

TOWN COUNCIL MINUTES OF AUGUST 10, 1993

Roll Call

I. CALL TO ORDER AND ROLL CALL - The August 10, 1993 Town Council meeting was called to order by President Weinberg at 9:30 AM on August 10, 1993 in the Town Hall Council Chambers. On roll call, the following elected officials were found to be in attendance: Mayor Ilyinsky, President Weinberg, President Pro Tem Wiener, Councilwomen Smith and Royal. (Councilwoman Douthit was not in attendance). Also attending for all or portions of the meeting were Town Manager Doney, Town Attorney Randolph, Town Clerk Peters, Chief Terlizzese, Chief Elmore, Mr. Elwell, Mr. Jakubiak, Mr. Dusey, Mr. Bowser, Mr. Ugi, Mr. Moore, Mr. Frank, Mr. Zimmerman, Mrs. Zamecnik, Mr. House, Mrs. Martinuzzi and Mrs. Kelly.

Invocation

II. INVOCATION AND PLEDGE OF ALLEGIANCE - Invocation was given by Father Gushee of Bethesda by the Sea Episcopal Church. Invocation was led by President Pro Tem Wiener.

III. PRESENTATIONS

John Rybovich

A. Recognition of John Rybovich, Jr. - Code Enforcement Board - Mrs. Rybovich and her son were presented with a plaque in recognition of John Rybovich, Jr.'s service to the Town on the Code Enforcement Board.

Ben Walton

B. Recognition of E. Ben Walton, Jr. - Building Board of Adjustments and Appeals - Mr. Walton was not in attendance and this item was put over to the next meeting of the Council.

IV. COMMENTS OF THE MAYOR - - None.

V. APPROVAL OF AGENDA - Mr. Doney suggested two items be added to the Regular Agenda under Any Other Matters and they are:

Bridge
Rehabilitation

1. Consideration of the bridge rehabilitation for the Royal Park, Flagler Memorial and the Southern Blvd. bridges, as proposed by the DOT;

Deadline for
written materials

2. Consideration of request for deadline for submission of written materials in advance of Town Council meetings.

Motion was made by Mrs. Wiener, seconded by Mrs. Royal to approve the regular agenda with the two additions. On roll call, the motion carried unanimously.

Approved Agenda

APPROVED AGENDA (ITEMS VI. THROUGH VII.)

VI. APPROVAL OF MINUTES OF JUNE 1, 3, AND JULY 29, 1993

Licenses & Permits

VII. LICENSES AND PERMITS

Charitable
Solicitations

A. Charitable Solicitations

1. Palm Beach Community Chest/United Way, Inc.; No. 8-94
2. The Henry Morrison Flagler Museum; No 74-94
3. Preservation Foundation of Palm Beach, Inc.; No. 192-94
4. Hospice Guild of Palm Beach County; No. 205-94
5. International Game Fish Association, Inc., No. 235-94
6. Growing Together, Inc.; No. 339-93

A motion was made by Mrs. Wiener, seconded by Mrs. Smith to approve the "Approved Agenda" as printed. On roll call, the motion carried unanimously.

Regular Agenda

REGULAR AGENDA

VIII. LICENSES AND PERMITS

Charitable
Solicitations

A. Charitable Solicitation

1. Poinciana Young Peoples Theatre Company, Inc.; No. 149-94 - Mrs. Peters advised this organization was late in submitting their Results form. Mrs. Barbara Gault addressed the Council indicating the date for filing the form was at the time when they are extremely busy at the Playhouse and she was swamped and apologized for the late filing, indicating she will try to see it doesn't happen again. Mrs. Wiener moved as a result of this commitment the Council has just received, she will move for approval for the Charitable Solicitation Permit for the Poinciana Young Peoples Theatre. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

IX. COMMITTEE REPORTS

Committee
Reports

A. Public Works Committee Report of July 16, 1993

Public Works
Report

REPORT OF THE PUBLIC WORKS COMMITTEE MEETING HELD ON
JULY 16, 1993

Roll Call

I. CALL TO ORDER AND ROLL CALL: Meeting of the Public Works Committee was called to order by Chairperson Smith at 9:30 AM on July 16, 1993 in the Town Hall Council Chambers. On roll call Chairperson Smith and Committee Member Weinberg were found to be in attendance. Also attending were Councilwoman Douthit, Mr. Doney, Mrs. Peters, Mr. Dusey, Mr. Bowser, Mr. Ugi, Mr. Elwell, Mr. Crouse, Mr. Jakubiak and Mrs. Martinuzzi.

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

III. CONSIDERATION OF PROPOSED RENOVATIONS FOR SECOND AND THIRD FLOORS OF TOWN HALL: During the course of the meeting, the Committee and others in attendance completed a walking tour of the second floor and third floor areas to familiarize themselves with the physical areas which would be affected by the renovations proposed.

OFFICES ON THE SECOND FLOOR IN THE REAR OF THE COUNCIL CHAMBERS: After discussion, THE COMMITTEE RECOMMENDATION is to remove the wall between the two small offices on the west side of the Council Chambers to make a conference room. Discussion was had on the paneling on the wall in the southern office and Mrs. Smith will investigate the history on the paneling and, if possible and feasible, attempts will be made to salvage the paneling. After discussion, it is the COMMITTEE'S RECOMMENDATION THAT THE OFFICES IN THE REAR OF THE TOWN COUNCIL CHAMBERS BE RENOVATED WITH THE OFFICE CEILINGS RAISED. The Committee requested Mr. Dusey to return to the next Public Works Committee meeting with an estimation of what it would cost to raise the walls of the rooms in the rear of the Council Chambers to the ceiling of the Town Council Chambers, and what it would cost to raise the walls to the cross member of the windows.

PERSONNEL OFFICES: After discussion, it is the RECOMMENDATION- MENDATION OF THE COMMITTEE that the office now being used by the Mayor and Town Council be renovated for use by the Personnel Department to comply with ADA regulations and to complete related renovations of these offices.

LADIES ROOM AT REAR OF TOWN COUNCIL CHAMBERS: After discussion, it is the RECOMMENDATION OF THE COMMITTEE that renovations to the Ladies' Room in the amount of \$21,700 be postponed.

CEILING AND AIR CONDITIONING RENOVATIONS ON THE SECOND FLOOR HALLWAY: After review, the COMMITTEE RECOMMENDS the renovations to the second floor hallway in the amount of \$33,679 be deleted, with the exception of modifications that may be necessary due to the ADA regulations and the remainder of the funds to be used for the renovation of the Personnel Department.

THIRD FLOOR CONFERENCE ROOM RENOVATIONS: After discussion, it is the RECOMMENDATION OF THE COMMITTEE THAT AUTHORIZATION BE GRANTED IN THE AMOUNT OF \$52,618 TO RELOCATE THE MAYOR AND TOWN COUNCIL OFFICE TO THE THIRD FLOOR WITH DESKS AND FILE CABINETS FURNISHED FOR THE MAYOR AND TOWN COUNCIL, AS SPACE WILL ACCOMMODATE. Chairperson Smith will report at the next Public Works Committee Meeting on her analysis of the space accommodations. This recommendation is made to eliminate the cost of the electrical cabling and other electrical work necessary to relocate the AS400 computer, and the possibility that the third floor would have to be reenforced. IT IS FURTHER RECOMMENDED THAT THE THIRD FLOOR HALLWAY RENOVATION BE AUTHORIZED IN THE AMOUNT OF \$17,500. Mr. Doney stated that he has concerns regarding the Mayor and Town Council moving to the third floor (away from the Town Manager's Office). The Committee requested Mr. Doney to enumerate his comments in a memorandum to the Mayor and Town Council.

ADMINISTRATIVE AREA (Office Space for personnel in Town Manager's Offices): After discussion, it is the RECOMMENDATION OF THE PUBLIC WORKS COMMITTEE that the work proposed in the Administrative Area in the amount of \$48,700 be deleted.

DATA PROCESSING AREA: After discussion, THE COMMITTEE RECOMMENDED THE AMOUNT OF \$88,504 FOR RELOCATION OF THE DATA PROCESSING PERSONNEL AND THE COMPUTER TO THE THIRD FLOOR BE DELETED. FURTHER RECOMMENDATION OF THE PUBLIC WORKS COMMITTEE WAS THAT THE WORK PROPOSED IN THE AMOUNT OF \$26,100 FOR THE RENOVATION OF THE AREA WHERE THE DATA PROCESSING DEPARTMENT IS LOCATED BE DELETED AND THIS BE RECONSIDERED FOR FISCAL YEAR 94/95. THE PROPOSED COST TO RENOVATE THE COMPUTER ROOM IN THE SPACE NOW OCCUPIED BY THE DATA PROCESSING PERSONNEL FOR USE OF THE MAYOR AND TOWN COUNCIL IN THE AMOUNT OF \$42,174 WAS DELETED. The Public Works Committee was informed that the space now accommodating the AS400 Computer would probably have to be expanded in FY95 OR FY96, TO ACCOMMODATE NECESSARY EQUIPMENT.

