mail: townclerk@townofpalmbeach.com • Website: www.townofpalmbeach.com

II. INVOCATION AND PLEDGE OF ALLEGIANCE

The Invocation was given by Town Clerk Pollitt, and the Pledge of Allegiance was led by President Wyett

III. PRESENTATIONS

A. Recognition of John C. Cassidy, Jr. Building Board of Adjustments and Appeals, From July 1985 Through May 2004.

Mayor Smith recognized the service of John C. Cassidy, Jr., on the Building Board of Adjustments and Appeals from July 1985 through May 2004.

B. Recognition of Peter S. Broberg, Building Board of Adjustments and Appeals, From February 1994 Through June 2004.

Mayor Smith recognized the service of Peter S. Broberg on the Building Board of Adjustments and Appeals, from February 1994 through June 2004.

C. Introduction of Zach Nowacki (Son of Elizabeth Nowacki, Firefighter/Paramedic), Recipient of a Full Scholarship to Attend Palm Beach Day School.

Mayor Smith recognized and congratulated Zach Nowacki as the recipient of a full scholarship to attend Palm Beach Day School.

IV. COMMENTS OF MAYOR LESLY S. SMITH

FIRST A FEW COMMENTS ARE WARRANTED ABOUT THE COUNCIL'S SPECIAL MEETING ON JULY 12. AT THAT MEETING, THE TOWN COUNCIL APPROVED SEVERAL PERSONNEL-RELATED ISSUES THAT ARE CONSISTENT WITH OUR POLICY OF PROVIDING EXCELLENT BENEFITS BECAUSE WE

VALUE THE EXCELLENT SERVICE THAT TOWN EMPLOYEES PROVIDE. MANY OF THE DECISIONS REFLECTED IN THE MINUTES ARE ROUTINE - SUCH AS SETTING ASIDE RESERVE FUNDS AND AMENDING OUR RETIREMENT PLAN SO THAT EMPLOYEES CAN PURCHASE SERVICE CREDITS. THE POINT IS, EVEN AS WE DEAL WITH A TIGHT ECONOMY AND BUDGET CONSTRAINTS, OUR EMPLOYEES REMAIN A HIGH PRIORITY.

UNDER NEW BUSINESS TODAY WE HAVE DISCUSSIONS THAT AFFECT THE QUALITY OF LIFE OF OUR CITIZEN FAMILIES TOO - SPECIFICALLY, THE FUTURE OF THE SEAVIEW AND PHIPPS PARK TENNIS COURTS. ONCE AGAIN, WITHIN THE REALM OF FISCAL RESPONSIBILITY, WE HAVE A RESPONSIBILITY TO FUND PUBLIC FACILITIES FOR LEISURE ACTIVITIES. WE RECOGNIZE THAT THE TOWN IS BUILT-OUT, SO PUBLIC SPACES BECOME EVEN MORE IMPORTANT AS PLACES OF REFUGE FROM THE BUSY WORK-A-DAY WORLD.

AN ISSUE THAT IS NOT ON OUR AGENDA TODAY, BUT IS CERTAINLY ON THE DRAWING BOARD, IS THE RECONSTRUCTION OR REPLACEMENT OF THE SOUTHERN BOULEVARD AND FLAGLER BRIDGES. GIVEN WHAT WE ARE GOING THROUGH WITH THE MIDDLE BRIDGE, I SHUDDER TO EVEN BRING UP THE SUBJECT OF THE OTHER TWO. BUT THE FACT IS, IF WE PLAN WISELY WE CAN AVOID SOME OF THE MINEFIELDS WE STEPPED ON IN REBUILDING THE MIDDLE BRIDGE. THE PALM BEACH METROPOLITAN PLANNING ORGANIZATION HAS ALERTED THE STATE DEPARTMENT OF TRANSPORTATION TO AN OBVIOUS POINT - THAT WE MUST AVOID REPAIRING BOTH BRIDGES AT THE SAME TIME. INTEREST HAS BEEN EXPRESSED IN ESTABLISHING A DESIGN COMMITTEE TO HELP WITH PLANNING THE APPEARANCE OF THE BRIDGES - AN IDEA WHICH I SUPPORT. THERE HAS BEEN A RECOMMENDATION FOR MAXIMIZING BRIDGE HEIGHT IN ORDER TO MINIMIZE THE NEED FOR OPENINGS - AND, CLEARLY, THIS WOULD HAVE SERIOUS DESIGN IMPLICATIONS.

IT IS COMFORTING TO KNOW THAT WE IN PALM BEACH ARE NOT ALONE IN OUR CONCERN ABOUT THE BRIDGE ISSUES. ON THE PALM BEACH COUNTY COMMISSION, WE HAVE BUILT A SOLID RELATIONSHIP NOT ONLY WITH OUR OWN REPRESENTATIVES - KAREN MARCUS AND ADDIE GREENE - BUT ALSO WITH COMMISSIONERS WARREN NEWELL AND JEFF KOONS. SO I AM CONFIDENT THAT BY WORKING TOGETHER, WE CAN MEET THE FUTURE'S INFRASTRUCTURE NEEDS WITHOUT IMPOSING MISERABLE CONDITIONS UPON COMMUTERS, BUSINESS OWNERS AND TOWN RESIDENTS.

BEFORE WE MEET AGAIN, PALM BEACH COUNTY WILL HAVE EXPERIENCED ITS FIRST COUNTYWIDE ELECTION SINCE NOVEMBER 2003, UNLIKE PREVIOUS YEARS, THE ELECTION IS TUESDAY, AUGUST 31 - BEFORE LABOR DAY - AND I SUSPECT MANY PEOPLE DO NOT REALIZE THIS. I ALSO SUSPECT THAT MANY VOTERS DO NOT KNOW THAT THERE ARE SEVERAL RACES ON THE BALLOT NEWLY- DESIGNATED AS NON-PARTISAN, WHICH MEANS THAT IF ONE CANDIDATE WINS A MAJORITY ON AUGUST 31, HE OR SHE IS OFFICIALLY ELECTED. THE NON-PARTISAN CONSTITUTIONAL OFFICES INCLUDE SHERIFF, PROPERTY APPRAISER AND SUPERVISOR OF ELECTIONS; SCHOOL BOARD SEATS ARE ALSO NONPARTISAN, SO EVERYONE CAN CHOOSE FROM THE ENTIRE SLATE OF CANDIDATES, REGARDLESS OF PARTY REGISTRATION.

ANOTHER UNFAMILIAR ELEMENT IS THAT TO VOTE ABSENTEE, YOU NO LONGER HAVE TO BE OUT OF TOWN OR ANY SPECIFIC REASON. ALL YOU HAVE TO DO IS FILL OUT THE APPLICATION FOR AN ABSENTEE BALLOT - WHICH MANY CANDIDATES ARE MAILING, OR IS AVAILABLE DIRECTLY FROM THE SUPERVISOR OF ELECTIONS OFFICE - AND YOU WILL RECEIVE YOUR BALLOT IN THE MAIL.

I DON'T HAVE TO REMIND PALM BEACHERS THAT THE RIGHT TO VOTE IS PRECIOUS. DESPITE THE NATIONAL BROUHAHA, I AM CONFIDENT THAT WE CAN HOLD AN EXEMPLARY ELECTION WHERE THERE IS EXCELLENT TURNOUT, ONLY MINOR GLICHES WITH THE TOUCH-SCREEN VOTING MACHINES, AND RESPONSIBLE VOTE-COUNTING THAT SATISFIES EVEN THE MOST STRINGENT SCRUTINY. SO KEEP YOUR FINGERS CROSSED AS YOU MAKE YOUR WAY TO THE POLLS AUGUST 31.

AND LAST, WE ARE ALL SADDENED – NO, OUTRAGED – AT THE LOSS OF THE HISTORIC LANDMARK HOME "FOUR WINDS". ASIDE FROM THE DISPUTE ABOUT WHETHER OR NOT A SECOND STORY ADDITION SHOULD HAVE BEEN APPROVED BY THE LANDMARKS COMMISSION, HOW COULD APPROVAL OF THE SECOND STORY ADDITION HAVE BEEN INFERRED TO ALLOW THE COMPLETE DEMOLITION OF A LANDMARK HOME? SURELY ANY REASONABLE PERSON WOULD ONLY DEMOLISH A LANDMARK BUILDING AFTER RECEIVING EXPLICIT PERMISSION TO DO SO FROM THE APPROPRIATE AUTHORITY.

I BELIEVE WE NEED A FULL INVESTIGATION OF THE EVENTS THAT LED UP TO THIS HEARTBREAKING LOSS FOR OUR COMMUNITY. SINCE IT WILL TAKE SOME TIME TO PROPERLY INVESTIGATE AND SINCE THE CHARACTER OF OUR COMMUNITY IS AFFECTED BY THE OUTCOME OF THIS MATTER, I BELIEVE THE RESULTS OF THE INVESTIGATION SHOULD BE BROUGHT TO THE DECEMBER 14TH TOWN COUNCIL MEETING WHEN OUR LARGER POPULATION OF RESIDENTS WILL HAVE RETURNED TO TOWN. OUR GOALS FOR THIS INVESTIGATION SHOULD BE TO IMPROVE OUR REGULATIONS AND OVERSIGHT TO ENSURE THAT THIS NEVER HAPPENS AGAIN AND TO IMPOSE THE HARSHEST PENALTY ALLOWED BY LAW UPON THE PERSONS WHO ARE FOUND TO BE RESPONSIBLE FOR THIS DEMOLITION.

V. APPROVAL OF AGENDA

AMENDMENTS TO THE AGENDA:

DEFER to the September 14, 2004 Town Council Meeting: Consent Agenda Item VII. D. Resolutions, No. 8 - Resolution No. 40-04 [Lease Agreement Between the Town and Nextel South Corporation for Use of the North Fire Station Property 300 North County Road]

Motion made by Councilman Brooks, seconded by President Pro-Tem McLendon, to defer Item VII.D. Resolutions, No. 8 - Resolution No. 40-04, to the September 14, 2004, Town Council Agenda. On roll call the motion carried unanimously.

DEFER Regular Agenda Item IX A. Old Business, No. 1. [Consideration of Construction/Commercial Vehicles on Public Streets].

Motion made by Councilman Brooks, seconded by Councilman Goldblum, to defer Item IX. A. 1. to the September 14, 2004, Town Council Agenda. On roll call the motion carried unanimously.

MOVE, to be heard immediately following Regular Agenda Item XII C.2.e., Special Exception #22-2004 w/site plan review - Mar-Lago Club, Item XII. (Regular Agenda) Development Reviews C. 3.Other, Item a. [Request for Extended Construction Work Hours/Days at Mar-a-Lago]

Motion made by Councilman Brooks, seconded by Councilman Goldblum, to move Item XII.C.3. Other, a., to be heard immediately following Item XII. C.2.e., Special Exception #22-2004. On roll call the motion carried unanimously.

Motion made by Councilman Brooks, seconded by President Pro-Tem McLendon, to approve the Agenda as amended. On roll call the motion carried unanimously.

VI. COMMUNICATIONS FROM CITIZENS- 3 MINUTE LIMIT PLEASE

A verbatim transcript follows, regarding the demolition of a landmarked house, "Four Winds," located at 17680 S. Ocean Boulevard:

Attorney Frank Chopin: We're concerned that while the house is gone, the property itself is landmarked. We've been advised by Mr. Moore that the owner will be required to come back to the Landmarks Preservation Commission, and that they're likely to do so in September. We think that's inappropriate. The Mayor has called for an investigation, and we echo that thought, but at the same time the problems in large measure, were coming by the fact that the hearings that took place with respect to this house took place at a time when the residents of Palm Beach were not here and not available to express themselves. Therefore, what we ask you to do, is that before any further hearings regarding this matter can be conducted by the Landmarks Preservation Commission (and I don't want to concede by any stretch of the imagination that that's the appropriate forum to take any further action), but assuming it is and they try, don't let it happen until the people of the Town of Palm Beach come back, and don't let it happen until you know what you need to know as a result of an investigation that you undertake of this illegal action.

The second action that we would ask you to take as the Town Council is far more important, and it concerns the fact that the house was demolished without even color of authority, and by that I mean that nobody asked the Landmarks Preservation Commission for authority to demolish the house. There was no certificate of appropriateness that was requested that approved demolition.

We've read every minute of every meeting, and the word demolition doesn't come up until after the house was already demolished The Landmarks Commission didn't approve demolition of the house – you didn't approve demolition of the house. In spite of that, it's been demolished, and nobody has done anything about it. Your ordinance has been clearly violated, and nobody is doing anything about it. Now, I want to be clear with you – the destruction of this house was not an accidental – it was not a mistake – it was deliberate; it was intentional; and it was known. The owner, as I told you, did not ask for permission to demolish it, and yet he always intended to do so – it's demonstrable. The Landmarks Preservation didn't give him authority to do it. So demolition procedures that were outlined in the Code were not followed. There was no demolition permit issued to destroy that house. Bob Moore, at the March 17, 2004, hearing, told the Commission in the presence of the owners that the owners could not demolish the house. And yet, at an informal hearing on July 21, an informal hearing that he had requested – the architect, Mark Ferguson, walked in and calmly told the Landmarks Preservation Commission that they had decided it would be better to tear the house down, and they had done so. Didn't take place after July 21st, which, I have to confess, a lot of us thought was what had happened – it took place before July 21st, but we don't know when. As you would expect, the Landmarks Preservation Commission members were irate; they couldn't believe it; they told the architect that – gee, nobody ever asked us for permission to demolish this house. A lot goes on at that informal session that I think you should be very concerned about. But, the bottom line is that, while the Commission is outraged, nobody is doing anything about it. The ordinance was violated; a house has been destroyed, and nobody is doing anything about it, and we're talking about three weeks ago, or more. I don't know – maybe they're shell shocked; maybe the Town is shell shocked; maybe there is an indifference; maybe there's a lack of understanding of what can be done, but nothing has been done. And we're asking you to take action. We're asking you to take action in the first instance against the owner that demolished this house. Now, unless he's going to profit from what he did illegally, as a bare minimum he ought to be required to rebuild the house according to the Maurice Fatio design, and using the materials, many of which have been preserved, to put things back to where they were supposed to be.

We also ask you to take action against the contractor, or sub-contractor, or whomever it was that demolished that house. Now, you know getting a demolition permit is something that everybody that's ever been involved in this Town with any kind of demolition knows that they're required to have before they demolish a house. They know it. In this case, somebody, and we don't know who, just demolished the house without a permit. It has never been my understanding that the Town would permit contractors, sub-contractors, or anyone else to operate in this Town in violation of its ordinances, without a permit.

We ask you to take action against the architect. He knew what he was doing. He did it. He was a willing participant, and it might interest you to know that this is not the first Maurice Fatio house for which he has been responsible for the destruction – it's the second. Ya, 1960, South Ocean Boulevard, Maurice Fatio was the architect, and much exactly the same thing happened.

Came in to add a second floor, and the house was destroyed; the property stood vacant for 15 years. It's interesting to me in reading the minutes of the March 17th meeting: Mr. Ferguson introduced himself to the Landmarks Preservation Commission and told them that he was so familiar with landmarking and historic houses and acquainted them with the fact that he had worked on Casa Apava. He didn't tell them about the house at 1960 South Ocean Boulevard.