IV. CONSIDERATION OF COMMERCIAL SOLID WASTE REVISED FEES, BILLING SYSTEM AND RELATED ISSUES: After discussion, IT IS THE COMMITTEE'S RECOMMENDATION THAT THE BILLING SYSTEM BE CONVERTED TO ONE BASED ON THE SOLID WASTE AUTHORITY'S CLASSIFICATION FOR COMMERCIAL PROPERTY AND PROPERTY OWNERS BE BILLED, ON A QUARTERLY BASIS, RATHER THAN THE PRESENT SYSTEM WHICH IS TO BILL TENANTS ON A MONTHLY BASIS. THE COMMITTEE REQUESTED THAT AN ORDINANCE BE PREPARED TO EFFECT THIS CHANGE IN THE TOWN'S BILLING SYSTEM.

IT IS FURTHER RECOMMENDED THAT AN ORDINANCE BE ADOPTED DESIGNATING THE TOWN OF PALM BEACH AS THE SOLE PROVIDER OF SOLID WASTE SERVICES WITHIN THE TOWN (WITH THE TOWN CONTRACTING FOR COLLECTION AND DISPOSAL OF COMPACTED GARBAGE. Please refer to Mr. Dusey's memorandum to Mr. Doney dated July 9, 1993 (with attachment).

If the above recommendations are adopted, the Ordinance adopting the recommendations will have its first reading at the September 1993 Town Council meeting.

V. CONSIDERATION OF PUBLIC WORKS FACILITY STORM PROTECTION STUDY: After consideration and hearing the comments of staff (reference memorandum (with enclosures) from Mr. Doney to Public Works Committee dated June 23, 1993) it is THE COMMITTEE'S RECOMMENDATION THAT SINCE THIS IS AN EXTREMELY IMPORTANT ITEM, THAT THE MAYOR AND FULL TOWN COUNCIL SHOULD SCHEDULE A SPECIAL TOWN COUNCIL WORKSHOP FOR FURTHER CONSIDERATION OF THIS SUBJECT, DUE TO THE FACT THAT THE COMMITTEE MEMBERS DISAGREED ON THIS ISSUE.

VI. CONSIDERATION OF PROPOSED ENERGY CONSERVATION PROGRAM FOR TOWN BUILDINGS: After hearing a summarization of the Energy Conservation Study done by the Department of Public Works (Please refer to memorandum (with attachments) dated July 16, 1993 from Mr. Doney), it is the COMMITTEE'S RECOMMENDATION TO AUTHORIZE THE CONVERSION OF THE FLUORESCENT LIGHT SYSTEM TO THE MORE ENERGY EFFICIENT BULBS AND ELECTRONIC BALLASTS, AND THAT THIS CONVERSION BE PAID FROM ENERGY SAVINGS VIA THE LEASE/PURCHASE OPTION WITH A PARTICIPATING FP&L CONTRACTOR.

IT IS THE PUBLIC WORKS' COMMITTEE'S FURTHER RECOMMENDATION THAT AUTHORIZATION BE GIVEN TO INSTALL WINDOW FILM TO REDUCE COOLING COSTS, AND THIS COST WOULD BE FINANCED FROM ENERGY SAVINGS DUE TO THE FILM INSTALLATION TOGETHER WITH THE ENERGY SAVINGS FROM THERMOSTAT CONTROLS WITH ANY REMAINING COSTS TO BE COVERED BY THE GENERAL FUND BUDGET.

ANOTHER RECOMMENDATION BY THE PUBLIC WORKS COMMITTEE IS THAT THE TOWN ADOPT AN ENERGY POLICY OF MAINTAINING A COOLING TEMPERATURE IN TOWN BUILDINGS OF NO LESS THAN 78 DEGREES FAHRENHEIT IN ALL

Public Works
Report (cont'd)

Renovations of
Town Hall

Commercial
Solid Waste
Fees & Issues

Storm Pro-
tection Study

Town Energy
Conservation

MAJOR TOWN FACILITIES. A suggestion was made that the residents of the Town also be made aware of the savings they could achieve in this regard by coordinating the installation of energy saving measures with Florida Power & Light Co.

VII. WATER CONSERVATION PROGRAM - CONSIDERATION OF WATER AUDITS. Mr. Gerry Goldsmith addressed the Committee informing them of what the Palm Beach Country Club has done to conserve water such as the installation of monitoring devices and investigating alternatives with City of West Palm Beach Utilities Department and the South Florida Water Management District. Mr. Goldsmith offered his assistance, with the Club being a principal user of water in the Town, to find solutions and to work with the Town and other large water users in any way possible to help with the water conservation program.

Mrs. Smith said Mr. Moore was already organizing a meeting of all the large users of water (the golf courses and the large condominiums) in the Town and the implementation of the Water Conservation Program had begun at the April and May Public Works Committee meetings, when Mr. Goldsmith was not present.

After discussion, it is the COMMITTEE'S RECOMMENDATION THAT THE ORDINANCE ON WATER CONSERVATION BE AMENDED TO ALLOW LANDSCAPE WATERING BETWEEN 9:00 PM AND 9:00 AM, RATHER THAN THE 5:00 PM TO 9:00 AM WHICH IS CURRENTLY ALLOWED. A FURTHER RECOMMENDATION OF THE PUBLIC WORKS COMMITTEE IS TO IMPLEMENT THE PROPOSED WATER AUDIT PROGRAM UTILIZING EXISTING TOWN STAFF, WHICH WILL BE THE CODE COMPLIANCE OFFICERS AND ONE OR TWO PEOPLE FROM THE PUBLIC WORKS DEPARTMENT. THESE INDIVIDUALS WILL BE TRAINED EITHER BY THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT, THE CITY OF WEST PALM BEACH, OR A PRIVATE RESOURCE. The Committee also requests staff contact the City of West Palm Beach after October 1, 1993 to make the determination as to whether or not there will be sufficient resources to resurrect the Plan to implement the water audits as a joint project between the Town of Palm Beach and the City of West Palm Beach.

VIII. ANY OTHER MATTERS. None.

IX. ADJOURNMENT. Meeting was adjourned at 12:45 PM.

Signed by Lesly Smith, Chairperson and M. William Weinberg, Committee member.

Mrs. Smith explained the first recommendation is to renovate the offices in the rear of the Town Council Chambers with the most west- wardly offices made into a conference room and the easterly room renovated with both having the ceilings raised. Mrs. Wiener so moved. Mrs. Royal seconded the motion. On roll call, the motion carried unanimously.

Mrs. Smith noted the second item was the renovation of the Personnel Offices and the renovation of the Ladies Room at the rear of the Town Council Chambers and the Committee decided that since the cost was \$21,700 to renovate the Ladies Room, this item be postponed. Mrs. Wiener felt this was false economy and it should be renovated. Mrs. Royal asked what were they getting for \$21,000. Mr. Dusey responded it would be for re-tiling the facility, new door and hardware, new ceramic tile floors, suspended ceiling, vanity unit for the sink and new fixtures. Motion was made by Mrs. Wiener that the Ladies Room be renovated with the expense to be not more than estimated at \$21,700 and hopefully it may be less. There was no second to the motion. Mrs. Wiener moved that the recommendation of the Public Works Committee be accepted and the Ladies Room not be renovated. Seconded by Mrs. Smith. Mrs. Royal wondered if there was some other project which could be eliminated, such as the renovation of the third floor for the Mayor and Town Council? Mrs. Smith responded there is nothing else that can be cut. On roll call, the motion carried unanimously.

Mrs. Smith indicated the third item was the ceiling and air conditioning renovation of the second floor hallway and the Committee recommends this be done in the amount of \$33,679 and she so moved. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously. She stated there will be modifications necessary due to the ADA regulations.

Mrs. Smith advised the fourth item was the third floor renovations, and after discussion, it is the recommendation of the Committee that authorization be granted in the amount of \$52,618 to relocate the Mayor and Town Council offices to the third floor, with desks, file cabinets furnished for the Mayor and Town Council as space will accommodate. She stated the recommendation was also made that the third floor hallway be renovated in the amount of \$17,500. Mrs. Smith reported the Town Manager had concerns about the Mayor and Town Council being on the third floor as the original proposal was to place this office on the second floor where the Data Processing personnel and the computer are now located, however, the Committee felt this was a needless expense and recommended the Council move to the third floor. She noted Mr. Doney has written a memorandum to the Mayor and Council which has been distributed. Mr. Doney addressed the Mayor and Town Council noting he thought it was quite important to identify from an operational and day-by-day interaction perspective why he believed they should be on the second floor. He felt it would not be an efficient operation. He recommended that if it is approved, it be done on a trial basis, as he didn't believe they would like it as it will not be convenient. He noted there is no rest room. He thought if they needed some privacy if they were located on the second floor, they could always use the Conference Room on the second floor. He believed there would be a potential problem with security and the equipment room is located on the third floor and when work has to be done on the equipment, it will be noisy. He thought it would be a more coordinated and effective to have the elected officials on the second floor.