We also want you to take action if there is anyone else that a thorough investigation demonstrates was involved in the violation of your ordinances. To echo the Mayor, we say again that we think there should be an investigation. We would ask you, in setting up the committee to make this investigation, that you include people who are not a part of the Town, the Town staff, so that you would have the opportunity to get a wider input.... a lot of good people who care about this issue, who would be happy to serve.

I know I may have taken a few seconds more than my three minute allotment, but this issue is probably as important as any that you are going to consider during the course of the summer. The Preservation Foundation asks you not to allow this to happen. You have other people, today, as I stand here, who want to tear down a landmarked house; who believe they could profit from tearing it down. If you don't take action, then any other owner could reasonably conclude that what they should do is take matters into their own hands, and simply destroy the house, because you're not going to do anything about it. If our ordinances in this Town, particularly the landmark ordinance, are not going to be emasculated, you need to act, and you need to act now, and you need to send clear message and direction to your staff that this was improper, that you want it investigated, and that you want action to be held until everybody understands what is going on. Thank you for taking the time to listen to us.

(Applause)

Wyett:
Is there anyone else who would like to address the Council?

McDonald:
I'd like to address the Council. I would like to do two things. One, I would like to follow up on the Mayor's recommendation that we do initiate an investigation of what happened, and that that investigation report be made to the Town Council in December; and, secondly, I would like the Council to immediately revoke all of the permits that have been issued for this project until the completion of the investigation.

Wyett:
Mr. Randolph, could you address this?

Randolph:
Let me first find out what's happened in regard to the permits.

Robert Moore:
Permits for the remodeling and second story to the addition to the Four Winds certainly were issued; the construction was to be the same construction that existed today, just as on the original building, wood frame. We have placed a stop work order as a result of this matter needing to have formal approval to be torn down completely and rebuilt on this project, on everything on the property except for the one story addition that was not part of the actual, original historic designation, and secondly the seawall repair that was going on. So, there is a stop order on the job, and a request to return to the Landmarks Commission to discuss formally the request to what they've already done, which is tear it down, and determine how and what would happen in the future. We have not had the opportunity to talk to Mr. Randolph yet regarding some of the legal positions on this, but from my jurisdictional standpoint, as the building official, that's the only authority I have at this point, until such time as I talk to Mr. Randolph; if he feels there is additional authority, we could stop work on all work on the job, and not just the main house, which was torn down.

Randolph:
It would seem to me, Mr. President, that since there has been a stop work order issued, and this matter is going to come back, that the Council should not interject itself in a matter that is normally dealt with by the building department. I think you would be ill advised to do that. I don't know enough about the background of the portion that is being built that a stop work order hasn't been placed on, but to be able to advise you as to whether or not that is something that relates to the re-building of the house or not. I just don't know enough about it to be able to tell you what that might have. I would have to yield to Bob Moore in regard to that.

Moore:
If you wish action taken, I certainly will speak with Mr. Randolph at the earliest convenience to outline what they have permits for, what they have authority for, that have not been in violation directly of the tearing down of the building. I would recommend that we do that before – and Mr. McDonald may wish to modify that recommendation a little bit – to give us the opportunity to see if we have the authority, rather than expose the Town to possible damages on the issue of the portion that was not a landmark when asked for the addition – it was not actually the landmark itself.

Brooks:
I would, Jack, second your motion, if you could refine it somewhat, in light of the legal discussion that we just had. I also would like you to incorporate in your refined motion, the Mayor's observation and request that it be a December 14th, and that we launch the investigation per Mr. Chopin's recommendation; that it not just be Town official departments, but broaden it to perhaps the Preservation Society, or any other interested citizen. Also, and I realize the investigation will

show this, but Mr. Moore, since this terrible situation has arisen – my understanding is that when a demolition permit is issued, and Florida Power & Light must come in to cut the electricity to the house; Flo-Gas must come in; water obviously; — doesn't Florida Power & Light have to look at some sort of a document that allows them to shut everything down?

Moore:
No, they would not necessarily have to do that when temporary power, which is a norm for construction, is applied for – there's a temporary service.

Brooks:
Okay, that's just an aside that's been eating at my craw. So, that's what I have – a broad support as a seconder for Mr. McDonald's motion, as he's going to amend it, incorporating the Mayor's request, and Mr. Chopin's request.

Goldblum:
I would like to add a second portion to Mr. McDonald's motion, or else make another motion, that we study what usual means we want to use as a penalty for people that disregard our landmark rules. And that's a study that can be done parallel to a way of stopping this from happening, but a fine or something like that means nothing – there has to be something that says you cannot use that land for ten years, or something of that nature. I don't know what, Skip, you can investigate, but I do think that should be done at the same time. Do you want it as the same motion, or as a second motion?

Randolph:
Well, I think you've got several things here that you're going to have to separate, because there's the issue of the investigation, there's the issue of who is going to conduct the investigation; there is the issue relating to the permits, etc. So, I think whatever you do should be separated, and you should have a separate motion.

Goldblum:
All right. I'll make a separate motion that ----

Wyett:
One motion at a time. Mrs. Smith?

Mayor Smith:
I have some questions for Mr. Moore. Mr. Moore, I don't understand when you said that they were coming back to look in to how they could demolish the house – they've already demolished the house. I honestly don't understand why, with the concern that has been raised in the Town in the last couple of weeks about this project, why you and Mr. Randolph have not met prior

to today, so you could tell us today what can be done. I mean, there's so much foot dragging going on here; it's a couple of weeks. I don't think that they should be coming back to Landmarks to explain why they demolished. Besides, they're not even explaining. I also read the minutes of the meeting. He said it should have been presented to Landmarks as a replacement, instead of a restoration ----- Well, if a replacement means demolition, I think that was up to the building department to tell us that meant demolition. I really do. Because everybody was shocked by this.

Moore:
Yes, and I think that was our recommendation, that the Landmarks Commission was to not give that permission to have this done until such time as we could have an analysis of the structure to see if it would even accept the second story.

Mayor Smith:
And then why did the Landmarks Commission go ahead, in view of your recommendation, say it be deferred?

Moore:
I certainly cannot answer. There were four affirmative votes and three negative votes on that particular matter.

Mayor Smith:
So, why can you not tell us today what action the Council can take today on this, with you and Mr. Randolph meeting to tell us whether or not they can be precluded from going back to Landmarks in September and continuing with the absolute rape of this land. Is the whole property landmarked or just the house?

Moore:
It is my understanding that the whole property is. I don't have the file in front of me.

Mayor Smith:
Well, then if the whole property is landmarked, then there is no work that can be done on that property. I mean, you said the house has been torn down, but there is work continuing on the rest of it. If it's all landmarked, then the whole thing is in violation.

Moore:
I would not want to debate that particular matter.

Mayor Smith:
I don't want to debate it either, because I don't know the answer.

Moore:

I would not want to debate that matter, but I do not feel that I have the legal authority to stop work on all work on that property that was not taken down without the consideration of the Landmarks Commission.

Mayor Smith:
Why not?

Moore:

Well, because I don't believe that – they have an actual building permit that allows them to put that addition there onto the property and repair the seawall, so –

Mayor Smith:
But, they're putting an addition onto something that isn't there.

Moore:
That is correct.

Mayor Smith:
I mean, am I nuts! So, how do you put an addition onto nothing?

Moore:

Well, they still have a certificate of appropriateness that needs to be adjusted, or to be reviewed by our ordinances to say whether or not they can rebuild it, or whether they have to rebuild in frame construction, or, as they received informal approval, to do concrete block. It would be very similar – the only difference between 702 North County, which is the Gerry Tsai house, and Maurice Fatio house, and this particular house is that they came in first and asked to rebuild.

Mayor Smith:

Sure, and in the Gerry Tsai house also there was a question that the concrete was mixed with sand, so the house really was falling down. Four Winds was not falling down, nor was the Sloan house falling down. They were knocked down. But, I don't know about this, that's why I'm asking you what the answers are.

Randolph:

If you indeed know today, without conducting an investigation, that there has been a violation of your code, then I think the motion that has been made is perfectly appropriate, and that any permits that have been issued in violation of your code should be revoked. I do not know that you know that today. I do not know that today. I thought that was one of the purposes of you're wanting an investigation. I would not want to see you caught up in a case of equitable estoppel of damages by directing your building department to revoke a permit that has been issued without knowing the facts. If you want to somehow suspend the continued operation until you can know those facts, I think December is a long time to hold that up, if indeed it has been issued properly. But, remember, Mr. Moore has already told you that he has put a stop work order upon a portion of the house, and I think that is an administrative function that is appropriate on his part. I just don't want to see you involving yourself in a situation where you don't know all the facts, by just saying that all permits are going to be revoked, that Mr. Moore indicates, as of this point, have been properly issued.

Mayor Smith:
And so what do you recommend, Mr. Randolph?

Randolph:
I'm recommending ---- there are several things that have been discussed here today: One, Mr. Moore has advised you that he has put a stop work order on a portion of the house that is being rebuilt. Is that correct, Mr. Moore?

Moore:
It's the original Four Winds, as landmarked, which acquired permission to put a second story on, which was the subject matter of why the second (unintelligible) – that has been revoked – excuse me, stop work order.

Randolph:
It seems to me that that stop work order will be in effect until they can come back and make a presentation, until you can get to the bottom of what has happened here, correct?

Moore:
Yes, and the way I envisioned it would be that the Landmarks Commission would certainly hear what their formal request would have been, which is to — they have torn down; they would have to answer for why they tore down the house; they would then have to make a formal request to rebuild the house, and it is my humble opinion that what would be at issue here would be the entire approval process. In other words, the addition that they were permitted to put on as a second story would be at issue again in front of the Landmarks Commission, because they're starting brand new, if you will. They are not just starting and adding something to an existing house. So, that issue would be discussed assumably at the September meeting, and from that point on, if the Landmarks Commission gave their approval, it's appealable to the Town Council by anyone, including any organization or any individual. Action of that Commission is appealable to this Council. So, conceivably, in October, this Council could hear an appeal of any action taken either way by the Landmarks Commission in September. The reason it's not going this month is that we couldn't advertise it in time, and meet the 30-day requirement of the ordinance. It's my strong opinion that

we should follow these rules, step by step by step, if we're going to take action that would be viewed by some as punitive, then, I think, to protect the Town's interest, we should follow it by the numbers, a, b, c, 1, 2, 3, 4, and not try to skip anything in between.

Randolph:

It sounds to me, as I'm listening to Mr. Moore, that you have in effect what you were seeking by Mr. McDonald's motion, and that is, there is a stop work order until this matter can be brought back.

Wyett;

It seems to me that a Landmark Hearing in September could not possibly be thorough enough to get all of the evidence in. We may have a preliminary hearing in September, but it looks like this investigation could not be completed by September. I think this Council, from what I'm hearing, wants a thorough examination of what happened, how it happened and why it happened, because I think this Council is going to review the Landmark decision, whatever it should be. Meanwhile, I want to recognize all of the people who are waiting here.

McDonald:

With all due respect to Mr. Moore and Mr. Randolph, I, first of all, think that the Council has the authority, and secondly, there are some facts that I do know, and this Council knows ------ number one, a landmarked house was demolished in violation of the ordinance, without a demolition permit. Those facts I know; we know. Based on those facts that we know, I think that we should revoke all the permits — anything that's not connected with the house let them continue. If there is any work in terms of the structure it would be revoked. I think the Council has the authority and I think we do need to inject ourselves into this process. I don't see Landmarks as being the proper forum to really resolve these issues, and so that's how I would modify my motion.

Brooks:

Mr. McDonald is reading my mind. A demolition permit must be issued by Mr. Moore's department. He has clearly and unambiguously stated that he has not issued it; that the landmarked residence has been demolished; therefore, prima facie, Mr. Randolph it is a violation of our ordinance. That, we know. Additionally, and I support Mr. McDonald, that this Council – the buck should stop here, and I don't think there is any other legal authority that can dictate to us how long an investigation should take. So, I would like a thorough, complete investigation, and if it runs to two months or three months, so be it. So that is my feeling on it – that we have a clear violation of an ordinance of the Town, and an investigation is not only warranted, it's demanded.

Goldblum:

Mr. Moore – the building permit is out now for a unit that is attached to a house that is no longer there, is that correct?

Moore:
That is correct.

Goldblum:
Then the blueprints and everything sent to us are not correct; it would have to be – electricity added, plumbing added, everything, is that correct?

Moore:
No.

Goldblum:
Why?

Moore:
And I'm sorry to confuse this issue. Everything on the permit plans are correct. It shows the plan, it shows the house; you have a second story added to the main house, and an addition put on the side. It shows it out of frame construction, 2 x 8 material. What does not show is that they were going to demolish the entire house when they found the material of the existing house would not support the second floor.

Goldblum:
But the permit that is issued for the addition cannot be built according to the plans we saw.

Moore:
Actually, it can be; the issue here is whether or not, and I think we should try to narrow this down if at all possible, as to whether or not they could take the house down without permission, because they had a permit, a legitimate permit, to build this addition – it had been approved by Landmarks, albeit it 4-3, to rebuild this addition, second story, and one on the side out of frame construction. What they came for at the Landmarks Commission earlier last month was the permission, after the fact, after they had torn it down, to go to a concrete block material instead of the wood frame. So, in theory, if they were to go forward today with a wood frame, absent my stop work order that's on there, they could rebuild the house as they originally had approved.

Goldblum:
The blueprints show that the second story is going to be added onto the first story – is that correct?

Moore:
There are two additions, and maybe that's confusing.

Goldblum:
All right, but the side addition and the second floor addition are on the same permit, is that correct?

Moore:
Yes.

Goldblum:
I suggest we red ticket and stop it immediately, so it doesn't happen.

Wyett:
We're going nowhere with this situation.

Mayor Smith:
With what you describe as the scenario that took place, why would they not be going before Code Enforcement? They broke the law. I mean, other people who are in violation are tagged and go before Code Enforcement. Why would they not be going to Code Enforcement? They went to the Landmarks Commission to get permission to take down a house they had already torn down in violation of the ordinance ---- why would they not be going to Code Enforcement?

Moore:
I have not had the opportunity to sit down with all of our staff, Mr. Frank included, who is not here, and to have whatever conversations he may have had on a staff level with them – he has not returned from vacation and will not be back until tomorrow.

Mayor Smith:
What's that got to do with Code Enforcement?

Moore:
Well, before we send an action to Code Enforcement, which takes three months or longer –

Mayor Smith:
I know that.

Moore:
Then we need to know exactly – with Mr. Randolph's advice, which way is the best way for the Town to proceed and still have the least amount of exposure when we stop this job. I feel very confident that what we've done to this point we can defend in any jurisdiction that may so chose if the owner says, you know, I don't like my job stopped.

Mayor Smith:
I understand that Mr. Moore, but I think in this one particular case I do not anticipate seeing the Town on the defensive. We have a property owner here who tore down a landmarked house. We are not defending ourselves against his actions. I am certainly not in favor of exposing the Town to any liability, but I mean, this is somebody who behaved wrong.

Moore:
We don't disagree with that, and I'm not arguing their case, if it makes it sound like I am. I hope that you understand that what I'm arguing here is trying to protect the Town's best interest, and also what legal authority I have in order to stop a job. I mean, as the Town's building official, it's not in the realm, unless Mr. Randolph is going to overrule that. I have to make a decision that will be the best decision for all parties involved, including the Town. I don't want to expose the Town to an action that somewhere down the road that someone will say, well, why didn't you say that way back in August when we were talking about this, because there is exposure here if we revoke the permit totally without grounds that just simply say they didn't come back. Their due process is, by our ordinance, that they must go back to the Landmarks Commission, that's appealable – any action there is appealable to you. Either way. I mean, if Landmarks says you can rebuild it, bad boys, and here's a slap on the wrist and that's the end of it; that's appealable to you, that action.

Wyett:
This is not going to be a slap on the wrist. This party took the law into his own hands, has attacked not only the Landmarks ordinance, has attacked the laws of the Town of Palm Beach, and in essence, until this situation is resolved, anyone can tear down a landmarked house and say I'm going to get away with it, of course. And, there are a lot of people that might like to do that, and if you don't stop it, every landmarked house in the Town is at risk.

Mayor Smith:
So, let's move Jack's motion.

Wyett:
Peter?

Elwell:
Thank you, Mr. President. The motion, as I understand it, directs in more specific terms, and Mr. McDonald may wish to re-state for himself, that basically every legally appropriate measure be taken to stop the work at the property until it can be determined how a project at the property may properly resume or proceed, number one. And, number two, that the investigation recommended by the Mayor, and her comments, and supported by Mr. Chopin and his comments, be undertaken with a report brought back to this Council at the December Town Council meeting is the proposal.

Is that an accurate summary of your motion?

Randolph:

I didn't hear it as saying every legally appropriate measure be taken, because I think Bob Moore has advised you what he felt is legally appropriate. I felt that in light of what you heard from Mr. Moore and from me, you indicated that you wish to see, during the period of this investigation, that any permits be revoked until the investigation can be concluded.

McDonald:

That is correct. My motion was to revoke all the permits associated with the home – not the seawall or any other areas – that all permits associated with the house be revoked until this Council takes whatever action it wants to on an investigation. I'm just stopping the work.

Wyett:

Could I make a suggestion? Use the word suspended.

McDonald:

No, I'm revoking it. I want to use my word.

Wyett:

Well, the only reason I said suspended, in case, when their thing is resolved, and if they are allowed to continue, they have to come in with a new permit.

McDonald:

Yes. What's wrong with that?

Wyett:

Well, it's a whole filing thing and everything.

McDonald:

Hey, that's their ---- I didn't tear the house down.

Brooks:

I second Mr. McDonald's motion. Look, you know, we're really beating this horse to death. Here's what we have that's clear. We have a patently clear violation of a Town ordinance. I'm very grateful and sensitive to Mr. Randolph and Mr. Moore for being cautious and protecting us, but you know, good Lord, let's be proactive here – there's nothing. If someone starts a job in a house without a permit, we red tag it immediately, okay, until they follow the proper procedure. We have a clear violation of a Town ordinance. I support Mr. McDonald's motion with a second, and would like to call the question.

Wyett:
Mary?

Mr. McDonald:
Yes.

Mr. Brooks:
Yes.

Mr. Goldblum:
Yes.

Mr. McLendon:
Yes.

Mr. Wyett:
Absolutely.

Elwell:
Mr. President?

Wyett:
Yes.

Elwell:

I think there's something further regarding the investigation, if the Council will indulge me. It's been proposed to you this morning that there be a committee appointed to conduct the investigation, and I want to tell you straight out that I don't oppose that, but there's something that you need to know and decide upon in order to proceed in that manner. I think, in fact, that in most of these 50 States that would be clearly the best way to proceed in an issue that not only is complicated, but has actions and decisions to be reviewed from a staff level, through an advisory commission level, to other private players in this, that indeed, for the sake of getting to the bottom of it, and having received recommendations about not only what happened here, and what might be done about it, but how to prevent it from happening again, and how to improve the strength of the Town's position to discourage this kind of activity and penalize this kind of activity again in the future, if that's appropriate. Given all of that, I think that a panel would be the appropriate way to approach the investigation, but you need to know, as we always remind you at moments like this, that in the State of Florida, such a panel, appointed by you, would be subject to Sunshine. It would not be conducting an investigation where they could confer with one another outside of public meetings. They would not be conducting it where they could hold private interviews about it — all of it would be done probably right here. And, as long as you're comfortable, and prepared to move forward in that manner, then that's fine. I wanted to make sure, first, that you knew that, and second, that in the interest of time, that you adopt a motion, if you're comfortable doing this, that would empower the Mayor to appoint the members of this panel so that it may begin its work as soon as she is able to appoint them.

Brooks:
I make a motion that we support the Mayor.

Goldblum:
We have another motion on the floor.

Wyett:
Before we do that, and appoint a commission that gets involved and expensive, couldn't that be done by staff and then submitted to the Council?

Brooks:
It's too involved, Mr. Wyett. Staff has been abused in this process.

Mayor Smith:
Staff is part of it.

Wyett:
Because I just want to remind the Council, I think it's the Wrightsman property, which is now occupied by the Gosman property, the house was torn down, and there was an investigation, there was a number of ordinances passed to prevent that – I think it had a lot to do with landmarking after that.

Mayor Smith:
But that was torn down before the Landmarks.

Wyett;
A lot of landmarking came out of that.

Mayor Smith:
Everybody was surprised when Les Wexner took the house down.

Wyett:
We do need to tighten up our ordinances and create ---- I don't know if we need to go to the expense and time consumption – a lot of work. I think there is some procedures to be done and

some ordinances to be passed, but we may be overreacting today.

Elwell:

The Town staff and the Town Attorney certainly could conduct that investigation, and we do that sort of thing all the time. In the discussion you have had this morning, there has been explicit consideration as to whether, in this instance, for something of this magnitude and complexity, it would be better for the Town to have a broader panel. What I am suggesting to you is that we can do it either way that you, as a Council, direct. We can do it from the traditional staff and attorney way, which would be a less cumbersome manner, because of the Sunshine Law, and perhaps, from what you've just offered, have other advantages, but there are certainly some people in this room that would prefer that it be a broader panel, and I want to let you know that we can facilitate that and make it happen, but it brings with it the Sunshine Law obligation. We must do it all right here.

Wyett:

Also, and I'm just throwing this out for ideas. Would it not be possible for the Landmarks Commission to do this, because they handle landmarks and they see the shortcomings of the landmark ordinances, and their recommendations to do this work, rather than setting up a whole new panel. I'm just throwing out ideas, because this just came to us. I don't want to act hastily to do something and find ourselves that we are in a six month situation, with a whole new panel of people who haven't worked on this subject before.

Mayor Smith:

But I think if you got the right people. It's no different than forming any other panel, and this could be done in six or eight weeks – we've done it on other occasions, like the beach cleaning. I think unfortunately the Landmarks Commission and the Town staff have been involved in this, so they are not able to take an objective view. They are part of the dilemma, if you want to call it that, not the problem. Because, I believe that in several cases they've been used and manipulated. That's why I think you have to have an independent panel that stands alone, and I ensure that we'll be able to get the information, even perhaps by the November Town Council meeting. I mean, I know they'll go to work as quickly as possible, but I think it has to be objective.

Brooks:

We have a motion that has passed. Peter, I thank you for your input, but let's look at it this way. And I'll be making a motion to empower the Mayor to pick the committee in a moment. But, let me say first. Let's look at this as two parts, and bifurcate this problem – that a citizen group, with staff, handles the investigation. If we then need remedial actions, in the light of new ordinances or flushing up existing ordinances, then that certainly could be Mr. Randolph and staff. I don't think we should get – let's look upon the investigation first. My understanding, Mr. Wyett, is that Mr. McDonald's motion, that I seconded, did include a broader investigatory committee.

Randolph:
Well, I think your second motion should be more specific in regard to that, because I think the motion as I have heard it simply indicated that the permits were going to be revoked, at least during a period of an investigation. I think your second motion ought to be very specific, and indicate that you wish an investigation to be undertaken; that a panel appointed by the Mayor to undertake the investigation, and indicate the date by which you would like the investigation to conclude.

Brooks:
Okay, then I will make that motion, Mr. Randolph, that we empower the Mayor to make a committee to conduct an investigation –

Randolph:
A committee to conduct an investigation in regard to the matter of the Four Winds property, and to report back to the Council in regard to what they learn, and you should indicate, I suppose a date – you don't have to have a date, but the Mayor had indicated a date.

Brooks:
The Mayor had indicated a date, and I'm fine with that, but I would like my motion to say that the investigation take as much time as it needs to thoroughly investigate this matter, and that could be December, it could be January, it could be November. I would be more comfortable leaving it open ended, and that's my motion.

Goldblum:
I'll second it.

Wyett:
Does that mean that we're taking this investigation away from Landmarks?

Brooks:
Yes.

Goldblum:
Yes. I'll second that motion.

Wyett:
Move the question.

Mr. Brooks:
Yes

Mr. Goldblum:
Yes

Mr. McDonald:
Yes.

Mr. McLendon:
Yes.

Mr. Wyett:
Yes.

Goldblum:
Allen, now you have another motion on the floor. To investigate legally what we can do when something like this does occur.

Randolph:
I would be happy to do that, Mr. Goldblum, but Mr. Brooks' motion seemed to indicate that that would come subsequent to the investigation.

Goldblum:
That would include the legal part? Okay, then I withdraw my motion.

Wyett:
Okay, can I have an approval of the Consent Agenda please?

[End of verbatim transcript (tape 1 @1315 - TC Mtg 8-10-04)]

VII. CONSENT AGENDA

A. APPROVAL OF SPECIAL TOWN COUNCIL MEETING MINUTES FOR THE MEETING OF JULY 12, 2004.

B. APPROVAL OF TOWN COUNCIL MEETING MINUTES FOR THE TOWN COUNCIL MEETING OF JULY 13, 2004.

C. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL REVIEW COMMISSION AT ITS MEETING OF JULY 28, 2004.

D. RESOLUTIONS

1. RESOLUTION NO. 30-04 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving Amendment No. 3 to a Previously Approved Grant Agreement, FDEP Contract No. 97PB5, Between the State of Florida Department of Environmental Protection and the Town of Palm Beach under the Florida Beach Erosion Control Program for the Project Known as Lake Worth Inlet Management Plan Implementation Project, and Authorizing the Town Council President to Execute Same on Behalf of the Town.
[H. Paul Brazil, Director of Public Works]

2. RESOLUTION NO. 34-04 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Adopting a Contingency Reserve- Leisure Services Enterprise Fund, Designation of General Fund- Fund Balance for Payment of Liability Related to Compensated Absences Leave Balances
[Jane Skittone, Director of Finance]

3. RESOLUTION NO. 35-04 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Golf and Recreation Center Facility Rental Fees and Establishing a New Golf Fee Classification.
[Russell E. Bitzer, Director of Recreation]

4. RESOLUTION NO. 36-04 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Annual Funding Application to the State Department of Environmental Protection, Florida Beach Erosion Control Program. [H. Paul Brazil, Director of Public Works]

5. RESOLUTION NO. 37-04 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Establishing New Dock Rates for Annual, Seasonal, and Winter and Summer Transient Leases.

[Thomas G. Bradford, Assistant Town Manager]

6. RESOLUTION NO. 38-04 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Repealing Resolution No. 29-04 and Re-affirming the Commitment of the Town to Attain and Comply with Minimum Fire-Rescue Level of Service Standards; Providing an Effective Date; and for Other Purposes. [Peter B. Elwell, Town Manager]

7. RESOLUTION NO. 39-04 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Execution of Amendments #1 and #2 to an Interlocal Agreement Between Palm Beach County and the Town of Palm Beach Which Set Forth the Formula for an Equitable Distribution of Gas Tax Revenues among the County and All Palm Beach County Municipalities in the Event of an Incorporation of a New Municipality or the Dissolution of an Existing Municipality. [Sarah E. Hannah, Assistant to the Town Manager]

Deferred to [illegible]14/04 Agenda

8. RESOLUTION NO. 40-04 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Lease Agreement Between the Town and Nextel South, Corporation for Use of the North Fire Station Property 300 North County Road, and Authorizing the Town Manager to Execute the Same on Behalf of the Town. [Thomas G. Bradford, Assistant Town Manager]

The Consent Agenda was approved as amended.

VIII. COMMITTEE REPORTS

A. ORDINANCES, RULES, AND STANDARDS COMMITTEE MEETING OF AUGUST 5, 2004.

The Report of the Ordinances, Rules, and Standards Committee Meeting of August 5, 2004 is included in its entirely below. Discussion of the Town Council follows the report..

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ORDINANCES, RULES AND STANDARDS COMMITTEE REPORT
MEETING OF AUGUST 5, 2004
REGARDING NOISE STANDARDS AND ENFORCEMENT ISSUES

I. CALL TO ORDER AND ROLL CALL

Ordinance, Rules and Standards Committee Chairperson Jack McDonald called the meeting to order at 10:00 a.m., August 5, 2004, in the Town Council Chambers. On roll call Chairman Jack McDonald and Committee Member Samuel C. McLendon were found to be present. Also in attendance were Town Councilman William Brooks, Attorney Rhoda Yen (filling in for Town Attorney John Randolph), Town Manager Peter Elwell, Assistant to the Town Manager Sarah Hannah, Director of Planning, Zoning & Building Robert Moore, Assistant Director of Planning, Zoning & Building Veronica Close, Assistant Building Official Harry Ackerman, Chief Code Compliance Officer Rob Walton, Public Works Director Paul Brazil, Police Chief Michael Reiter, and Deputy Town Clerk Susan Eichhorn.

II. APPROVAL OF AGENDA

The Agenda was approved through motion of Chairman McDonald, seconded by Committee Member McLendon.

III. REVIEW OF NOISE STANDARDS AND ENFORCEMENT ISSUES.
[Robert L. Moore, Director of Planning, Zoning and Building]

Director of Planning, Zoning and Building, Robert Moore advised that staff had reviewed the issue of enforcement of noise standards and whether certain lawn equipment should be considered noisy and disturbing. He recalled that the issue had been referred to the Ordinances, Rules and Standards Committee for review. He noted that the Palm Beach Civic Association had participated in studying the issue of leaf blower noise. He referred to the report (prepared by Isabel Furlaud and Brian McIver), which had been submitted to Town staff by the Palm Beach Civic Association.

Chairperson McDonald requested that the letter and accompanying report from the Palm Beach Civic Association, dated July 23, 2004, be distributed to the landscape professionals in attendance in the audience.

A Status Report on work with Restaurants and Nightclubs to Reduce Noise

Mr. Moore reported that staff had addressed noise problems related to restaurants and nightclubs in the past; in addition, staff had been requested to review how improvements might be made in these situations and staff would be prepared to discuss the issue further at a later date. He noted that as zoning issues were reviewed prior to the issuance of building permits, discussion took place with the applicant regarding addressing noise issues, and the use of noise engineers in constructing the interior spaces using more noise absorbent materials. He explained that when reviewing applications, the Town Council always considered how any proposal would impact the neighborhood. He noted that there was no regulation regarding music, except if it disturbed the public outside of the restaurant, and that noise inside of the restaurant was controlled on a voluntary basis. Potential acoustical modifications that staff had considered for the inside were:

- Elimination of background music, or control it for an acceptable volume
- Installation of foam insulation behind the drywall
- R15 insulation between party walls, and R19 on exterior walls
- R21 insulation on ceiling joists
- Use of drop ceiling and use of fire-rated fabric whenever possible
- Use of impact windows that reduce and absorb noise
- Use of acoustical tiles on interior surfaces
- Use of soft or transparent wall surfaces
- Use of light weight floating floor spring hung ceiling systems
- Add padding to chairs and tables to deaden sound

Mr. Moore noted that staff had not found any other jurisdictions that had ordinances that could control interior noise.