Mr. Doney reported the wall where the AS400 Computer is now housed will have to be moved to accommodate new equipment within the next two years, so the one time cost of moving the computer to the third floor would be \$30,000 and this will be a useful life facility of forty to fifty years. Mrs. Smith reported the amount that the Public Works Committee thought they were saving was \$88,504 for the relocation of their offices to the third floor. She advised there was some conversation about the floor needing to be re-enforced and there would have to be new electrical wiring. Mr. Dusey explained it would cost \$50,000 to move Data Processing to the third floor and renovate the Data Processing offices on the second floor for the Mayor and Town Council.

Mrs. Wiener felt it would be very inconvenient for the Mayor and Council to be on the third floor because of the elevator and because of personnel time going back and forth, and she thought it would be more functional to have the Mayor and Council on the second floor and the Data

Processing should be on the third floor which will put them closer to the other people in their Department and it will be a better working situation. She moved that the new offices for the Mayor and Town Council be on the second floor. Seconded by Mrs. Royal. On roll call, the motion carried 3-1 with Mrs. Smith voting against the motion.

renovations
(cont'd)

Mrs. Smith noted the next item considered by the Public Works Committee was the office space for the Town Manager and the Personnel Department and the recommendation is that the work proposed for \$48,700 be deleted. Mr. Doney recalled this has been deferred for the past five or six years and he sees the prior item being the more major concern, and particularly the Personnel renovations as they take over the space now occupied by the Mayor and Town Council.

Mrs. Smith noted the next item was the Data Processing relocation and the Committee recommended this be deleted and this work be postponed to FY94/95. She noted the proposed cost to renovate the Computer Room was deleted, however, in view of the fact the Council has voted to relocate the Data Processing to the third floor and the Mayor and Town Council utilize these offices, the Public Works Committee would have to readdress this and she moved that the Council not act on this part of their Committee Report. Seconded by Mrs. Royal. On roll call, the motion carried unanimously.

Mrs. Smith advised the next item was the consideration of Commercial Solid Waste Revised Fees Billing System and the related issues and the Committee recommended the billing system be converted to one based on the Solid Waste Authority's classification for commercial property and property owners be billed on a quarterly basis, rather than on the present system. She reported the Committee requested an Ordinance be prepared to reflect this change in the Town's billing system and the Ordinance will be considered at a later time. She noted another recommendation is an Ordinance be adopted designating the Town of Palm Beach as the sole provider of solid waste services within the Town with the Town contracting for collection and disposal of compacted garbage. Mr. Dusey reported he found people were not being serviced properly and some individuals were not being serviced at all, and they believed that by adopting the policy recommended they can have a measure of control over the quality of the services provided.

Mrs. Wiener moved the recommendation of the Public Works Committee that the Town be the sole provider for garbage disposal and that the billing be on a quarterly basis. Seconded by Mrs. Royal. On roll call, the motion carried unanimously.

Mrs. Wiener moved that the Ordinance be prepared concerning this change. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Mrs. Smith noted the next item was the consideration of the Public Works facility storm protection and after discussion, it was the Committee's recommendation that this is an extremely important item and the Mayor and Town Council should schedule a Special Town Council Workshop on this issue, as the Committee members did not agree on this subject. Mr. Dusey advised the intent was to provide a facility that could withstand a Category 5 Hurricane to house personnel and equipment so they would be able to respond to the needs of the Town. He advised the cost to armor the building is over five million dollars which would include a parking garage for the Town's major equipment of all Departments and facilities to sleep and bathe for a several week period. He advised the possibility of perhaps building a new facility was considered which would be more cost effective and that was more expensive coming in at over six million dollars. Mrs. Smith recalled this is an extremely important matter and whether or not it is a justifiable expense, it was not for the Committee to say, however, she thought if they don't protect their personnel and equipment, they couldn't expect them to stay on the job to keep the Town coming and this is where the division came about between herself and Mr. Weinberg. She thought it was a complex subject and a workshop should be held.

Public Works
facility storm
protection

Mrs. Wiener asked what would a handful people do in the event there was such a disaster as they couldn't be effective without County, State and Federal involvement. She thought there was no purpose to this being done by one Town and she didn't think it was reasonable. She suggested staff discuss this with the County and see if they are looking into doing something like this, and if so, the Town would have an interest, but she didn't see how this would be of any help. Mrs. Smith recalled there was discussion that a new building might be done to coordinate with other cities and they could all partake of it. She recalled the discussion was that they couldn't ask the staff to stay on the job and be available without protection. Mrs. Wiener thought this was a matter which should be coordinated on the County level and each Town should not be doing this independently.

Mr. Weinberg thought the insurance prospect should also be considered.

Mr. Doney knew the County was looking to put such a facility in place, but the problem is there are 37 municipalities and the County facility would not be sized to be able to house employees and equipment from all of these municipalities. He stated they are talking about getting the Town back into operation and the personnel committed to be on duty through the storm and how much of an advantage it would be to have the Town put back in order and the probability may be that we will never experience such a severe storm, however, he thought it needed to be discussed and he suggested a Workshop meeting be held.

Mr. Weinberg wondered how many staff people would neglect their families and stay on in a building owned by the Town. Mr. Doney recalled he was here during Andrew and they were going to weather it out no matter what happened, however, he does have employees asking him when they do have the right to leave to protect their own families and property, and if they are not going to be in a facility which will withstand a major storm, it is a human question and he needs help from the elected officials to respond properly.

Mayor Ilyinsky thought it was an important issue, and he believed this could best be discussed at a Workshop meeting.

Mrs. Wiener felt they were being premature as if they were aware of the County's plans, they could address it intelligently, however, the worse situation in a storm is the live wires and if the staff is secure in a secure building, that is not going to get the utility companies taking care of the Town first. She thought it would be highly improper of the Town officials to expect any staff member to sit in a bunker when his family may be in jeopardy.

Mr. Doney agreed that any staff member did have the responsibility to ensure his family is safe, but unless there is other direction, he intended to be here and there are many administrative

Public Works
Facility Storm
Protection
(cont'd)

activities which involve FEMA and when there is a ready crew, both with the insurance people and the finances, there are a lot of advantages to the residents of the Town by having such a facility for post storm response.

Mrs. Wiener recommended there be a Workshop held on this subject after there is a firmer grip on what the County's plans are on this matter and a background and report be secured so they are not working in the dark and she so moved. Seconded by Mrs. Royal who suggested direction also be sought from the County's FEMA coordinator. On roll call, the motion carried unanimously.

Mrs. Smith noted there is a recommendation from the Public Works Committee on the proposed Energy Conservation Program that authorization be granted to convert the fluorescent light system to a more energy efficient bulbs and electronic ballast and this conservation be paid from energy savings by a lease purchase option with our participating FP&L contractor. She noted a further recommendation is authorization be given to install window film to reduce cooling costs and the cost will be financed from energy savings due to the film installation together with the energy savings from thermostat controls and any remaining costs to be covered by the General Fund budget. She stated the savings are over thirty per cent of the current billing.

She stated another recommendation is the temperature in town buildings be set at 78 degrees Fahrenheit and she suggested that this issue be considered separately as she knows there is some controversy over it.

Motion was made by Mrs. Wiener that the window film and the light bulb recommendations of the Public Works Committee be put into effect. Seconded by Mrs. Royal.

On roll call, the motion carried unanimously.

Mrs. Wiener stated on the 78 degrees issue, noting if people are not comfortable, the level of work will not be effective. Mr. Dusey reported the natural standard for cooling is 78 degrees and the problem they have in building is the thermostat will be set at 78, but the temperature will actually be higher and the system needs to be balanced so the office temperatures will remain at 78. After discussion, a motion was made by Mrs. Smith that the thermostats in the Town's buildings be set at 74 degrees on a trial basis. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Mrs. Wiener moved that the setting of the temperatures be tried for a three month period and then Mr. Dusey report back to the Town Council on this subject. Seconded by Mrs. Royal. On roll call, the motion carried unanimously.

Mrs. Smith noted the last item is the water conservation program and it is the recommendation of the Committee that the Ordinance on water conservation be amended to allow landscape watering between 9 PM and 9 AM, rather than 5 PM to 9 AM currently allowed. She stated a further recommendation is to implement the Water Audit program utilizing existing Town staff, which will be the Code Compliance Officers and one or two people from the Public Works Department, who will be trained. She advised Mr. Moore has already set up the meetings with various condominium owners and the larger water user owners. Mr. Moore responded he has met with the Golf Courses but not the large water users but will do so after the training sessions. Mr. Weinberg advised the Citizens Association South of Sloan's Curve has been working on this problem. Mrs. Wiener thought perhaps the cut off time could be moved from 9AM to 7AM. Mrs. Smith advised they were trying to accommodate those who do hand watering. She recalled discussion on this with Mr. Ugi who advised the perfect time to water is 3 or 4 AM so the water isn't standing and with an educational process, people will be more informed and will set their automatic sprinklers to water early in the morning.

Mr. Weinberg noted the need to put the start-up time later in the evening was due to people walking from 5 PM to 9 PM who were getting wet.

Mrs. Polly Earl addressed the Council asking if this restriction would apply to those who do not have automatic sprinklers? Mr. Moore responded there is an exemption for one hose and one sprinkler. Mrs. Smith recalled hand held hoses were exempt as well as one sprinkler. Mrs. Earl responded she has a small lot with a lot of bushes and does not have an automatic system and uses three different sprinklers and has to move them frequently and it takes her from three to four hours to water her property and she asked the Council to take that into consideration as it would be difficult for her and she was sure there were other property owners with the same problem. Mrs. Smith recalled this was also discussed at the Public Works Committee meeting and the water conservation regulations are suggesting they go from watering three times a week to twice a week during drought conditions, as most people do overwater. She knows there are some problems which Mrs. Earl has pointed out, but they are trying to address the whole water picture in the Town and they felt this was the most reasonable solution. She suggested perhaps Mrs. Earl would want to have less bushes. Mrs. Wiener suggested that she water part of the property each day she watered. Mrs. Smith stated they tried to come up with the best recommendation for the Town as a whole. Mr. Weinberg noted they were guided by Mr. Ugi who is the expert in this regard.

Mr. Doney noted there will be a revised Capital Improvement Budget due to the change in the renovation of the Mayor and Town Council space. Mrs. Wiener asked how this would affect the overall budget? Mr. Doney believed that based on what was directed today, the program may increase to \$275,000. Mrs. Wiener, Mrs. Smith and President Weinberg asked why the figure was so high? Mrs. Smith believed there would be a Public Works Committee Meeting before the Finance & Taxation Committee meeting on August 30, so they can reconsider. Mrs. Royal believed there was \$69,000 which was to be a savings. Mrs. Wiener recalled there was a budget figure that was in there for this work. Mrs. Smith recalled the figures were moved around and she didn't think it would be a problem.

X. OLD BUSINESS

A. Ordinances - Second Reading

1. Ordinance No. 13-93 - Amendment to Occupational License Ordinance - Mr. Randolph read the Ord. No. 13-93 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 10, LICENSES AND BUSINESS REGULATIONS, BY DELETING SECTIONS

Energy
Conservation
Program

Water
Conservation
Program

Ord. 13-93

10-1 and 10-2 RELATING TO LICENSE INSPECTOR; AMENDING SECTION 10-3 RELATING TO PERSONS SUBJECT TO LICENSE TAX; AMENDING SECTION 10-5 RELATING TO WHEN LICENSES ARE DUE AND EXPIRE, PROVIDING A LATE PAYMENT FOR FAILURE TO OBTAIN; AMENDING SECTION 10-5.1 RELATING TO PENALTIES; AMENDING SECTION 10-6 RELATING TO LICENSE TERM; AMENDING SECTION 10-7 RELATING TO LICENSE TRANSFER; DELETING SECTION 10-8.1 RELATING TO VALUATION OF STOCK; AMENDING SECTION 10-9 RELATING TO ISSUANCE OF LICENSES; DELETING SECTION 10-12 RELATING TO CHARACTER OF LICENSEES; BY DELETING SECTION 10-12.1 RELATING TO CERTAIN PERSONS PROHIBITED FROM RETAINING LICENSES; AMENDING SECTION 10-14 RELATING TO SCHEDULE OF FEES FOR OCCUPATIONAL LICENSES; DELETING SECTION 10-15 RELATING TO TAX WHEN NOT OTHERWISE SPECIFIED; CREATING A NEW SECTION 10-17 RELATING TO REGISTRATION; CREATING A NEW SECTION 10-18 RELATING TO REQUIRED REGISTRATION INFORMATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Ord. 13-93

Mrs. Wiener moved for approval of Ord. No. 13-93 on second reading. Seconded by Mrs. Royal. On roll call, the motion carried unanimously.

2. Ordinance No. 14-93 - Amendment to Golf Commission Ordinance - Mr. Randolph read the Ord. 14-93 by title:

Ord. 14-93

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 14 OF THE TOWN CODE OF ORDINANCES RELATING TO PARKS AND RECREATION AT ARTICLE II, GOLF COMMISSION SO AS TO EXPAND THE MEMBERSHIP FROM FIVE MEMBERS TO SEVEN MEMBERS; PROVIDING FOR ALTERNATE MEMBERS; MAKING PROVISIONS FOR VOTING; PROVIDING FOR REMOVAL OF MEMBERS; REQUIRING THAT MEMBERS BE REGISTERED VOTERS IN THE TOWN OF PALM BEACH; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

Motion was made by Mrs. Wiener, seconded by Mrs. Smith to adopt Ordinance No. 14-93 on second reading. On roll call, the motion carried unanimously.

3. Ordinance No. 15-93 - Amendment to Seaview Park Commission Ordinance - Mr. Randolph read the Ord. 15-93 by title:

Ord. 15-93

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 14 OF THE TOWN CODE OF ORDINANCES RELATING TO PARKS AND RECREATION AT ARTICLE I, SEAVIEW PARK COMMISSION, SO AS TO PROVIDE AMENDMENTS RELATING TO VOTING; SO AS TO REQUIRE MEMBERS TO BE REGISTERED VOTERS IN THE TOWN OF PALM BEACH; PROVIDING FOR ALTERNATE MEMBERS; PROVIDING FOR REMOVAL OF MEMBERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

Motion was made by Mrs. Wiener, seconded by Mrs. Smith to approve Ordinance No. 15-93 on second reading. On roll call, the motion carried unanimously.

4. Ordinance No. 16-93 - Amendment to Architectural Commission Ordinance - Mr. Randolph read the Ord. No. 16-93 by title:

Ord. 16-93

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 5 OF THE TOWN CODE OF ORDINANCES AT ARTICLE IX, ARCHITECTURAL REVIEW AND PROCEDURE, SO AS TO INCLUDE PROVISIONS FOR REMOVAL; SO AS TO REQUIRE MEMBERS TO BE REGISTERED VOTERS IN THE TOWN OF PALM BEACH; AMENDING PROVISIONS RELATING TO ALTERNATE MEMBERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

A motion was made by Mrs. Wiener, seconded by Mrs. Smith to approve Ordinance No. 16-93. On roll call, the motion carried unanimously.

5. Ordinance No. 17-93 - Amendment to Landmarks Preservation Commission Ordinance - Mr. Randolph read the Ordinance No. 17-93 by title:

Ord. 17-93

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 16 OF THE TOWN CODE OF ORDINANCES RELATING TO PLANNING AT ARTICLE III, LANDMARKS PRESERVATION COMMISSION, SO AS TO REQUIRE MEMBERS TO BE REGISTERED VOTERS IN THE TOWN OF PALM BEACH; INCLUDING PROVISIONS FOR VOTING; PROVIDING FOR ALTERNATE MEMBERS; PROVIDING FOR REMOVAL OF MEMBERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Motion was made by Mrs. Wiener to adopt Ord. 17-93 on second reading. Mrs. Royal seconded the motion.

Mrs. Smith felt that they are not doing justice to the pool which may be available to the Landmarks Preservation Commission as she sees no reason to exclude the phrase where it is required the Commissioner must either own property or be a registered voter in the Town of Palm Beach. She knows there is a wealth of talent available in the County which could be utilized for the Landmarks Commission and to omit that provision in the Ordinance would give the Council the ability to draw upon that pool, if it is necessary. She thought if there were experts in the Town, they could be appointed by the Town Council, but she thought to have this provision in the Ordinance was not correct and does not help the people of the Town.

Mrs. Elise Mackintosh, member of the Landmarks Commission addressed the Council indicating she was not speaking for herself but for Palm Beach. She asked for an explanation of what good it would do to rescind this and not keep the option open to have people on the Commission who do not live in the Town. She pointed out they didn't have to appoint a person who is not a resident, but they had the option to do so, recalling in the past there have been several people who have been great help for the Commission and she didn't understand why they wanted to give that up as these options are very hard to get back once they are given up. She noted there are lovely homes in West Palm Beach which are landmarked and there are a lot of people who have great knowledge and sensitivity about landmarking and there were some in Palm Beach who have this too, but many don't and people come down and buy the landmarks and don't realize what they have. She didn't think there would be any harm in leaving this option open to use out-of-town people as it is not hurting anyone and means a lot toward the future of Palm Beach. She stated these brilliant people in the past have helped out the Commission and given advice and were extremely helpful. She didn't think it was fair nor diplomatic and a form of snobbism, which she didn't think they wanted to show themselves as, and she asked them not to turn down the opportunity to at least have a choice.