Town Manager Elwell added that research had indicated that there were not interior noise regulations in other jurisdictions, and the Town Council had discussed the matter and agreed that it would be best to move forward with an educational effort. He explained that further research could be done to respond to Mr. McLendon's question as to whether interior noise regulations could be put into place, however, there was a question of how to do that well and how to have it hold up. He recalled that the majority of the Town Council had considered that it would be best to proceed at this time with the education program, rather than regulation.

In response to Mr. McDonald, Mr. Moore explained that when the Town Council considered applications for special exceptions, the matter of noise and how it would affect the public was examined; interior noise could be included in the discussion.

Chairperson McDonald requested any public comment.

There was none.

The Committee recommended that the Building Department continue the informal discussions/negotiations with every application for a restaurant, and that the Town Council would more closely scrutinize the special exception requirements in considering noise reduction.

B. Review of Staff Recommended Prohibition of Gas-Powered Leaf blowers Which Exceed the Allowable Decibel Level After July 1, 2006

C Review of Staff Recommended Prohibition of all Leaf Blowers, Regardless of Type Between the Hours of 5:00 p.m. and 9:00 a.m.

Mr. Moore reported that staff recommended that gas-powered leaf blowers not be allowed after 5:00 p.m. until 9:00 a.m. He explained that originally staff had recommended prohibition of ANY type of leaf blower during those hours, however, it was a debatable issue since the battery pack electric, or cord operated leaf blowers were not as offensive. He explained that Chief Code Compliance Officer Rob Walton had tested Town equipment to determine if there was compliance with established noise levels. He noted that approximately 120 landscapers that operate within the Town had been noticed of today's meeting.

Town Manger Elwell commented that he had received a memorandum from the Public Works Department indicating that five pieces of equipment had been measured for decibel readings at the 25' level. The results indicated in that memorandum were: 67dBA, 75dBA, 75dBA, 76dBA, and 77dBA.

Mr. Walton replied that equipment had been tested at two distance levels, 25' and 75'.

Public Works Director Paul Brazil commented that five pieces of equipment had been tested:

lawn mower: 67dBA; hedge clipper: 75dBA; echo blower: 75cBA; weed eater: 76 dBA; stick edger: 77cBA. He estimated that the Town equipment constituted approximately seven weed eaters, and six lawn mowers of various sizes and configurations. He estimated that the useful life of mowers was three to ten years, depending on the size. He indicated that he would provide a listing of pieces of equipment that did not meet the noise standards, as well as their useful life.

Landscaper Scott Lewis commented that noise level regulations should be applied fairly across the board, not just to landscapers. He noted that adherence to further regulation would involve additional costs to the residents of Palm Beach He suggested that the Police Department be given authority to issue tickets to those operating loud machinery before 9:00 a.m. during the season, considering that enforcement would reduce the number of complaints. He also suggested that the volume of yard trash quadrupled during the summer months, and narrowing the hours of work for landscapers during the summer months may be a problem. He also agreed with the necessity for a phase-in period of time to allow landscapers to comply with new regulations.

Mr. McLendon expressed concern with damage to the drainage system that may be caused by landscaping cuttings that would clog the drainage system, and requested information on vacuum units rather than blower units.

Mr. Lewis replied that vacuum units were more costly, and often made more noise than the blowers; since the debris in the vacuum unit would be deposited into a yard trash pile, just as the blower debris; he did not see that the concern with the drainage would be addressed with the use of vacuum units. He noted that electric blowers presented a higher safety risk, and were not nearly as efficient. He also noted that the industry engineers for leaf blowers were committed to reacting to the noise problem.

In response to Mr. McDonald, Mr. Lewis explained that blowing the cuttings into the yard, rather than into the street was a matter of educating the landscape personnel regarding the issue.

Mr. Mitchell Taylor, landscaper, commented that the trash should not be blown into the street. He explained that his employees were directed to blow all trash coming from the yard into the trash pile, however, sometimes that required blowing off other debris on the street itself. He stated that he did not agree with the elimination of leaf blowers, requiring the use of a hose or a broom in lieu of the leaf blowers, since that would increase costs to the residents. He agreed that the phasing in of equipment with lower noise levels was acceptable.

Mr. Patrick Bilt, landscaper, commented that he agreed with the statements of Mr. Lewis. He explained that his employees arrived before 9:00 a.m. during the summer months, however, they did not operate equipment before 9:00 a.m.

Mr. Moore commented the Police Department currently reacts to noise problems, and generally there was compliance in those instances.

Police Chief Michael Reiter advised that the Police Department absolutely did enforce Town ordinances against noise. He explained that Code Compliance Officers were on duty only a limited amount of time, and the Police Department was present every day, every minute. He explained that warnings and citations were issued in cases of noise regulation violations. He pointed out that there were hundreds of landscapers working in the Town, and there were a limited number of law enforcement officers.

Mr. Lewis suggested that noise regulations for landscapers should match the noise regulations for contractors.

The Committee recommended that all landscaping companies operating in the Town of Palm Beach use leaf blowers that did not exceed 75 decibels, with an equipment phase-in period of two years (to July 2006). It was also recommended that the operation of gas-powered leaf blowers would be prohibited between the hours of 5:00 p.m. and 9:00 a.m.

IV. ANY OTHER MATTERS

There were none.

V. ADJOURNMENT

The meeting of the Ordinances, Rules and Standards Committee of August 5, 2004, was adjourned at 10:55 a.m.

Jack McDonald Committee Chairperson	Samuel C. McLendon Committee Member

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As Ordinance, Rules, and Standards (ORS) Committee Chairperson, Councilman McDonald reported that, after hearing lengthy testimony, the ORS Committee recommendations to the Town Council were:

1. The Committee recommended that the Building Department continue the informal discussions/negotiations with every application for a restaurant, and that the Town Council more closely scrutinize the special exception requirements in considering noise reduction.

2 Landscaping companies operating within the Town of Palm Beach use leaf blowers that do not exceed 75 decibels, with an equipment phase-in period to July 2006. It was also recommended that the operation of gas powered leaf blowers be prohibited between the hours of 5:00 p.m. and 9:00 a.m.

3. Mr. McDonald noted that the Committee had also heard discussion regarding the blowing of yard material into the street, and requested that a recommendation be added to recommend that no yard waste material would be blown into the street by any gardening service or by Town personnel.

Mr. McDonald requested that the Town Council accept and adopt the report and all of the recommendations of the Ordinances, Rules & Standards Committee of August 5, 2004.

Councilman Brooks thanked Mr. McDonald and Mr. McLendon for a very complete and thorough job at the ORS Committee meeting, and suggested that the phase-in period go from July 2006 to October 2006, as the Town itself was remiss on some equipment decibel levels, and it would take some time to replace that equipment; in addition October 1st starts a new fiscal year.

Mr. McLendon voiced his support of the suggestion of Mr. Brooks.

Councilman McDonald stressed the need for scrutiny of the special exception requests by the Town Council.

Councilman Goldblum moved acceptance and approval of the report and recommendations of the ORS Committee, with the inclusion of the recommendation that no yard trash be blown into the street by gardeners or by Town personnel, and with the amendment to recommendation number two that the phase-in period for leaf blower equipment not exceeding 75 decibels be extended to October 2006 (rather than July 2006).

Town Manager Elwell advised that the landscapers would be advised of the change once it had been made, and staff would be returning to the Town Council with ordinances in the upcoming months that would officially implement the action decided upon today.

The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

IX. REGULAR AGENDA

A. Old Business

1. Consideration of Construction/Commercial Vehicles on Public Streets. [Peter B. Elwell, Town Manager] **Request for deferral per Memorandum Dated August 5, 2004, from Town Manager Peter B. Elwell.**

DEFERRED TO 9-14-04 AGENDA.

2. Report on Options for the Trimming of Town Palm Trees. [H. Paul Brazil, Director of Public Works]

Public Works Director Paul Brazil reported that staff had evaluated the costs of alternative methods for trimming the Town-owned Palm Trees. He explained that the current method consisted of one trimming per year by an outside contractor, who physically climbed the trees, with the cutting loaded into Town trucks by labor force workers supervised by the Town Parks Bureau. The cuttings were then taken to the Town's vegetation dump sites. The trimming of the Palm Trees is referred to as a "hurricane cut," and it has been suggested by the Garden Club and other experts that a much less severe trimming be considered, and that the climbing method may make the Palm Trees more susceptible to disease. With that in mind, cost estimates had been prepared with several options. He noted that if it was decided to trim the Palm Trees once per year, with a less severe cut, it may be necessary to come back and do minimal additional spot trimming to maintain the 18' clearance that was needed above the roadway to allow for the use of the roads by trucks.

Town Manager Elwell clarified that the current budget included sufficient funds to do the once per year trimming with the climbing method. Any of the other alternatives would require some additional funding in the FY05 budget.

Ms. Nancy Murray, Garden Club of Palm Beach, addressed the Town Council, pointing out that the hurricane cut was injurious to the health of the Palm Trees; the spikes used to climb the trees perforated the trunks, which would allow disease and animals to get in. She suggested that the cuttings be done once per year by the bucket method.

Councilman Brooks moved approval of the once per year cut of the Palm Trees, using the bucket truck. The motion was seconded by President Pro-Tem McLendon.

Town Manager Elwell advised that $38,220 would be needed, and an adjustment would be made appropriate line item within the 2005 proposed budget before it was brought back to the Town Council for adoption.

On roll call the motion carried unanimously.

3. FY05 Leisure Services CIP Staff Report and Recommendations for the Seaview Tennis Center and the Phipps Ocean Park Tennis Center. [Russell E. Bitzer, Director of Recreation]

Recreation Director Russ Bitzer reported that staff had been directed to look into several issues regarding tennis courts at Seaview Tennis Center and Phipps Ocean Park Tennis Center. He referred to his memorandum of July 30, 2004, regarding these issues, that was included in the back-up material for the meeting today.

He clarified that the Town Council had approved the recommendation of the Finance and Taxation Committee to add a fourth court at Phipps Ocean Park Tennis Center.

He addressed the issue of time required to complete a modernization of the Seaview Park Tennis Center, and pointed out that, without completion of the Seaview Park Tennis Facility Master Plan, the scope of work was not known, and without knowing the scope of work the time frame for construction was also not known at this time.

He addressed the issue of the possibility of using other tennis courts in the Town in order to reduce the impact on existing tennis programs and events while the Seaview Tennis Center is under construction; staff had investigated those possibilities, and had not been successful.

The Recreation Advisory Board had recommended approval of the FY05 Leisure Services Capital Program, which did include the planning for the Master Plan, and completion of the Phipps Tennis Facility in 2005. The Seaview Tennis Center Plans were proposed for FY06. He noted that there was sufficient funding available in the FY05 capital improvement program of the Leisure Services Fund retained earnings.

He noted that in any kind of a modernization done at Seaview would probably require the loss of a court, as the greenspace was so tight, and part of the modernization was to separate the courts, since they were now so close together. He also noted that the justification for the Phipps Tennis Facility was that there had been major over-crowding at that location.

Mr. Bitzer recommended that the Town Council review the information provided, and advise staff accordingly.

Town Manager Elwell clarified that the original staff recommendation one month ago had been to proceed to finish the Phipps Tennis Facility, consistent with the Master Plan; to build the two additional courts, which included the relocation of a bathroom; it was the relocation of the bathroom and the costs involved that drove the discussion last month with questions from the Town Council. Staff had now come back with a response to those questions to determine how the Town Council would like to proceed. The original recommendation was to finish the project.

Councilman McDonald commented that he had seen nothing to substantiate the comments of staff that six courts were needed at Phipps because of demand for courts; he stated that he did not see the need for two new courts at Phipps before anything was done at Seaview.

Mr. Bitzer replied that Phipps did not have to be done in order to do Seaview. Public Works Engineering had recommended that the planning be done next year at Seaview, and the construction work be done the following year.

Councilman McDonald responded that he would like to see statistics and data that the decisions were based upon; he expressed concern about the $575,000 required to add the two additional courts.

Town Manager Elwell clarified that the decision was to whether or not to proceed with the final two courts at Phipps Tennis Facility, and finish off the Master Plan there. That decision would not affect the Seaview project, because staff would strongly urge that the time be taken to do the proper planning in order to do Seaview well one time. In order to do Seaview well one time, the planning that was proposed in the FY05 budget for Seaview ought to be done in order to be in a position to construct it in FY06.

Councilman McDonald maintained that supporting documentation was needed to support the recommendation; for example, how many people used Phipps Tennis Courts, how many people are turned away, how many people will be using it if six courts are implemented, etc.

Mr. Bitzer pointed out that he had made a notation on his memorandum, dated July30, 2004, under "Special Considerations," that the Master Plan would not be started until FY05, and the scope of work and time to complete the Seaview modernization was yet to be determined; it might be appropriate to leave the funding for the proposed completion of the Phipps Tennis Facility in the FY05 Capital Improvement Program. Once the Master Plan for Seaview was completed, the Town Council could revisit this item, and at its discretion, approve these funds or return this funding to the Leisure Services Fund.

Mr. Elwell pointed out that because it was the Leisure Services Enterprise Fund, the leaving of the money in the fund, so that the project could be considered later, would not have a tax impact. The money would merely stay there for the project until such time that the Town Council may decide to return that to the retained earnings of the fund, or to proceed with the project.

In response to Councilman McDonald, Mr. Bitzer reported on the responses of the other tennis facilities in the Town regarding usage of their courts while the Town tennis courts were under repair during the summer.

Mayor Smith noted that the Everglades Club, Bath & Tennis Club, or Mar-a-Lago had not been contacted, and suggested that perhaps something could be worked out with the clubs in Town in the future.

After discussion, the Town Council deferred action on the final two Phipps Tennis Courts, until a usage study could be obtained from staff; the issue would be revisited after the Master Plan for the modernization of Seaview Park was completed.

B. New Business

1. Request by the Breakers Hotel for Off Shore Fireworks Display.

[John J. DeIorio, Acting Fire-Rescue Chief]

Acting Fire-Rescue Chief John DeIorio reported that the Fire-Rescue had received a request from The Breakers for approval of an ocean fireworks display. Staff recommended approval, based upon the restrictions listed in the back-up material presented to the Town Council via his memorandum of July 21, 2004.

Catering Manager Kym Bichon, of The Breakers, addressed the Town Council, thanking them for consideration of approval for the off shore fireworks display, and offering to respond to any questions.

In response to Mayor Smith, Ms. Bichon replied that the fireworks display would be 1200 feet from the low tide mark.