Mrs. Royal advised she is on the Ordinance, Rules & Standards Committee and their attempt was to standardize the Commissions, and is nothing that was directed specifically at the Landmarks Commission nor any member of the Landmarks Commission. She felt strongly that the future of Palm Beach should be in the hands of the citizens of the Town and that is why she supports this Ordinance and Commission members be voters in the Town of Palm Beach. She asked for an opportunity to try it that way and see how it works.

Mrs. Mackintosh reminded all that to get back an option is much more difficult than giving up an option of this type.

Mr. Weinberg noted the reason for this is to standardize all Commissions, and it is possible that there may be a change at a future date. Mrs. Mackintosh did not understand why they wanted to give up something that they wouldn't have to use, and she considered this to be a disservice to Palm Beach. She felt they were harming Palm Beach, which she has loved and respected for many years and she respects the people who give them advice.

Mayor Ilyinsky pointed out this is an emotional issue and he wished to state his opinion, noting that no-one has more respect for Mrs. Jane Volk than he does, and she has a perfect right to her own opinion, but he did disagree with her on this issue. He thought this is a unique type of Commission, and it does things to people which other Commission do not. He believed that to throw away the opportunity of having an outsider on this Commission is wrong and he asked the Council to keep an open mind on this, as he agreed with Mrs. Mackintosh that is not easy to get this type of a provision put back into the Ordinance. He thought it was to the benefit of all concerned to be able to have an outsider who may well be the world's ranking expert on landmark subjects.

Mrs. Jane Volk, Chairman of the Landmarks Commission, addressed the Council stating she believes that everyone who serves on this Commission should be a resident of the Town. She felt if other experts other than the ones they have at hand are needed, they can be called in, as in the past they had to do that, even when they had an expert serving on the Commission for the Mar-a-Lago Subdivision. She recalled they called them in at various times to give them information. She knew that preservation was the first priority, what is meant by that word is usually very different for the owner or resident than for the professional preservationist. She commented that the basic philosophical guidelines are on different levels. She stated those who have tied their life to an old house, spent countless hours serving history and she believed it is different for an expert who zips in for a meeting and then leaves, as they don't have to live with their decisions. She has listened to some of the decisions they would like to make, so she knows it is a questionable difference of opinion.

Mrs. Volk commented that there is a continuing tension in the Town between preserving the essential qualities and dealing with the demands of the present. She knows change and growth seem inevitable, all of them will agree that what is desirable is to retain the character, stability and integrity of the Town. She believed they all agreed on that and who could better do this than the Town's own citizens and from them qualified people must be chosen to serve as Commissioners on the Landmarks Preservation Commission, and that is the point that is important.

Mrs. Wiener called for the question. Mrs. Mackintosh recalled experts had to be called in for the Mar-a-Lago Subdivision and it cost \$45,000.

On roll call, the motion carried 3-1 with Mrs. Smith voting against the motion. She explained the reason she voted against the motion is that they had people like Judge Knott and Dr. Donald Curl, historian on this Commission, all very well qualified and concerned and loved the Town as much as the residents do and their service was invaluable to the Landmark Commission.

6. Ordinance No. 18-93 - Amendment to Zoning Commission Ordinance - Mr. Randolph read Ord. No. 18-93 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 16 OF THE TOWN CODE OF ORDINANCES AT ARTICLE I, RELATING TO ZONING COMMISSION SO AS TO INCLUDE PROVISIONS RELATING TO VOTING; PROVIDING FOR ALTERNATE MEMBERS; PROVIDING FOR REMOVAL OF MEMBERS; REQUIRING THAT MEMBERS BE REGISTERED VOTERS IN THE TOWN OF PALM BEACH; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Motion was made by Mrs. Wiener to adopt Ord. No. 18-93 on second reading, who commented she is making the motion but she still is not happy with the removal of members as she thought that should be an automatic process and should not have to come before the Council. Seconded by Mrs. Smith. On roll call, the motion carried unanimously. Mrs. Royal asked Mrs. Wiener to submit this concern to the Ordinances, Rules & Standards Committee for consideration.

Mr. Moore announced staff suggests to facilitate the implementation of these Ordinances that they all become effective on October 1, 1993. Mrs. Smith so moved. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

B. Ordinance - First Reading

Ord. 18-93

1. Ordinance No. 19-93 - Proposed Abandonment of Easements and Rights-of-Way - Deferred from July Meeting - Mr. Randolph read Ord. No. 19-93 by title:

Ord. 19-93

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA PRESCRIBING REGULATIONS GOVERNING THE VACATION AND ABANDONMENT OF RIGHTS OF WAY AND EASEMENTS WITHIN THE TOWN; PROVIDING FOR PURPOSES AND METHODS; PROVIDING FOR APPLICATION; PROVIDING FOR APPLICATION FEE; PROVIDING FOR A PRIVILEGED FEE; PROVIDING FOR APPLICATION PROCEDURE; PROVIDING FOR REVIEW PROCEDURES; PROVIDING FOR A PUBLIC HEARING; PROVIDING FOR A RECORDATION OF RESOLUTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Mr. Randolph explained this Ordinance comes about for two purposes, one being the procedures have never been codified and secondly, it adds a provision that in the event rights-of-way are abandoned which abut a private property and where the rights-of-way will inure to the interest of the abutting property owner, the Town can exact a fee for that abandonment and the fee would be used for right-of-way purposes and not put in the General Fund.

Mrs. Smith wondered if the time for the letters to be sent to the neighborhood should be three weeks prior to the hearing, rather than two weeks and it should be certified mail, to which the Council agreed. Mr. Bowser stated they have always been sent certified with return receipts and three weeks notice will be no problem. Mr. Randolph will make the change.

Mr. Randolph noted another change suggested by the Public Works Department where they deal with the legal description and they requested the deletion of the words "where possible" to which the Council agreed and Mr. Randolph will make the change.

Mrs. Royal stated she had no problem with the corrections, but had a problem with the total Ordinance, as she doesn't believe it is necessary as there is not that much property to which this would apply, and that is Mrs. Bertles' request. She asked Mr. Bowser if there were other cases of abandonment waiting in the wings? Mr. Bowser responded most of the abandonments are easements or relocations on the property but he isn't aware of any other situations like the one before them. Mr. Weinberg asked if an Ordinance of this type is needed? Mr. Bowser stated it is a tough question and it is a policy decision as to whether there should be a fee charged. He advised he would have to make a quick survey before he could answer the question.

Mrs. Wiener did not think there was any particular reason why they shouldn't proceed with this Ordinance, as if an abandonment comes up again, there is a formula in place. Mrs. Royal believed that if there is a piece of property which the Town no longer needs for the reasons it was originally acquired, and if it is abandoned, it goes back on the tax rolls and she can't conceive of it having a real market value as the issue before them next, the only persons who would be interested in purchasing it would be the adjacent property owners.

Mrs. Wiener responded they are not talking of the abandonment now, but of the Ordinance. Mrs. Royal thought the reason they have the Ordinance in front of them is because of the Bertles' request. Mrs. Smith noted the increased footage here will increase the Bertles' lot and will not be of any significant increase to the Town but it will be to Mrs. Bertles. Mrs. Royal was not sure Mrs. Bertles was correct in the statement she made in her letter that her property value would not be increased as it was Mrs. Royal's opinion that it would increase.

Mrs. Wiener moved Ordinance No. 19-93 with the changes as recommended by Mrs. Smith concerning the three week notice and the change as recommended by the Town Attorney. Seconded by Mrs. Smith.

Dr. Sten Lilja addressed the Council, indicating he was not against the Ordinance but he had some comments he would like to make, recalling several years ago, there was a request for abandonment at 1420 North Ocean Blvd. which was turned down by the Council. He noted the privileged fee is to be set at 80% of the assessed value, however he knew there is a figure being used by the assessor's office for the neighborhood, and he knows by experience, that they have already discounted an expected sales value by approximately 80%, so if a property is assessed at \$200,000 and the assessed value would be 80% below that. Mrs. Wiener reported the State of Florida requires 100% assessment and every single County is expected to be in compliance with that.

On roll call, the motion carried 3-1 with Mrs. Royal voting against the motion.

- a. Consideration of Request from Mrs. Bertles, 201 Angler Avenue, to Abandon the West One-Half of Ocean Way North of Angler Avenue - Deferred from July Meeting - Mr. Weinberg called for comment and there was none. Mrs. Wiener moved this matter be deferred to the September Town Council meeting. Seconded by Mrs. Smith. David Ferrara, Mrs. Bertles' husband, addressed the Council. Motion was withdrawn. Mr. Ferrara advised the reason they have requested the abandonment is it is a eyesore to the street and they would like to close it off and landscape it. He reported there are a lot of surfers who park there and debris accumulates. He believed in the 50's, this was acquired by the Town to use this as a main road, however, it was never pursued. He stated the property is 40' and their property is nonconforming, so the request is for 20' to be abandoned and they will landscape it. He thought if they do abandon this portion, they should also abandon the portion which abuts Mr. Roddy's property also. He advised this is a dead end and the roadway doesn't go anywhere. He recalled his wife has been in touch with the property appraiser's office who advise the taxes will not increase, however, he doesn't know if that is the case.

201 Angler
Avenue -
Request from
Bertles

Mrs. Smith asked if this is approved, what will it do to the Roddy property as his driveway is on that side. Mr. Moore responded the access to Mr. Roddy's property is to the west and he owns the property on the east side of the right-of-way in question and his driveway would have to be relocated to the south and access would be off the east/west street. Attorney George Ord representing Mr. Roddy addressed the Council, reporting his client would have several problems if half the street were abandoned, as access to his garage is through this right-of-way and the garbage has been picked up there, and that is also where his mail is delivered. He advised when Mr. Roddy exits from his garage onto Angler Avenue, there are some problems with site distance and

it is safer for him to be further west as he accesses the road so he can see the traffic which is moving westward. Mr. Ord thought if only half of the right-of-way were abandoned, the surfers would still park on the half that remains and that would interfere with his access to his garage. Mr. Ord advised his client does not object to the abandonment if the whole thing is abandoned, but he would have objection if only half were to be abandoned.

Attorney Ord asked if this new proposed ordinance would apply to this particular abandonment, as his client thinks it may be of benefit to have this abandoned, however, he doesn't feel the benefit will be equivalent to the fee proposed in the new Ordinance. He stated his client would not want it abandoned if he would have to pay the fee as proposed in the new Ordinance. He reported his client will have costs connected with the abandonment as the paving must be torn out and a new driveway installed, so there will be costs and he doesn't feel the increased value to him would justify the fee.

Mrs. Wiener asked if Mr. Ord's client doesn't want to pay any fee whatsoever? Mr. Ord responded recalled the only discussion he has heard today is the 80% of the assessed fee, but obviously if there is some diminution number, he would have no problem, however not the 80% fee.

Mrs. Royal pointed out there is an initial fee of \$250 for each of the property owners to file for the abandonment and asked if that would be paid? Mr. Ord responded he is talking about above and beyond that. Mrs. Royal asked if the Ordinance would be retroactive to which Mr. Randolph responded negatively. He pointed out the sole discretion as to whether or not to abandon a Town right-of-way does rest with the Council and there has been no application to abandon from Mr. Roddy. He noted the Town staff states they would not recommend abandoning just half of this right-of-way, so it may be that this matter is right for the consideration of the Town Council today, even if they were not giving consideration to the adoption of an Ordinance.

Mrs. Wiener asked if anyone had computed exactly what they are talking about here? Mr. Bowser responded the property values on this street vary from \$22 to \$30 per square foot and the Roddy and Bertles property has a value of \$30 per square feet. He noted there was 2,100 square feet on Mrs. Bertles' property and the value of the Bertles property would be \$64,000 and the Roddy property \$62,000 and 80% would make the Bertles property \$51,000 and the Roddy property \$50,000.

Mrs. Wiener asked where they came up with the 80% formula to which Mr. Randolph responded it was from other municipalities. Mrs. Smith stated she didn't feel that this could be a free abandonment and asked if either applicant had come up with a figure they would be willing to pay to the Town? Mr. Ord responded his client would be willing to pay the \$250 filing fee but beyond that, he did not have the authority to agree to anything else.

Mrs. Smith noted the County has a \$400 fee, however, she thought it was premature to have this discussion and she moved this issue be deferred. Seconded by Mrs. Wiener.

Dr. Lilja stated he was all for the Ordinance, however, he received a figure from the appraiser's office yesterday and it was approximately \$36, and he hoped that this will go through and it will be a benefit to the Town to not have the liability or the maintenance on that property.

On roll call, the motion carried unanimously. Mrs. Wiener noted this will be deferred until such time as the two parties involved will agree to move forward in the same direction. Mr. Randolph suggested it be deferred to a time certain. Mrs. Wiener recommended this issue be deferred until October, which will give them time to file their applications.

C. Appointment

1. Building Board of Adjustments and Appeals - One Citizen-at-Large Alternate Member - Deferred from July Meeting - Mr. Moore explained this position is for the citizen-at-large alternate member, recalling this Board meets upon request and it is not imperative that this position be filled at this time. Mr. Weinberg noted there is only one person who has expressed an interest, Mr. Peter Broberg, and he has no objection to him, however, he thought the Council should have an opportunity to review a number of candidates. Mrs. Wiener commented she knows Mr. Broberg is already serving on another Commission and asked if he was going to resign that position? Mr. Moore responded he believed his term ended in February of next year and he would be permitted to serve under the rules. Mrs. Wiener understood that, pointing out that the Town Council has made a determination that there are enough qualified talented citizens who wish to serve on the Town's Boards and Commissions and one person is not required to sit on more than one Commission.

D. Other

1. Final Consideration of PBIA FAR Part 150 Noise Study Update - Report by Mrs. Lisa Waters, Noise Abatement Officer, PBIA - Mr. Weinberg asked Mrs. Waters for her presentation and asked her to be brief. He also made her aware that the Town of Palm Beach is adamantly opposed to West Palm Beach's proposed position to eliminate fanning, and it was his impression that she had been told otherwise by the City at their meeting held last evening. Mr. Weinberg asked Mrs. Waters how she views the Town of Palm Beach with regard to noise and what future circumstances are possible with which the Town may agree or may disagree.

Mrs. Waters, Noise Abatement Officer of the Palm Beach County Department of Airports addressed the Council, noting the City of West Palm Beach has voted on a resolution, but she is not aware of the language because she has not yet seen the resolution. She said she is assuming that West Palm Beach will be forwarding that resolution to the Board of County Commissioners, who will then forward it to her.

Mr. Weinberg said some people are not aware of the West Palm Beach meeting, and he asked Mrs. Waters what the outcome of that meeting was with regards to fanning. Mrs. Waters said the vote was 3-2 against fanning. Mr. Weinberg asked Mrs. Waters what that means for the Town of Palm Beach? Mrs. Waters said that would go to the Palm Beach County Commissioners and she is assuming that, based on the analysis which the noise consultants have already done, the Department of Airports will be required to go back and evaluate what this will do to the size of their contours in 1996. Mrs. Waters said the Town of Palm Beach is no longer located within the 65 LDN contour as of the

Appointment

Bldg. Board
of Adjustments
and Appeals

PBIA FAR
Part 150 Noise
Study

1992 noise data. She said in 1996, if fanning continues the Town of Palm Beach is very far outside of the 65 LDN noise contours.

Mrs. Waters said they would have to go back and evaluate what the elimination of fanning would do to the contour, and go to the Citizens Committee on Airport Noise, which is a County Commission appointed group which meets monthly. She said Mr. Weinberg is a member of that Commission, and the meetings are open to the public, and they will be presenting their data at the meeting of August 17th.

She said they anticipate that the County Commission will put considerable credence on the position of the City of West Palm Beach. She said West Palm Beach's position previously was to continue the fanning procedure. Mrs. Waters indicated that in 1991, approximately 65% of residents within the LDN contour were within the City of West Palm Beach, and only 3% were in the Town of Palm Beach. She said that in 1996, the City of West Palm Beach's representation within the noise impact area remains in the 60% range. Mrs. Waters assumed that the County Commission would give considerable thought to the City of West Palm Beach's recommendation with regards to future airport fanning.

Mr. Weinberg said the charts, which Mrs. Waters has presented to the Council today, indicate that two or three years in the future the Town of Palm Beach will be outside the LDN contour and a fewer number of families will be affected by the noise. Mrs. Waters said the reports say two different things. Mr. Weinberg asked Mrs. Waters if she is telling the residents of Palm Beach that in 1995 and 1996, they will not be affected by airplane noise? Mrs. Waters responded she is telling him that the Town of Palm Beach will not be located within the 65 LDN contour line and they will see airplanes flying over Palm Beach, but instead of flying in a very wide range they will be flying in a narrow range, and will not be of the noise level which will include the Town within the FAA's limit of 65 LDN.