Councilman Brooks moved approval of the request of The Breakers Hotel for an off shore fireworks display on September 4, 2004, with the conditions as set forth in the memorandum dated July 21, 2004, from Acting Fire-Rescue Chief DeIorio to the Mayor and Town Council. The motion was seconded by President Pro-Tem McLendon.

Mayor Smith commented that the Town Council had many requests in the past for fireworks in the Town of Palm Beach, which had always been turned down, and hopefully would continue to be turned down, unless they were off shore, and under the guidance of the Fire-Rescue Department.

President Wyett commented that the Town Council had always turned down even off shore fireworks request, and that to approve this request would be opening a Pandora's box. He stated that he saw no reason to change the rules, or to make exceptions.

Councilman Brooks commented that two fireworks displays were held in the City of West Palm Beach off shore each year for Sunfest and the Fourth of July, which were actually closer than this one.

On roll call, the motion carried 3/1, with Councilman Brooks, President Pro-Tem McLendon, and Councilman Goldblum casting affirmative votes; President Wyett casting a dissenting vote; Councilman McDonald was temporarily out of the room.

2. Consideration of Acceptance of Donation of Tree(s) to Peruvian

Park. [Jack McDonald, Town Council Member]

Councilman McDonaldsuggested that a shade tree be placed in the Peruvian Park area, and requested information from the Public Works Department. He explained that he, and perhaps others, had an interest in donating a shade tree.

Director of Public Works Paul Brazil advised that the Town did not have a type of shade tree in its nursery. He advised that staff could start a search for a large shade tree immediately, if so directed. He noted that there would be disruption to Peruvian Park if a large tree was placed there.

Councilman McDonald suggested that it was his opinion that there were too many benches in Peruvian Park, and if a large shade tree was placed, perhaps some of the benches could be removed, and the donors could then take credit for the tree rather than the benches.

Mr. Brazil replied that staff would work with any donors who had a bench that would be affected.

Ms. Nancy Murray, Palm Beach Garden Club, commented that shade was a problem in the Park, however, it was also the concrete runways that were so white. The original plan had called for that whiteness to be broken by the use of decorative Mexican rock; there had been comments that there were too many benches. She pointed out that there was money left over for Phase II, which was the result of the donations that various people made for the plant material that was designated in the garden in the amount of $21,700. She suggested that money be used to get Phase I right, and that some kind of master plan be devised for the Park.

Mayor Smith suggested that the Garden Club work with staff to do a renovation of the Park to make it more the park that had been envisioned when the park property was given to the Town. She suggested that there may be money available from other sources, and that there may be some professionals who would donate their services. A progress report could then be made to the Town Council at the October meeting.

Town Manger Elwell suggested that staff would like to take guidance from the Garden Club as to any professional assistance that may be donated; he explained that there had been some competition involved previously with selecting landscape architects.

3. Review of Speed Limits on South Ocean Boulevard.

[Jack McDonald, Town Council Member]

Councilman McDonald suggested that Town staff review the speed limit between South County Road and Hammond on South Ocean Blvd. in terms of changing it from 30 mph to 35 mph, because, as a frequent user of that road, he did not see why that area should be designated as 30 mph, while the rest of it was designated as 35 mph – all the way to the Town limits.

Town Manager Elwell advised that during the process of revising the Town-wide speed limit a year ago, the ordinance had included authorization of certain staff to address additional changes in the future, as may be needed. He advised that staff would analyze that particular segment, and report back the findings.

4. Consideration of Potential Undercurrent Stabilizer Project. [Samuel C. McLendon, Town Council President Pro Tem]

President Pro-Tem McLendon referred to his memorandum to Town Manager Elwell, dated August 3, 2004, concerning his concern regarding the Corps of Engineers' proposed permit for Phipps Park, and their decision to put all sorts of conditions on the proposed permit. He observed that the Corps of Engineers had knocked off a half mile of the renourishment project on the north end of Phipps Park from even being considered. He noted that he had discussed the costs of doing a half mile project in Palm Beach with Bjorn Iverson of Coastal Dynamics, Inc., who was present to respond to any questions.

Mr. Bjorn Iverson, of Coastal Dynamics reviewed the three locations where a half mile project could be done: The Beach Club, Phipps Ocean Park south of the current beach renourishment project, and south of Par 3. He estimated that the costs for a half mile system would be approximately $750,000, and discussed the elements of the proposal for an undercurrent stabilizer project.

In response to President Pro-Tem McLendon, Mr. Iverson explained that the $750,000 was at cost; internal discussions had been held to determine if private investors would participate, so that the costs would be reduced.

Councilman Brooks questioned whether, in light of the appeal filed regarding the Corps of Engineers permit, mixed signals would be sent to the Corps of Engineers with Mr. Iverson's proposal.

Town Manager Elwell replied that there was certainly the potential of sending a mixed message. Additionally, he pointed out the Shore Protection Board had invested three years of their time to do extremely thorough research in any number of methods of approaching beach erosion control in the Town. Several individuals on that Board had been more outspoken in their support of the more experimental structural type solutions, as opposed to traditional beach renourishment, prior to being appointed to the Board. The Board itself was charged with reviewing every possible alternative. The conclusion of the work of the Board was indeed that while there may be a role at some point for structural solutions in hot spots, that should come secondary to restoring a large quantity of sand into the system that had been deprived of the movement of sand past the Inlet for so many years. The Town Council at that time, and this Town Council, had stayed with that program. Some setbacks had been suffered in the regulatory process. He urged extreme caution in deviating from the plan that the Board had spent three years preparing and prior Town Councils and this Town Council had repeatedly re-affirmed. The delay in being able to place the sand was a great concern to everyone, however, the implementation of something that had not been studied and made part of a designed project, out of the hope that it would be a permanent solution for a relatively low cost, was one that should be handled extremely cautiously. He suggested that if the Town Council wished staff to explore this, or other alternatives further, to consider whether to stay on the program that had been adopted, or whether to perhaps adjust that program in a systematic way, then staff would be prepared to assist in moving forward with that kind of review. It was of much greater concern to think that, in the midst of pursuing an adopted program, action would be taken that would deviate substantially from that program.

In response to President Pro-Tem McLendon regarding the costs to date of Phipps Ocean Park, Town Manager Elwell commented that there had been a substantial investment made, as the Town was three and one-half years into the permitting. He noted that a permit from the Corps of Engineers would also have to be obtained to implement Mr. Iverson's project, and anything else like it. He stated that he did not know if the Florida Department of Environmental Protection (FDEP) would be supportive of the implementation of Mr. Iverson's program.

President Wyett commented that he had not heard enough information that would allow him to deviate from the plan in place; he suggested that information regarding the permitting process, possible obstacles, etc., would be needed as part of a presentation in order to act to deviate from the current plan.

In response to President Pro-Tem McLendon regarding the time frame for the appeal process, Mr. Elwell explained that it was expected that the administrative process with the Corps of

Engineers would be completed by the end of the year, and if the Town was successful in that process, the project would be put back on course for construction during the winter of 2005-2006. If the Town was unsuccessful in the administrative appeal process with the Corps of Engineers, the Town Council would face a decision at that point as to whether to take the matter into federal court.

President Pro-Tem McLendon moved deferral of consideration of the potential undercurrent stabilizer project until some results were obtained from the appeal with the Corps of Engineers. The motion was seconded by Councilman Brooks. On roll call the motion carried unanimously.

X. ORDINANCES

A. Second Reading

1. ORDINANCE NO. 14-04 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 58, Law Enforcement, by Adding a New Article IV Titled Fees for Special Assignments, Providing for the Imposition of Fees for Services and Equipment Relating to Special Assignments for the Town of Palm Beach Police Department and for the Town of Palm Beach Fire-Rescue Department; Providing for Penalties; Providing for Jurisdiction of the Code Enforcement Board; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date. [John C. Randolph, Town Attorney and Jane Skittone, Director of Finance]

Town Attorney Randolph read Ordinance No. 14-04 by title, as printed above, on second reading.

Councilman McDonald moved adoption of Ordinance No. 14-04. The motion was seconded by Councilman Brooks, and carried unanimously on roll call.

2. ORDINANCE NO. 17-04 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 82 of the Code of Ordinances Adding Section 82-73 to Accept Prior Service with Other Municipal, County, or State Governments or Districts Provided the Member Contributes the Sum That Would Have Been Contributed to the Retirement Plan; Adding Section 82-54(d) to Allow Purchase of Service Credit by Members of All Benefit Groups; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.
[William C. Crouse, Director of Human Resources]

Town Attorney Randolph read Ordinance No. 17-04 by title, as printed above.

Councilman Goldblum moved adoption of Ordinance No. 17-04, on second reading. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

3. ORDINANCE NO. 19-04 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Ordinance No. 7-03; Providing Certain Benefit Options under Chapter 82 of the Code of Ordinances to Certain Public Safety Officers Who Are Drop Participants in the Retirement System; Providing an Option to Such Drop Participants under Section 82-64, Code of Ordinances, to Elect to Purchase an Increased Multiplier for Calculation of the Amounts of Their Pensions under Section 82-59; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing an Effective Date.
[William C. Crouse, Director of Human Resources]

Town Attorney Randolph read Ordinance No. 19-04 by title, as printed above, on second reading.

Councilman Brooks moved adoption of Ordinance No. 19-04 on second reading. The motion was seconded by Councilman Goldblum. On roll call the motion carried unanimously.

B. First Reading

1. ORDINANCE NO. 18-04 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 2, Article IV, Boards and Commissions, Division 2, Planning and Zoning Commission, Section 2-328(a); at Chapter 2, Article VI Finance, Division 6, Investment Advisory Committee, Section 2-567(b); at Chapter 18, Buildings and Building Regulations, Article III, Architectural Review, Division 2, Architectural Commission, Section 18-169, Removal of Members; at Chapter 54, Historical Preservation, Article II, Landmarks Preservation Commission, Section 54-38(a); at Chapter 74. Parks and Recreation, Section 74-1(d) So as to Include Religious Holidays as an Excused Absence; Amending Chapter 2, Administration, at Article V, Code Enforcement, Division 2, Code Enforcement Board, Section 2-402(b), So as to Provide for Excused Absences; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.
[John C. Randolph, Town Attorney]

Town Attorney Randolph read Ordinance No. 18-04 by title, on first reading, as printed above.

After discussion, Councilman Goldblum moved approval of Ordinance No. 18-04 on first reading. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

2. ORDINANCE NO. 20-04 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Providing for Amendments to the Town's General Fund Budget Adopted for the

Fiscal Year Commencing October 1, 2003, Providing an Effective Date. [Jane Skittone, Director of Finance]

Town Attorney Randolph read Ordinance No. 20-04 by title, as printed above, on first reading.

Councilman Brooks moved approval of Ordinance No. 20-04, on first reading. The motion was seconded by Councilman Goldblum.

In response to President Pro-Tem McLendon, Town Manager Elwell explained that this ordinance implemented the decision made during the budget meeting to create the reserve for compensated absences, and do it in the current fiscal year, addressing a responsibility the Town has to make payment on certain liabilities in the manner that is in the Town's best interest, so as to not impose a tax impact to these payments. He explained that creation of the reserve explicitly describes the manner in which a calculation would be done each year to identify the magnitude of that year's payment.

On roll call the motion carried 4/1, with Councilman Brooks, Councilman Goldblum, Councilman McDonald and President Wyett casting affirmative votes; President Pro-Tem McLendon casting a dissenting vote.

3. ORDINANCE NO. 21-04 An Ordinance of the Town of Palm Beach, Palm Beach County, Florida, Amending and Restating Chapter 82, Division 2, Retirement System, of the Code of Ordinances; Eliminating the Public Safety Board of Trustees and Establishing the Firefighter Board of Trustees and the Police Officer Board of Trustees; Providing Both the Firefighter Board of Trustees and the Police Officer Board of Trustees the Responsibilities, Authority and Powers of the Public Safety Board of Trustees as to Benefit Group Firefighter and Benefit Group Police Officer, Respectively; Restructuring Chapter 82 and Re-numbering the Sections Thereof to Provide Separate Subdivisions for Benefit Group Firefighter, Benefit Group Police Officer, and Benefit Group General Employee and Lifeguard, as Well as for the Separate Boards of Trustees for Each Such Benefit Group; Eliminating And/or Updating

Outdated Provisions; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; and Providing for an Effective Date.
[William C. Crouse, Director of Human Resources]

Town Manager Elwell referred to the back-up material at page 222, which was a letter dated July 8, 2004, from Attorney John B. McCracken to the Mayor and Town Council regarding the establishment of separate firefighter Board of Trustees and Police Officer Board of Trustees/Town of Palm Beach Retirement System. He explained that the splitting of the one Public Safety Retirement Board into two boards was a ministerial duty that was before the Town Council, under State Statute, that required approval. In addition, there was one housekeeping matter proposed for consideration: a modification to the manner in which donations to the retirement fund were handled under the ordinance, and administered by the Town.

Mr. Elwell recommended, in accordance with his memorandum dated August 3, 2004, to the Mayor and Town Council that the two items be separated – that the Town Council address its ministerial duty today to approve this ordinance and separate the boards. He recommended that consideration to modifying the ordinances substantively be done separately at a future time.

Councilman Brooks commented that he believed it would be wise to wait on consideration of any substantive matters regarding the ordinance, as the Town was about to undertake an across the board compensation/benefit study for the entire work force of the Town.

Attorney McCracken advised that if the Town Council followed Mr. Elwell's advice, there were several words that would need to be stricken from the text of the Ordinance No. 21-04:

Eliminate the word "undesignated" from the third line of proposed Section 82-83 of the proposed new subchapter.

Eliminate from proposed Section 82-98 subparagraph (b)(3), the words "and any other revenue."

He explained that those changes were made to accommodate the requests of the firefighters that designated gifts could be made to their share accounts.

Councilman Brooks moved approval of Ordinance No. 20-04, on first reading, approving that the ministerial pro forma of the ordinance be implemented, and that the substantive matters be held until the Town compensation study was completed; to include the modifications as set forth by Attorney McCracken as follows: eliminate the word

"undesignated" from the third line of proposed Section 82-83; eliminate the words "and any other revenue" from section 82-98, subparagraph (b)(3). The motion was seconded by Councilman Goldblum.

Town Manager Elwell clarified that the motion would allow Ordinance No. 21-04 to be approved as presented, and then as modified by Attorney McCracken.

On roll call the motion carried unanimously.

In response to Mayor Smith, Attorney McCracken explained that the advisors and money managers had changed completely from the two boards, and that he anticipated that it would change again now that there were three boards.

XI. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

Councilman McDonald commented that he found it a little odd that a press release with highlights of the Town Council Meeting agenda was issued, indicating that the Nextel contract was on the Agenda for today, and then have it included on the Consent Agenda so that no one could discuss it. He explained that unless a Town Council member pulled it from the Consent Agenda, it would not be discussed.

President Wyett commented that, in order to expedite the meeting, he had put the Nextel contract on the Consent Agenda, not knowing that it would be publicized in a press release.

Councilman Brooks expressed concern regarding the Florida Power & Light (FPL) report that was promised regarding a depreciation schedule for the Town.

Town Manager Elwell advised that staff had received limited information from FPL and that the report would be addressed substantively at the September 14, 2004, Town Council Meeting.

Assistant Town Manager Thomas Bradford commented that it was his understanding that staff had planned on discussion of this item in September, however, staff had met with FPL officials to discuss two things: the entire area that staff had proposed to be done for undergrounding, and the Royal Poinciana Way information. He explained that staff had gone about as far as it could with FPL, based upon what they expressed at that meeting; unless staff was able to discern more data from the information provided to date, they would probably not provide any more detailed information relative to the age of their system, etc., as they considered it proprietary information. He noted that they had provided the general depreciation schedule, however, had not provided the specific depreciation schedule for the specific types of electrical apparatus on the routes that were of interest to the Town.

In response to Councilman Brooks, Town Attorney Randolph advised that he believed that FPL could have proprietary information, and that they were regulated through the Public Service Commission; he could obtain further information from the Public Service Commission if so directed.

Town Manager Elwell advised that staff had received information from FPL, which was not everything that had been requested. He explained that it was his expectation that the report to the Town Council in September would address some issues substantively, and would also identify ways in which the analysis would fall short because of the lack of specific information. At that time, the Town Council would face a policy decision about the procedure for a project, and also whether to take a more aggressive posture in following up with FPL.

Mr. Bradford advised that he had sent information to FPL refuting the position that they took with staff, and had sent them copies of the Florida Administrative Code as it pertained to the Public Service Commission.

President Wyett expressed disappointment with the splitting of the Retirement Boards into three sets of boards, with three sets of lawyers, three sets of investment advisors, etc., at the taxpayers' expense. He suggested that the use of joint advise on the separate boards would be more economical.

XII. DEVELOPMENT REVIEWS

A. Appeals

1. None

B. Time Extensions

1. Brazilian Court Hotel. [Robert L. Moore, Director of Planning, Zoning, and Building] *Deferred from the July 13, 2004, Town Council Meeting.*

Director of Planning, Zoning & Building Robert Moore advised that Attorney James Brindell had faxed a letter requesting that this item be postponed until the September 14, 2004, Town Council Meeting, in order to try to work out some of the differences between the applicant and Town staff.

Councilman Brooks commented that the Town had very strict timelines, and now the day of the meeting there was a request for deferral.

Mr. Moore replied that staff recommended the deferral at this juncture; staff was trying to work out a series of phases with the applicant.

Mayor Smith suggested that the applicant appear at the September 14, 2004, Town Council Meeting, and that if they were not present, the time extensions would be thrashed out by the Town Council.

Councilman Goldblum moved approval of deferral of the Brazilian Court time extension matter, until the September 14, 2004, Town Council Meeting. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried 4/1, with Councilman Goldblum, President Pro-Tem McLendon, Councilman Brooks, and President Wyett casting affirmative votes; Councilman McDonald casting a dissenting vote.

2. Flagler Museum. [Robert L. Moore, Director of Planning, Zoning, and Building]

Director of Planning, Zoning & Building Robert Moore reported that the contractor and the management of the Flagler Museum had been requested to come forward with an estimated time of completion on the building permits.

A representative from Hedrick Brothers Construction Company reported that there had been many delays on the project, and requested a permit extension until January 7, 2005.

Mr. Moore stated that date was workable for staff, as long as it was acceptable to the Flagler Museum.

Mr. John Blades, Flagler Museum, advised that the permit extension date of January 7, 2005, was acceptable to the Museum.

President Pro-Tem McLendon moved approval of the permit extension date of January 7, 2005, for the Flagler Museum project. The motion was seconded by Councilman Goldblum, and carried unanimously on roll call.

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Luncheon Recess taken at 12:25 p.m.

The Town Council Meeting reconvened at 2:00 p.m.

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C. Variances, Special Exceptions, and Site Plan Reviews

At this time, Town Clerk Pollitt administered the oath to all those who would be providing testimony under Variances, Special Exceptions, and Site Plan Reviews.

1. Old Business

a. VARIANCE #18-2004 The Application of Brazilian Avenue, LLC, Stephen Dattels, Managing Member, Relative to Property Described as Lots 45 and 46, Block 4, Revised Map of Royal Park Addition to Palm Beach; Commonly Known as 430 Brazilian Avenue; Located in the R-C Zoning District. Variance to Allow Construction of a New, Two-story Residence on a Lot with a Width of 50 Feet in Lieu of the 75 Foot Minimum Required and a Lot Area of 8,560 Square Feet in Lieu of the 10,000 Sq. Ft. Minimum Required in the R-C Zoning District; Variance to Allow the East Side Yard Setback to be 5 Feet for the Garage in Lieu of the 10 Foot Minimum Required in the R-C Zoning District; Variance to Allow the East Side Yard Setback to be 8 Feet for the Main House in Lieu of the 10 Foot Minimum Required in the R-C Zoning District; And, Variance to Allow the East Side Yard Setback to be 8 Feet for the Swimming Pool in Lieu of the 10

Feet Minimum Required in the R-C Zoning District. *Deferred from the July 13, 2004, Town Council Meeting.*

Ex-parte communication was declared by Councilman Goldblum with Attorney Maura Ziska; by President Pro-Tem McLendon via a meeting with Maura Ziska; by Councilman Brooks via a conversation with Attorney Ziska regarding the subject property.

Attorney Maura Ziska, on behalf of the applicant, addressed the Town Council, stating that there was currently a five unit apartment building on the site, 50' wide by 172' long, and the owner would like to demolish the existing apartment building and build a two-story single family residence. She advised that the special conditions and hardships related to the property were that the lot was non-conforming in area, as well as the nonconforming width. The property met all Code requirements except for the requested setbacks. Compared to the minimum and maximum requirements in the R-C Zoning District, the property was 1' lower in height than what was allowed; 3' lower in overall height; and 3% over on greenspace. The new finished floor would be at 7.5', where the current finished floor was at 5 NGVD.

Ms. Ziska advised that the variance requests were to allow an 8' setback for the house and pool, and a 5' setback for the garage on the east side of the house. The R-C District required 10' on both sides for the side yard setback, which would give a building width of 30'. In this case, the plan had been designed so as to put the garage in the rear, and not have a front loading garage on Brazilian Avenue, the width of the building (which was the allowable 30') had been shifted to the east to request an 8' setback for the house, and then a 12' setback on the west side to accommodate a driveway and sufficient landscaping. She pointed out that the Architectural Commission (ARCOM) had been very supportive of the project, and had no problem with the setbacks on the east side, and would actually would prefer to have more of a setback in order to allow more landscaping on the west side of the property. The project had been approved, and the applicant would be going back for a landscape final approval. Architect Seagraves had met with the neighbor on the east side, and they were in approval of the project, as it would not adversely affect them in any way whatsoever.

Architect Pat Seagraves presented the architectural plans to the Town Council, indicating the streetscape, and the location of the variances being requested on the property in question.

Attorney Ziska emphasized that the density would be reduced from a five unit apartment building to a single family residence, which was consistent with the Comprehensive Plan, as well as making use of a very difficult shape and size of a lot. The hardship was that the lot was nonconforming in width, in that 50' exists and 75' are required, as well as the nonconforming area of the property – 8,600 sq. ft. in lieu of the 10,000 sq. ft. minimum required in the R-C District.

Zoning Administrator Paul Castro commented that the size of the lot, the width of the lot, and the area of the lot were all common elements that were known by the applicant when the property was purchased, and demonstration for the criteria for variances were fairly strict as they related to granting variances, and staff questioned the hardships. Certainly the number of units were being reduced from five units to one single family home, and certainly the house was being moved to one side so that a side-loaded garage could be provided, however, staff questioned the hardship regarding the amount of the variance being requested – the percentage of lot width. In addition, staff saw no hardship for the swimming pool variance that the applicant was requesting.

In response to Councilman Brooks, Architect Seagraves advised that the square footage of the proposed house, under air conditioning, was approximately 3,800 sq. ft.

Councilman Brooks commented that the house was too large for the lot.

Attorney Ziska replied that the members of ARCOM had not felt that the house was massive for the size of the lot, and they had commended the architect for making it architecturally consistent with the neighborhood, and with regard to the width and the height, thought it was modest.

Mayor Smith commented that it appeared that the house could be reduced by a foot or two, and then the variance would not be necessary.

Architect Seagraves replied that both houses on either side were nonconforming, and he had tried to balance the proposed house – the idea was to keep the width of the house 30' so that it did not look like a little "skinny" house. Also, a reduction would involve making the driveway side further, so the house would actually be moved over 13' rather than 12'.

Attorney Ziska commented that ARCOM had discussed reducing the width of the building, and it had been discussed that the building would suffer architecturally if it was any narrower than 30'.

Director of Planning, Zoning & Building Robert Moore advised that there was discussion at ARCOM on narrowing the building to 28', and the general feeling had been that it would be more appropriate from a dimensional standpoint at 30', however, cutting down on the width was not ruled out. ARCOM was more interested on having more area on the east elevation of the building for landscaping; therefore, the driveway could be cut down to 10', and if there was going to be an additional variance, it would have to be on the west side. Staff pointed out that it would then have to be re-advertised, and the variance on the west would be then be increased. ARCOM had not ruled out specifically, cutting the building down to 28'.

In response to Mayor Smith, Architect Seagraves advised that the pool was 10' wide, and was aligned with the house.

Mayor Smith replied that the pool could be narrower, and not require a variance.

President Pro-Tem McLendon moved approval of Variance #18-2004, as presented, with the condition that the pool be made conforming to 8' wide. President Wyett passed the gavel to second the motion. On roll call the motion failed 2/3, with President Pro-Tem McLendon, and President Wyett casting affirmative votes; Councilman Brooks, Councilman Goldblum, and Councilman McDonald casting dissenting votes.

Mr. Moore commented that ARCOM had believed that the variance for the garage was a necessity.

Attorney Randolph advised that there was a motion that was made that did not pass, and therefore another motion would be necessary – the motion to approve did not pass. Now, it would be necessary to have either a motion to deny, or a motion to approve subject to conditions.

President Pro-Tem Goldblum made a motion to approve 28' wide; with a conforming pool; the east side yard setback of 5'. He stated that the hardship applied to the driveway, which was created by the narrow width of the lot. The motion was seconded by President Pro-Tem McLendon.

Upon Councilman McDonald's request for clarification, Mr. Moore clarified that the approval was for 28' wide, no variance for the pool, and the east side yard setback of 5' for the garage in the rear.

Zoning Administrator Castro clarified that if the house was brought to 28' wide, the sideyard could be made conforming for the principal structure.

Mr. Moore clarified that the only variance request now was for the garage.

On roll call the motion carried unanimously.

2. New Business

a. VARIANCE #19-2004 The application of Frederick R. Adler and Catherine G. Adler relative to property described as lengthy legal description on file; commonly known as 1520 South Ocean Boulevard; located in the R-A Zoning District. To allow the enclosure of an existing deck, which is partially a second story and partially a third story, for construction of an addition for staff quarters. The first variance is to increase the building non-conforming 3rd floor element and the second is to provide a side yard setback of 10.91 ft. in lieu of the 15 ft. minimum required.

Attorney Greg Young, on behalf of the applicant, reported that he had not had the opportunity to speak with the applicant until this morning, and that the applicant wanted to review the application. He requested a deferral to the September 14, 2004, Town Council Meeting.

Councilman Goldblum moved deferral of Variance #19-2004, to the September 14, 2004, Town Council Meeting. The motion was seconded by President Pro-Tem McLendon.

In response to Mayor Smith, Mr. Moore explained that there was a one week window for the application of deferral of a matter that was filed to be before the Town Council. The applicant was entitled to one deferral. After that one week, the Town Council may decide whether or not to grant the deferral.

Councilman Brooks commented that it was his feeling that the Town Council became the victim for applicants playing the system. This application was not new, and was substantially the same application that had been deferred and removed from the agenda two years ago. He noted that the Town Council did its homework before the meeting, had meetings with staff, and then the applications were deferred at the last minute.

On roll call the motion carried unanimously.

b. VARIANCE #20-2004 The application of 171 Royal Poinciana, LLC, Lynn Min, Member relative to property described as Lot 7, Floral Park Add. No.2; commonly known as 171 Royal Poinciana Way (a.k.a. Main Street); located in the R-C Zoning District. To allow the renovation and addition to an existing non-conforming building. Variances requested are as follows: to build new single family home on a platted lot that has a width of 25 ft. in lieu of the 75 ft minimum; to have a lot area of 2,500 sq. ft. in lieu of 10,000 sq. ft. minimum required; to provide a front setback of 7.1 ft. in lieu of 25 ft. minimum required; to provide east and west side yard setbacks of 2.5 ft. in lieu of 10 ft. minimum required; to provide lot coverage of 59% in lieu of 35 % maximum allowed; to provide landscape open space of 22% in lieu of the 35% minimum required; to provide landscape open space of 12% in front yard in lieu of 35% minimum required; to build a swimming pool with a 3 foot side yard setback on the east and west in lieu of 10 ft. minimum required; to build a pool with a 3.66 ft. rear yard setback on the north in lieu of 10 ft. minimum required; and, to have 4 dormer window openings in the roof above the maximum building height which opens into habitable space where no windows are allowed in the roof into habitable space.

Zoning Administrator Paul Castro corrected the address to be 171 Main St., not 171 Royal Poinciana.

Ex-parte communication was declared by Councilman Goldblum with Attorney Peter Broberg, and the architect, and by walking the property; by President Pro-Tem McLendon with Attorney Broberg and the architect; by President Wyett with Attorney Broberg and with the applicant regarding the merits of the project; by Councilman Brooks with Attorney Broberg and by walking the property.

Attorney Peter Broberg, on behalf of the applicant, addressed the Town Council, exhibiting architectural renderings and photographs of the property in question. The applicant was requesting to bring the nonconforming building down, and to build a nonconforming building in that space, mainly because nothing could be built to comply with the Code. He addressed the hardship and read from the application: applicant should provide a description of the special conditions which subject to literal enforcement of the Code would result in an unnecessary and undue hardship. He stated that if the Code was literally applied to this property, then nothing could be built. He reviewed each variance request made in the application. He explained that a two-story house was being proposed for the space; it was proposed to get two cars off the street and to take them down below ground into the basement.

Attorney Broberg advised that Ed Cury, the property owner to the east, had reviewed the plans, and had furnished a letter of support for the project. He submitted it to the Clerk for the record. The owners of the property to the west had been in negotiations with the applicant; they had four units, and the access for two of the units would involve walking on the property of the applicant.

Zoning Administrator Paul Castro commented that the lot was very narrow, and staff believed that the applicant was asking for too much. While staff believed the applicant should receive reasonable use of the property, it was believed that the basement was going too far ---- it was almost 4,500 sq. ft. of floor area on a 2,500 sq. ft. lot. Staff was also concerned from an engineering standpoint as it related to the water table, which was about 3' above sea level, and the proposed floor of the basement was at sea level. There was concern about being able to keep a building in the ground, as well as stabilizing and shoring up the sides of the basement while under construction. He noted that there was a letter from the neighbor to the west expressing concern as it related to being able to provide access to their tenants to the side and rear of the property, as well as the possibility of structural damage to their home, and access in the future to an opening for one of the units on the side as well as on the rear of the property. He stated that, while the Architectural Commission did like the project, staff believed that the project was overwhelming as it related to the amount of floor area being requested. There was also concern relating to the garage, and getting the cars off the street while waiting for the gates/doors to open; a variance could be needed to address that concern as well.