Mrs. Wiener commented she hates to shoot the messenger, but obviously they will have for the people who are now experiencing the worst of the air traffic noise the situation will not change, and it will continue to be that way, but now they won't have to waste time talking to each other. She believed it was drawn in such a way that it will be a narrow way out and it puts the Town of Palm Beach in a situation where they will be out of the contour, but the noise will continue. She said that situation is most unsatisfactory and totally unacceptable to the Town of Palm Beach. She believed the many hours of time and hundreds of thousands of dollars expended in an attempt to resolve these noise problems in the Town are all down the drain, and obviously numbers and politics come into this issue, but what comes around, does go around. She stated the Town may be small and they may be taking us out of the contour, but they do have friends in high places and this is not going to happen. Mrs. Wiener said that if the City of West Palm Beach proceeds the way they are going, and the County goes along with them, this would not make for a happy association with the City of West Palm Beach. Mrs. Wiener said the City of West Palm Beach has said they wish to cooperate with the Town, but she feels the City of West Palm Beach has done the most damaging thing they could possibly do to this Town and she for one, resents it as she is sure the rest of the Council do also, as it is wrong and incorrect. She stated to Mrs. Waters this was not directed at her, but she considered this a farce.

Mrs. Waters said she is not representing the City of West Palm Beach and the Committee which she represents has spent some 50 or 60 hours in two and one half years working on this program, and the recommendations going before the County Commission still include the continuation of fanning. Mrs. Waters said that if the position of West Palm Beach had been different during all the work hours of the Committee, perhaps the outcome would be different. She indicated she may be reporting to the Town of Palm Beach that the recommendations of the study itself are to eliminate the fanning, but that is not the recommendation of the study which is to continue fanning, but she believed what the City of West Palm Beach did was in the best interest of the majority of their population. She commented that in reality, it would result in approximately six additional flights a day going straight out, no more, no less, depending on the season, it will vary, but they are talking about six different airplanes and a change, a little bit premature if the County Commissioners approve it, it would result in a change in what the program already calls for, and that is an Agreement which the Town entered into in 1985 when the Town initiated a procedure which is called the "fanning, no fanning compromise" which is what they are doing now. She said they are at fanning stage two, while stage three aircraft fly straight out.

Mrs. Waters said that everyone knew that the intention was that fanning would be eliminated when stage two airplanes were eliminated. Mrs. Wiener said stage two airplanes are still here. Mrs. Waters said stage two airplanes are still here, but not nearly as many as were here previously, but they will not be here in 1996, at least the commercial operators. Mrs. Wiener said that was the whole problem. She said there are the private planes (corporate jets) which are not covered under Federal guidelines for stage III compliance. Mrs. Waters said she was sorry to see the Town Council of Palm Beach is basing the success and failure of the Noise Abatement Program at Palm Beach International Airport on one single issue. She said she felt the Committee which has worked on the plan, the Department of Airports, and the consultant team have developed an extremely good program, which attempts to utilize other runways, calls for a premature phase-out before any other airport in this country, implements departure procedures which will benefit everyone, and although she understands the impact and the Town's position, she is sorry to see the success or failure be based on one single issue.

Mrs. Royal asked Mrs. Waters if any part of the plan will benefit the residents of Palm Beach. Mrs. Waters answered affirmatively. She said it reduces the number of departures; and at the beginning of the study in 1991, about 80% of departures were on the main east runway, and they hoped to reduce that number to approximately 70% to 75% or lower for departures to the east. She said they also hope to install an ILS system which will allow the aircraft to maintain higher altitudes over Palm Beach when approaching the airport.

Mr. Weinberg said he felt that CCAN and TAC have done a good job. He recalled the Town of Palm Beach has always been opposed to lack of fanning. He commented that the previous evening at the City of West Palm Beach's meeting they, in fact, said no fanning in our back yard, and as a representative of 38 other communities, he is aware that those communities feel the same way. Mr. Weinberg indicated a higher percentage of departures and arrivals fly over Palm Beach, and the Town has always maintained that the noise should be shared by other communities. He felt fanning should be county wide rather than in just certain areas.

PBIA FAR
Noise Study
(cont'd)

PBIA FAR
Noise Study
(cont'd)

Mrs. Waters recognized that the areas to the west, northwest, and southeast based on the data received, that the areas to the east receive the majority of the impact. Mr. Weinberg asked what percentage of planes do those areas get? Mrs. Waters said it was a very small percent because of the size of the runway and the direction of the traffic. She said all the areas except those to the east are in agreement on fanning, but now a major representation on the Committee and in Palm Beach County has now changed its position, and that cannot be ignored.

Mr. Weinberg said he was certain that Mrs. Waters is aware of the Town's position. He said he was also sure that he and Mrs. Waters would meet on many occasions in the future and he will still argue the Town's point.

Mrs. Waters said she would like to remind the Council that the Commission meeting will be on August 17th, and the Commission will be receiving comments from residents. She said she has included in her package to the members of the Council an outline of the Town's position and what the recommendations of the study are.

Meeting was adjourned for lunch. President Weinberg reconvened the meeting at 1:40 PM.

Interlocal
Water Agreement

2. Status Report on Proposed Interlocal Agreement Regarding Potable Water Supply with City of West Palm Beach. Mr. Doney explained he and staff members met with the representatives of the City of West Palm Beach and at the last minute, Mayor Graham who was scheduled to be at the meeting found she could not attend. He recalled they covered the Agreement which was considered by the Town Council at the July meeting and transmitted to them under date of July 28, 1993. He stated at this meeting, they covered the major items which the Town felt was essential to include in the proposed Interlocal Agreement for water service. He noted it is an important issue and the Town is now waiting on an hand annotated copy of their comments and questions from the staff and from Mayor Graham. He felt it was unfortunate that Mayor Graham was not able to attend that meeting as he thought he would be able to report to the Mayor and Town Council today that they could move forward on this issue. He stated they will try to schedule further meetings before the September Town Council meeting, recalling the Town Council would like this matter resolved before the fiscal year beginning October 1, 1993.

Mr. Doney stated the issues discussed were the inverted rate structure; the concerns of the City of West Palm Beach, but he did advise the City's staff that the Town Council was firm on their position on these particular issues, as it was felt the Town rate payers needed to have protection, and other related issues.

Mrs. Wiener asked if Mr. Doney felt they were making progress with the representatives of the City of West Palm Beach or are we at a stalemate? Mr. Doney responded he feels they are making progress, but it is no surprise that the City is going through a number of evolutions in their reorganization process. Mrs. Wiener asked if they were moving in the Town's direction? Mr. Doney commented on his impression which is they know the Town is serious about considering all options and it is important that there be limitations on the cap for the inverted rate structure, and other aspects of the Agreement, otherwise, the Town will have to search out other alternatives as far as the water supply for the future. He noted that even if the City goes up on their current proposed rate making and increases, it will still be lower than many communities. He hoped to meet in the first week in September and will report back to the Town Council at the September meeting.

Mr. Doney indicated the second item is the rate making process. He recalled the Town Council had previously authorized the limited use of Mr. Osterman of DUS Consultants and Mr. Elia. He advised the City of West Palm Beach has engaged a rate consultant to come up with a new rate system and it is important to Town rate payers for water inasmuch as the Town water users are billed directly by the City of West Palm Beach that the Town does participate in the rate making process and the technical ability to do that can be afforded to the Town by Mr. Osterman and Mr. Elia and he realized the cost of between \$20,000 and \$24,000 is high, but under the circumstances, the Town doesn't have the technical expertise or legal expertise on staff to accomplish this task, so the Town needs someone with this speciality. Mr. Doney recommended the Town Council authorize this as if the Town is to have any voice or achieve any benefit in this rate making process with the City of West Palm Beach before it goes to the City of West Palm Beach Commission, that now is the time to have the Town's consultant communicate with the City's consultant in the methodology of how the rate making shall occur, especially in view of the inverted rate structure now in process.

Mrs. Royal asked if there would be any economy for the Town to work with the Town of South Palm Beach who also buys their water from the City of West Palm Beach? Mr. Doney responded he will contact the Town Manager and see if the Town of South Palm Beach may be interested in participating with the Town in the rate making process.

Mrs. Wiener reminded all that the Town has spent approximately \$400,000 so far on this subject and now we are talking about something else, and she asked if there was anything the Town was getting for the monies spent? Mr. Doney responded the monies have been spent for a water supply study and many other items, but this amount spoken of today would be to specifically look at the scope of work for the water rates study and to express and represent the Town's interest in how the inverted rate structure is established and how various classes of water users in the Town would be affected by the rate making, as recommended by the consultant that the City of West Palm Beach is using.