Henry Gorelick, 173 East Main Street, questioned the architect regarding the square footage of the current house as compared to the proposed house. He requested that a proposed agreement regarding the access, between Marion Gorelick and Ms. Min, be incorporated into the record as an exhibit.

Attorney Broberg objected to the document being entered into the record as an exhibit because it had not been agreed to by anyone, and was a proposed document only.

Town Attorney Randolph advised hat it was appropriate for Mr. Gorelick to be allowed to mark the document for purposes of identification for the record.

Mr. Gorelick then requested that Ms. Min examine the agreement and questioned her regarding the agreement.

Director of Planning, Zoning & Building Robert Moore commented that the agreement had been identified at the ARCOM meeting as an agreement to provide access to the northeast apartment across Ms. Min's property, and it was represented at the ARCOM meeting that it would be executed in order to provide the neighbor to the west access to the property.

Mr. Gorelick commented that the agreement had been prepared, however, it had not yet been accepted by the applicant.

Town Attorney Randolph commented that this was a quasi-judicial hearing, and this discussion was exactly the type of thing that was contemplated in a quasi-judicial hearing — to give a person who objects to something the opportunity to cross-examine the applicant. There was only one legal issue, and that was the access issue, which could be made a condition of approval. He explained that it seemed that the question at hand related to the hardship and the representation that was being made that the proposal would reduce the number of units, and the question was whether or not these units had previously been abandoned.

Mr. Gorelick stated that the ordinance addressed a non-conforming use, which was a three unit rental apartment in a single family zone, and which was not used for two years, or if when it was acquired there was no intention of perpetuating the use, then the non-conforming use was being abandoned. He recognized that the lot was undersized, and that there was a right to develop it, however, the utilization must be minimum and must be reasonable.

Town Attorney Randolph clarified that the question had been raised that the three units had been abandoned, and it was now a single family structure.

Ms. Min replied that she had maintained the occupational license for three units in the past two years. The reason that it was not being rented was that the condition was so horrendous that no one would rent it.

Zoning Administrator Castro advised that an occupational license was not the trigger for when something was abandoned or not; it was simply a tax for a business. The abandonment was based on whether the property had been used as an apartment rental over the last two years.

Mrs. Gorelick commented that the existing building that the applicant wanted removed and demolished was one and one-half stories. Currently, she noted that she had light and air on her patio, however, the proposed project would block air and light from her living area. She presented photographs indicating her patio and greenspace. She also noted that they lived out on the patio; the access was an issue, as well as the possibility of structural damage. She stated that it did not make sense to her that the applicant would dig out the whole basement, put one story down there, another story on top, and a third story on top of that on a narrow lot. She pointed out that her house was built in the turn of the century and should probably be landmarked.

Councilman McDonald asked Attorney Broberg the legal basis for the access easement?

Attorney Broberg replied that there was no valid easement in place. He stated that the applicant was willing to discuss an easement with the neighbors.

Councilman Brooks suggested that the applicant take a deferral and review the application; there were no engineering studies to support the excavation; the neighboring property contained a house that was 90-100 years of age.

Zoning Administrator Castro advised that the basement would require a variance, because the basement was not allowed to be out of the footprint of the building, and as such, the setback for the building and the sub-basement had to be 10', and so the variance was for the sub-basement and the building above it.

Mayor Smith commented that the height of the building would be 40', which was substantial in comparison to the neighbors to the west. She preferred to see the project come back with a smaller project, addressing some of the concerns heard today.

Councilman McDonald moved deferral of Variance #20-2004 to the September 14, 2004, Town Council Meeting. The motion was seconded by Councilman Brooks. On roll call the motion carried unanimously.

Mr. Moore clarified that the Town Council was asking the applicant to go back and re-study the concept of the basement, and the amount of square footage on the lot, as it related also to access for the neighbor.

c. VARIANCE #21-2004 The application of Stanley G. Mortimer III relative to property described as Lot 1, Plat No. 3, Woods Landing, together with that portion of Lot 16A of Plat No. 2 of Woods Landing, lying South of said Lot 1, measured by extending the East and West boundary of said Lot 1; commonly known as 257 South Woods Road; located in the R-B Zoning District. Variance to allow the construction of a loggia which will result in a cubic content ratio of 4.24 in lieu of the 4.07 existing and the maximum 3.95 cubic content ratio permitted.

Ex-parte communication was declared by Councilman Goldblum with Attorney Kolins and by President Pro-Tem McLendon with Attorney Kolins. Councilman Brooks advised that he drove the property on South Woods Road but did not communicate with Attorney Kolins.

Attorney Ron Kolins, on behalf of Mr. and Mrs. Mortimer, addressed Town Council, stating that the applicants were present. He advised that this was a diminimus variance request for a single CCR variance. He reported that the application filed was done so in error and the figures appearing on same have been recalculated. He said that they were actually asking for much less than what was shown in the application.

Attorney Kolins stated that his clients were requesting to build a loggia at the rear of their property. He then distributed to the Town Council a package of four letters supporting the applicant's request from surrounding neighbors. He advised that none of these neighbors would be impacted by this request.

Mr. Kolins, held up a board for discussion purposes, stated that a previous code was used when the house was built which allowed 4.5% as the CCR maximum. He advised that the home was built then to only 3.9%, and this was substantially below what could have been built at that time. He stated that the present home was still slightly under the new maximum of 3.95%. He explained that they were asking to raise the CCR to 4.9% or .05% more than what was allowed.

Zoning Administrator Paul Castro stated that the lot was 14,500 square foot and staff does believe that it was a diminimus request which can meet the current CCR requirements, because the size of the proposed loggia will be substantial. He continued that staff was asking what the hardship on a lot this size would be in order to get a variance to go to .05% or .5% above what the code would allow? He advised that since the Town was advised of this change yesterday, staff would like the opportunity to review the numbers and recalculate them.

Mr. Kolins responded that he has no problem with the Town Council approving this subject to confirming the veracity of the numbers.

Mr. Kolins then showed the site plan and pointing to the loggia stated that the loggia would be useless if it was made so that it did not go over the 3.95%.

Councilman Brooks made a motion to approve Variance #21-2004 with the condition that staff verify Mr. Kolin's CCR numbers.

Director of Planning, Zoning & Building, Robert Moore asked Mr. Kolins when the house was originally built and Mr. Kolins responded that it was 2000.

Discussion ensued concerning any conditions the Architectural Commission may have placed on the size of the house. Mayor Smith stated that it was a small house and that she did not think the Architectural Commission would have done so.

Councilman Brooks made a motion to approve Variance # 21-2004 with the condition the revised numbers submitted by the applicant are verified by the Zoning Administrator. The motion was seconded by President Pro-Tem Samuel McLendon. On roll call the motion carried 5/0.

d. SPECIAL EXCEPTION #21-2004 The application of Sidney Speigel, Trustee relative to property described as lengthy legal description on file; commonly known as 340 Royal Poinciana Way, Ste. 307; located in the C-PC Zoning District. Special Exception to increase the floor area of the fitness and exercise center by adding 1,300 sq. ft. (1st and 2nd floor) next door to the existing 1700 sq. ft. (totaling 3,000 sq. ft.). Since the proposed and existing space is in excess of 2,000 sq. ft. of gross leasable area, the applicant is required to obtain Town Council approval and a finding that the proposed use is town serving.

Ex-parte communication was declared by Councilman Goldblum with Attorney Ziska; and President Pro-Tem McLendon declared he met with Attorney Ziska.

Attorney Maura Ziska, on behalf of the applicant, Just For You, addressed the Town Council and advised that Leticia Gnazzo, business partner for the exercise fitness center, was present. She explained that the fitness center wants to increase their square footage to over 2000 square feet which requires obtaining a special exception approval.

Ms. Ziska informed the Town Council that Just For You has been in business in the Town of Palm Beach for seven years. She added that their accountant submitted a letter stating they are Town serving and that more than 75% of their clients are Palm Beach Town persons.

Ms. Ziska stated after reviewing the staff comments, and after conversations with Zoning Administrator Paul Castro, she was aware that the Fire Marshall had concerns about being able to sprinkler and/or provide separate egress for the second floor. She advised that they have been unable to meet with the Fire Marshall, at the site, but would like to arrange a meeting to discuss his concerns and what options were available to them. She informed the Town Council that they would comply with the Fire Marshall's requests.

Zoning Administrator Paul Castro advised that staff had two areas of concern. He stated that one was the second floor means of egress and ingress; and the second issue was the sprinkling of the second floor. He advised that staff recommends permanently sealing off the second floor until the work starts, which would be out of season. He explained that the applicant has one year from the date of their approval to come back and do the work. He stated approval would be contingent on sprinkling the entire space as well as providing a second means of egress.

Councilman Brooks made a motion to approve Special Exception No. 21-2004 subject to the Fire Marshall's approval. Further discussion took place, and a vote was not taken on the motion.

Mayor Smith asked Ms. Ziska why her clients would spend this amount of money when in a year or two the property may be demolished? She stated they were aware that this space was under contract for development, and the part where Just For You would be located will be demolished.

Ms. Ziska advised the Mayor that it was uncertain if their plan would be feasible, but since they had applied several months ago, they decided to continue with it and seek approval today.

Discussion continued regarding lease renewals and Mayor Smith asked Ms. Ziska if it was possible that her client might not do the project?

Ms. Ziska advised that the applicant's lease had just been renewed. Mayor Smith stated that two other businesses just had their leases renewed with three options, but do not know what the outcome will be.

Mayor Smith asked if there was the possibility that this project may not be done, and Ms. Ziska advised that it was a possibility.

At the request of President Wyett, Mr. Brooks agreed to amend his motion to add that no additional reserved parking signs should be put outside as a result of the lease.

Councilman Brooks made a motion to approve Special Exception No. 21-2004 subject to the Fire Marshall's approval and with the condition that no additional reserved parking signs should be put outside as a result of the lease. The motion was seconded by Councilman Goldblum. On roll call the motion carried 5/0.

e. SPECIAL EXCEPTION #22-2004 WITH SITE PLAN REVIEW The application of The Mar-a-Lago Club, LLC relative to property described as lengthy legal description on file; commonly known as 1100 South Ocean Boulevard; located in the R-AA Zoning District. Application to modify an existing Special Exception to add a driveway on the north side of the new pavilion ballroom to drop off members.

Ex-parte communication was declared by Councilman Goldblum via a telephone conversation with Attorney Royce, and Councilman Goldblum viewed the property when he recommended to Mar-A- Lago that they put in the road; President Pro-Tem McLendon via a telephone conversation with Attorney Royce; President Wyett via a conversation with Attorney Royce in the Town Council chambers; Councilman Brooks via a telephone conversation with Attorney Royce and via a conversation with Attorney Royce earlier today relative to the present petition; Councilman McDonald received an e-mail from Attorney Royce but had no conversation with him.

Attorney Ray Royce, on behalf of the applicant, addressed the Town Council stating that he thought it was last April when Councilman Goldblum made an excellent suggestion to add a driveway near the front entrance of the ballroom for dropping people off and picking them up.

Attorney Royce, using a drawing to show the layout of the Mar-A-Lago Club, explained the current procedure used for drop off and pick up of members. He pointed out the location proposed for the driveway stating that it would allow people to be dropped off and picked up at an area closer to the ballroom. He continued that it would facilitate internal traffic and would not in any way cause difficulty for others since it was a purely internal situation. He advised that it would assist elderly and handicapped people; it would reduce wear and tear on the main house; and it would reduce the need for people having to go up and down stairs.

Zoning Administrator Paul Castro said the staff's comments were related to the application itself and to the Declaration of Use Agreement's Amendment of 1999. He continued with staff comments stating that the proposed driveway did not appear to impact any of the surrounding properties. He advised that the applicant was not proposing any modification to the Traffic Management Plan. He reported that this driveway would provide more flexibility as well as the opportunity for members and guests to be dropped off directly at the pavilion.

Mr. Castro stated that exiting the property was the responsibility of the Mar-A-Lago Club since it was internal to the site. He explained that it was at the discretion of the Chief of Police to allow the Mar-A-Lago Club to use Southern Boulevard as an exit or entrance. He stated that it was also at the discretion of the Chief of Police to determine how many special duty police officers would be required at the site.

Councilman McDonald told Mr. Royce that he disagreed with this request. He said he did not feel it would be an improvement after looking at the plan. He used the drawing to show that a canopy could be installed between the short walkway and the open area. He stated that he thought there already was a canopy part way now. He continued that he did not see any advantage to having elderly people drive all that way at night.

Councilman McDonald asked if there would be an exit on Southern Boulevard or would they have to drive back to South Ocean Boulevard?

Mr. Royce stated, at the current time, the members could use the Southern Boulevard exit, but to the best of his knowledge, it has never been used as it has not been necessary. He advised that Mr. Castro was correct that the current Traffic Management Plan stated the Chief of Police had to approve the use of Southern Boulevard as an entrance or exit.

Mr. Castro reiterated that it was at the discretion of the Chief of Police whether they use Southern Boulevard to exit and unless they got permission, they have to exit at South Ocean Boulevard.

Councilman McDonald stated a fair amount of green space would be lost on what used to be a golf course. He advised that people do not mind walking through the main building which has a beautiful entryway into the club. He continued that they then walk through a protected area until they come to the square dancing ballroom. He explained that if a canopy was added from the square dancing ballroom to the new ballroom, it would not be necessary to add the driveway. He said it was a very narrow road that would go through two parking areas that are also very narrow. He did not see it as an improvement for the kind of drivers that would be using it.

Mr. Royce advised that they would like the option. He continued that it was another alternative that wouldn't have an negative impact on anyone else, and the members can ultimately decide to use it or not.

Discussion ensued regarding the number of seats in the new ballroom and how it would affect the flow of traffic into Mar-A-Lago from South Ocean Boulevard. Councilman Goldblum advised that by adding this driveway the cars would be off the street and onto Mar-A-Lago property and would not affect the traffic flow.

Councilman McDonald asked Mr. Royce how many times the traffic flow in Town was affected?

Mr. Royce stated that it would be to his advantage to say that traffic has often been affected but only one time was when Celine Dion was there. He said that Mr. Goldblum again made an excellent point regarding the number of cars expected per affair. He explained that it would increase with the new ballroom because the tent capacity was 600 and the approved capacity of the ballroom was 700. He stated that additional traffic can be anticipated. He advised that this driveway would give them an alternative.

Councilman McDonald asking Mr. Royce if this was originally his proposal, was advised that it was not.

Mayor Smith stated that it was a very good idea. She explained that the same thing was done at The Breakers and the women like it. She said that they do not have to worry about being windblown because they are dropped off right at the door.

Councilman Goldblum stated that it was needed due to the American Disability Act since there was no way to get from the front door to the new pavilion.

Councilman McDonald stated that the driveway would be a problem.

Mr. Royce stated that there would be police officers assisting and that they would have appropriate traffic direction.

Discussion took place regarding the Southern Boulevard entrance and it was determined that it could be utilized for exiting and entering with the approval of the Police Department.

Councilman McDonald stated that the lighting was not bright enough and would have to be dramatically increased..

Planning, Zoning and Building Direct Robert Moore stated that he would like to address three things. He said that Mr. Castro was correct when he said the Chief of Police and Mar-A-Lago must agree, depending on the event and number of people expected at that event, how many special duty police officers would be needed. He stated that this was done currently on a regular basis.

Mr. Moore, in response to the Mayor's comment about Southern Boulevard, said that this has always been a tough issue. He advised that there will be additional cars because the ballroom will hold 700 people as opposed to the 600 allowed in the tent. He said that valets would be needed to assist with that, and Mr. Royce did say that they would have valets.

Mr. Moore stated that Mr. McDonald was correct that the parking lot lighting was not sufficient, and they would need better lighting.

Mr. Royce stated that they do have a very sophisticated traffic management plan that was approved in conjunction with the ballroom approval. He said it does require extensive cooperation and permission from the Police Department, and they are required to have special duty police officers at all events.

Mr. Royce asked if they could look at the lighting with staff and was told he could.

Mr. Moore stated that he could work it out with staff but he would have to take it before the Landmarks Preservation Commission for final approval.

Councilman Brooks moved approval of Special Exception #22-2004 with Site Plan Review, with the condition the lights be modified and with the condition that the valet situation be investigated. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried 5/0.

f. SITE PLAN REVIEW #10-2004 WITH VARIANCE The application of Roxanne Quimby relative to property described as Townhouse Lot 11, Sloan's Curve Phase III; commonly known as 11 Sloan's Curve Drive; located in the PUD-B Zoning District. Variance to allow a 127 sq. ft. infill addition which will enclose an atrium and will increase the lot coverage to 35.9% in lieu of the 34.7% existing and the 35% maximum allowed in the PUD-B district. The proposed addition modifies a previously approved site plan in a PUD.

Ex-parte communication was declared by Councilman Goldblum with Attorney Ziska; and President Pro-Tem McLendon with Attorney Ziska.

Attorney Maura Ziska, on behalf of the applicant, stated that the request before the Town Council was for an infill addition/enclosure of an existing open area roof atrium. She stated that the variance was for 127 square feet making it a very minimal request. She advised that the variance was for a lot coverage variance of 35.9% in lieu of 35% and the existing was 34.7%.

Attorney Ziska explained that currently it was an open atrium that contains rocks, gravel, mold, mosquitos and insects. She continued that it was an eyesore, and the applicant wants to enclose it and incorporate it into the main residence. She passed out several photographs of the atrium. She reported that it would not be seen from the outside but it would be part of the roof with two skylights. She added that the front facade would have no adverse effect on neighborhood

Attorney Ziska stated that the hardship was the existing condition of the atrium which is a non-functional eyesore. She said that the zoning codes have changed since the construction of the townhouses in the 1970's. She advised that the reason for the variance is that the new zoning codes have decreased the lot coverage.

Director of Zoning, Planning and Building Robert Moore explained that the atriums were put in to negate lot coverage and provide green space. He stated that this is the second or third application of this nature, and the first one or two were granted.

President Wyett mentioned that the way the house was constructed was creating mold.

Mr. Moore said that would not be a zoning hardship but would be a construction hardship.

Attorney Ziska said it is a cesspool because it catches the rain water and collects insects. She reiterated that the atrium was not functional and was ugly.

President Pro-Tem McLendon made a motion to approve Site Plan Review #10-2004 with Variance. The motion was seconded by Councilman Goldblum. On roll call the motion carried 3-1: President Allen Wyett, President Pro-Tem McLendon, and Councilman Goldblum casting affirmative votes; Councilman McDonald cast a dissenting vote. Councilman Brooks was temporarily out of the room.

g. <u>SITE PLAN REVIEW #11-2004 WITH SPECIAL EXCEPTION MODIFICATION</u> The application of Three Seventy Five South County Associates (Owner) and Savanna's P.B. Partnership, Ltd.- Amici Restaurant (Tenant) relative to property described as Royal Park Addition, Lots 1 to 4 inclusive (less road right-of-way), Block 9 and Royal Park Addition, West 22 feet of Lot 66 and Lots 67 to 69 inclusive, Block 9; located in the C-TS Zoning District. Site Plan Review to relocate the main entrance of the restaurant to South County Road (west side of building); to relocate an existing palm tree from the area of the new proposed entrance marquee; to relocate the door to the outdoor dining area, thereby increasing the air conditioned area of the restaurant by 74.62 square feet; to close the outdoor entrance to the outdoor dining area on Peruvian Avenue and provide seating in that newly enclosed area; to relocate the bar from the east side of the building to the west side of the building adjacent to South County Road and away from the adjacent residential area; to allow a sliding glass window at the bar into the outdoor dining area to create an indoor/outdoor bar area; to decrease the double doors on the west side of the bar into a single door to the outdoor dining area; to provide a sidewalk canopy along Peruvian Avenue and a portion of South County Road; to provide a private dining room; to allow the installation of bi-fold glass windows in the outdoor dining area to provide protection to patrons as weather conditions dictate; and, to add an indoor fire place.

Ex-parte communication was declared by Councilman Goldblum with Attorney Kolins; President Pro-Tem McLendon had a conversation with Mr. Kolins and a tour by Maurizio Ciminella; President Wyett had a conversation with Mr. Kolins and a tour by Maurizio Ciminella; Councilman Brooks walked the facility as the guest of Maurizio Ciminella; Councilman McDonald visited the property and had a conversation with Maurizio Ciminella.

Attorney Kolins, on behalf of the applicant, stated that the Town Council had previously granted site plan and special exception approval to Amici Restaurant to move into the site of what was Savanna's Restaurant. He advised that a lot of thought has gone into the design and layout of the restaurant.

Attorney Kolins informed the Town Council that the bottom line was two-fold. He explained the first one is that the primary activity of the restaurant could impact the people living on the east, but it has been moved over to the west side. He stated, secondly, the entrance has been relocated, which changes the configuration of the interior of the building. He informed the Town Council that it is a much more appealing place from a business standpoint, and said that the entrance really should face South County Road and not Peruvian Avenue or the Post Office. He said that these changes in the restaurant will not negatively impact anyone or anything.

Gene Lawrence, Architect, using diagrams, showed the Town Council the configuration of Savanna's Restaurant. He explained that the proposal is to close off the Peruvian Avenue entrance and place the entrance on South County Road. He showed the location of the bar and how customers would enter the outdoor dining area and where the private room would be placed. He explained that these changes would help with the drainage problems that occurred on Peruvian and with water running into the restaurant.

Mr. Lawrence stated that there were two other minor issues. He said that a fireplace had been added and the applicant had asked for accordion glass closures for the outdoor dining area. He reported that they were withdrawing that request because they have found a better way to do it with isinglass windows that come down.

Mr. Lawrence explained that the other issue was before the Architectural Commission and advised the canopy on Peruvian had been eliminated. He reported that the canopy had been added to South County Road requiring a Florida Department of Transportation (FDOT) permit. He informed the Town Council that the applicant has decided to keep both canopies because they felt it would be more convenient for customers.

Mr. Kolins clarified that Mr. Lawrence was referring to the two marquees and not the awning

Councilman Goldblum asked why the canopy was needed on Peruvian Avenue?

Mr. Kolins responded that the valet parking would be located there and the marquee would go all around the restaurant.

Mr. Lawrence showed where the parking was located stating that all parking was off County Road and that the customers would walk under the canopy to enter the restaurant.

Zoning Administrator Paul Castro advised that staff had a some concerns regarding this plan. He stated that a FDOT permit would be required before that part of the application regarding South County Road could be considered.. He stated that, at the present time, they do not have that in hand.

Mr. Castro said that there will be confusion as customers will want to valet park on South County because the marquee goes all the way out to the curb. He continued that people will naturally want to pull up on South County Road and exit there rather than pulling on to Peruvian or to the Apollo lot.

Mr. Castro, using visuals, showed the location of a fire hydrant that was blocked by a planter. He advised that the access had to be cleared or the hydrant had to be moved. He continued that some banquet seating had to be modified.

Mr. Castro showing the location of the private dining area, said that was the location of the bar when the restaurant was Savanna's. He said that a condition of approval for Savanna's was that the windows were to be closed during the night hours to protect neighbors from the noise.

Mr. Castro stated that the open bar outside was also cause for concern regarding noise. He explained that the outside open bar has a pass through from the open bar on the inside next to the front door.

Mr. Castro stated that they do think the front entrance on South County is a good idea because it segregates the restaurant away from the residential area to the east; and because the Fire Marshall wants that door eliminated or moved. He advised that the reason the Fire Marshall requested this was due to some storage in that area, and clear ingress and egress back to the kitchen area would be needed.

Mr. Castro advised that the seating will remain at 150 seats combined both inside and out at any one point in time.

Mr. Lawrence advised that it was felt they could successfully place signs on the corner to get the Amici parking valet around the corner. He also stated that they would be glad to work with the Fire Marshal.

Mr. Kolins said that were cognizant of having to obtain FDOT approval for the marquee on South County Road. He advised that the holdup in obtaining same has been in getting Mr. Handelsman, the property owner, to sign the application. He stated that he spoke to him yesterday and did not anticipate a problem. He asked that the Town Council approve the marquee but subject to the condition that before the marquee is built, the permit will have to be produced.

Mr. Kolins, using visuals, addressed the bar serving area stating that it was pretty far west of any residents and would present a reduction in noise, because the drinks can be passed through, avoiding numerous trips back and forth by the waiters and waitresses. He continued that this made for a more efficient operation of the restaurant as well as a better situation for the residents.

Mr. Castro stated that there are still concerns regarding the open bar.

Councilman Brooks asked if the doors in the front have been changed to open out instead of in?

Mr. Kolins responded that it had been.

Councilman Brooks asked if the fireplace was a faux fireplace or natural?

Mr. Lawrence responded that it would be gas.

Councilman Goldblum asked if there were bar stools on the patio side because he would like a time limit placed.

Mr. Kolins stated that there are time limits already on as to when they have to stop serving outside.

Mayor Smith suggested that the Town Council allow them to use the bar as a pass through for the first six months, and if there is a problem, it could be discussed then. She stated that it sounds like it is a much better idea for service.

President Wyett, in response to asking if the marquee on South County Road would have the name Amici on it, was told that it was not allowed to have the name on it.

Discussion took place regarding President Wyett's concerns regarding the internal operation of the restaurant. He said that there will be a tremendous amount of traffic going back and forth through a narrow pathway.

Mr. Castro advised that there are concerns, one being, the past conditions of approval that this restaurant location has had placed on it over the years. He said the concern was that no more food could be ordered after 10:00 p.m. when dining outside, but the bar remained open until 1:00 a.m. He stated that clarification was needed as to when last call at the bar was to be. Discussion took place regarding Mr. Castro's concern regarding last call at the bar.

Councilman McDonald requested assurance that there will be no cars allowed to pull up on South County Road for valet parking. He also had concerns regarding the noise aspect since the entire restaurant is being redone. He advised that at the Ordinances, Rules & Standards (ORS) meeting, it was recommended that any new restaurant would have to address this issue.

Mr. Lawrence read the Town's list of potential acoustical modifications and stated that most of them could be complied with He then explained what steps had been taken regarding this list.

President Wyett recommended that it should be required that the outside bar close at 10:00 p.m.

Mr. Kolins asked Mr. Castro if last call for food outside was 10:00 p.m? He requested that it be amended, and asked if the bar could be closed at 11:00 p.m. because there will be people out there eating, if they order at 10:00. He advised that the inside bar would remain open.

President Wyett stated that liquor could still be served from the inside bar to the people eating outside after that time.

Councilman Goldblum made a motion to approve Site Plan Review #11-2004 with Special Exception Modification with the following conditions. The motion was seconded by

President Pro-Tem McLendon. On roll call the motion carried 5/0.

- **FDOT permit required for marquis permit**
- **Use of outside bar for a six month period when it will be reviewed by the Town Council. The review period will be six months from the opening of the restaurant.**
- **No valet parking on South County Road will be permitted**
- **No outdoor music**
- **Walls to the restaurant will be R19**
- **R21 acoustical tiles in the ceiling**
- **Hard floors only in the bar area**
- **Outside bar will close at ll:00 p.m.**

3. Other

   a. Request for Extended Construction Work Hours/Days at Mar-a-Lago. [Robert L. Moore, Director of Planning, Zoning, and Building]

Attorney Ray Royce stated that construction on the ballroom has been slow due to the rainy weather. He said they would like to build from 7:00 a.m. to 7.00 p.m. Monday through Saturday. He said it would facilitate their being able to finish this before the end of the season. He advised that they were not asking for any extension or to work on Sundays or holidays.

Mayor Smith asked when they anticipate having the ballroom finished if the Town Council allowed the extended construction work hours?

Mr. Royce stated they hoped by the end of the year, and they had thought they would be finished by November but that was probably too optimistic.

Eric Baumgarten, Project Manager with Worth Builders, stated they were trying to maintain an aggressive schedule and the extended hours would allow them to get as close as possible to their projected schedule. He said they are working as hard as they can both inside and out.

Mr. Baumgarten, in response to being asked when he anticipated being done if they granted the request for extended hours, replied that as of now their schedule is for mid to late November. He said their goal is December 1st but there is the possibility that they could be finished before that time.

Councilman Goldblum asked Mr. Baumgarten what the time lines were for the completion of the exterior and interior work?

Mr. Baumgarten stated that they would be completed concurrently as they were working both inside and out. He said the building should look complete by season.

Mr. Moore requested that they finish the exterior by December 1st and the interior by December 15th.

Councilman Brooks moved approval of the request for extended construction work hours/days at Mar-A-Lago with the following conditions. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried 5/0.

- **Work hours are from 7:00 a.m. to 7:00 p.m. Monday through Saturday**
- **No work on Sundays or Holidays**
- **Exterior work to be completed by December 1, 2004 and interior work to be completed by December 15, 2004**

XIII. ANY OTHER MATTERS

Attorney Randolph read the following notice to applicant regarding the 4 Winds demolition:

Based upon a finding that the above referenced Landmarked house has been demolished without application to or approval of the Landmarks Commission, the Town Council at its meeting of August 10, 2004, has stated its intent to revoke the building permit for the project. Additionally, the Town Council voted to establish a committee to be appointed by the Mayor to investigate the circumstances involving this demolition.

You will be advised in regards to the details regarding the establishment of this

committee and the date or dates upon which it will meet. You and your representative are invited to appear before the committee and present any information you have relating to this matter.

Prior to the revocation of your permits, you are afforded the opportunity to show cause as to why the permit should not be revoked by filing a notice of appeal no later than August 20, 2004. Said appeal to be considered at the Town Council meeting of September 14, 2004.

In the event of a timely filing of an appeal, your permits will remain open, but all work on the property shall be abated until your appeal can be heard. In the event you choose not to appeal, your permits will be revoked.

PLEASE GOVERN YOURSELVES ACCORDINGLY.

The Building Department will distribute the above notice.

XIV. ADJOURNMENT

There being no further business, the regular Town Council Meeting of August 10, 2004 was adjourned at 4:04 p.m. *(Please Note: The regularly scheduled Town Council Meeting of September 14, 2004, was re-scheduled to be held on Monday, September 27, 2004 at 9:30 a.m., due to Hurricane Frances).*

Allen S. Wyett
Town Council President

Mary A. Pollitt
Town Clerk