Mrs. Wiener stated her concern is what expertise will be supplied by the same people for more and more money and at what point will they finish up the job. Mr. Weinberg noted it is an hourly deal. Mr. Doney agreed, but over and above anything that has been done previously, such as the negotiations representing the Town about the Aqua Storage and Recovery and Reverse Osmosis and the total negotiations of the contract were separate and apart from the rate making. He stated he doesn't like recommending that they need to do this, but it needs to be done. Mrs. Wiener understood noting every time they seem to turn around, they find they have to spend \$25,000 for this or that and it keeps going on and on and perhaps if they hadn't fiddled around as much as they had, they would have been able to finish it for a lot less a long time ago. She has a feeling that by the time they get through the rate making thing and the amounts they are going to be paying, it may have been just as well to pay a couple of cents on each gallon and they may have been able to save a lot of money over the long run, and she thinks it is getting way out of hand. She felt they had to be advised that they have to give them 70 minutes for every hour they work for the Town.

Mr. Doney advised he will express that in the letter he will be sending to them. Mrs. Smith asked if any specific information has been received for the past three years from the consultants for the cost of \$400,000 which doesn't give him the ability to represent the Town in its rate study and asked what has been given us for the amount of money we have spent? Mr. Doney responded studies which have been previously authorized by the Town Council such as the Water Supply Study, Water Conservation Study, which is to meet the Town Comprehensive Plan, an Aquifer Storage and Recovery study and the remaining amount of money of approximately \$140,00 to \$150,000 was for ongoing negotiations with the City of West Palm Beach relative to a new Interlocal Agreement. He noted this was all based on previous Town Council direction.

Interlocal
Water Agree.
(cont'd)

Mrs. Smith commented it is discouraging since they don't seem to be terribly close to a contract. Mr. Doney believed they will be able to achieve the contract noting that Mr. Osterman and Mr. Sunstrom were not at the meeting of August 6, 1993 as it was staff and the Town Attorney and at this point we will use their assistance on a minimal basis, but the ratemaking process is a technical one and one where a specialists like DUS Consultants, who have been doing this for 25 years, is particularly valuable. Mrs. Smith asked if their services would be terminated at the end of the rate making process negotiations and the staff can continue on without them? Mr. Doney responded affirmatively.

Mrs. Wiener thought it behooved them to get this business finished as rapidly as possible, because as long as it not finished, they will have consultants and they are in business and that is how they make their living, so she thought they had to push to get this finished. Mr. Weinberg asked if the Council felt it should appoint someone to work with them in an unofficial manner? Mr. Doney did not think that would be appropriate as if there is going to be any representation, it should be the Town staff and the Town Attorney who are the appropriate representatives on behalf of the Town Council and the Mayor and any advisory external member of the community just would not work.

Mrs. Wiener moved that DUS Consultants be given the opportunity to represent the Town of Palm Beach in as rapid and thorough a manner possible for the least amount of money possible, based on the amount of money and time and effort they have already spent on behalf of the Town of Palm Beach, and with the understanding that there has to be an end to this. Mrs. Royal asked if there would be a dollar figure attached to the motion? Mrs. Wiener recalled they quoted \$20,000 to \$24,000 and she will include in her motion this be for a sum not to exceed \$20,000. Seconded by Mrs. Royal. On roll call, the motion carried unanimously.

XI. NEW BUSINESS

A. Ordinances - First Reading

1. Ordinance No. 20-93 - Amendment to Section 11-24 to Decrease the Number of Unpaid Parking Tickets Issued from Five to Three Before Immobilizing a Motor Vehicle (Boot)

Ord. 20-93

Attorney Randolph read Ordinance No. 20-93 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 11, ARTICLE II OF THE CODE OF ORDINANCES OF THE TOWN RELATING TO IMMOBILIZING MOTOR VEHICLES; DECREASING THE NUMBER OF UNPAID PARKING TICKETS REQUIRED PRIOR TO IMMOBILIZING A MOTOR VEHICLE FROM FIVE TO THREE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

Motion was made by Mrs. Wiener, seconded by Mrs. Smith to approve Ordinance No. 20-93 on first reading. On roll call, the motion carried unanimously.

2. Ordinance No. 21-93 - Amendment to Increase Fees for Burglar Alarm User Permits - Attorney Randolph read Ordinance No. 21-93 by title:

Ord. 21-93

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 17 OF THE TOWN CODE OF ORDINANCES AT ARTICLE III, ALARM SYSTEMS, BY AMENDING SECTION 17-53 THEREOF RELATING TO PERMIT APPLICATION FEES; INCREASING PERMIT FEES FROM \$20.00 TO \$25.00; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Motion was made by Mrs. Smith, seconded by Mrs. Wiener to approve Ordinance No. 21-93 on first reading. On roll call, the motion carried unanimously.

3. Ordinance No. 22-93 - Amendments to Chapter 2 of the Town Code of Ordinances Relating to Canvassing of Election Results - Attorney Randolph read Ordinance No. 22-93 by title:

Ord. 22-93

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA AMENDING CHAPTER 2, SECTION 2-36 RELATING TO CANVASSING AND DECLARING RESULTS OF ELECTIONS; RESCINDING SECTION 2-37 THEREOF; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Motion was made by Mrs. Wiener, seconded by Mrs. Smith to approve Ordinance No. 22-93 on first reading. On roll call, the motion carried unanimously.

B. Resolutions

1. Resolution No. 30-93 - Increase Fine for Removal of Immobilizing Device on a Motor Vehicle (Boot). Attorney Randolph read Resolution No. 30-93 by title:

Res. 30-93

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, INCREASING THE REMOVAL CHARGE FOR THE VEHICLE IMMOBILIZATION DEVICE, TO BECOME EFFECTIVE OCTOBER 1, 1993.

A motion was made by Mrs. Wiener, seconded by Mrs. Royal to approve Resolution 30-93. On roll call, the motion carried unanimously.

Res. 31-93

2. Resolution No. 31-93 - Opposing Palm Beach County's Wetlands Protection Ordinance Being Effective County- wide, Rather than Only Within the Unincorporated Area. Mr. Randolph read the Resolution No. 31-93 by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, OBJECTING TO THE PROPOSAL OF PALM BEACH COUNTY THAT THE WETLANDS PROTECTION SECTION OF THE UNIFIED LAND DEVELOPMENT CODE BE ADOPTED UNDER THE AUSPICES OF THE ENVIRONMENTAL CONTROL ACT, THUS BEING EFFECTIVE COUNTYWIDE, EVEN WITHIN THE INCORPORATED AREAS OF PALM BEACH COUNTY, IN DEROGATION OF THE RECENTLY APPROVED AGREEMENT BETWEEN THE BOARD OF COUNTY COMMISSIONS AND THE PALM BEACH COUNTY MUNICIPAL LEAGUE RELATIVE TO COUNTYWIDE ORDINANCE PROCEDURES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Mr. Doney recalled there should have been an opportunity for the Town and other municipalities to opt into County Ordinances and they would apply only to the unincorporated areas of Palm Beach, but what has happened is the County, through the Department of Environmental Resources management has advanced an Ordinance to change that and it is his recommendation that this resolution be adopted as most other municipalities in the County have done as it is a matter of municipal home rule that this occur in this fashion.

Motion was made by Mrs. Smith, seconded by Mrs. Royal to adopt Resolution No. 31-93. On roll call, the motion carried unanimously.

C. Bid Award

Bid Award

1. Sealed Bid No. 93-019 - Marina Piling Replacement - Consideration of Resolution No. 29-93 - Mr. Randolph read Resolution No. 29-93 by title:

Res. 29-93

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AWARDED A CONTRACT TO DELRAY MARINE CONSTRUCTION CO., INC. FOR THE PALM BEACH MARINA PILING REPLACEMENT.

After discussion, a motion was made by Mrs. Royal, seconded by Mrs. Wiener the Resolution No. 29-93 was adopted. On roll call, the motion carried unanimously.

D. Other

Historic Pink Trumpet Tree

1. Consideration of Request for Permission to Move an Historic Pink Trumpet Tree at 160 Via Del Lago by Mr. Paul Schlegel. - Attorney Paul Schlegel representing Stephen Cadogan, the owner of the property addressed the Council noting the agenda states they are here on a petition to move the tree and actually they wish to remove the tree, or in the alternative to move the tree to another location on the property. He recalled his client discovered after he closed on the property that there are a number of trees protected as specimen or historic trees and one in particular on the Via Palma side of the property which prevents him from expanding the pool house on the property, and is located 10' from the pool house. He advised his client has gone to the expense of retaining an arborist to give an opinion on moving the tree and the expense of moving the tree and the chances for survival if the tree were moved. He advised the primary concern is the expense involved as this is a huge tree and it is in the neighborhood of \$10,000 to move it. He stated another issue is the timing as there would be a period of three months after the tree's roots are pruned before they could move it. He requested permission to remove the tree and his client would be willing to plant other trees in its stead. He would prefer to remove the tree and take it off the property; and in the event the Council feels that is not appropriate, to allow them to move it 32' in a northern line on the Via Palma property.

Mrs. Smith thought the survey of the property contained an indication that there was a historic tree on this property to which Mr. Schlegel responded that was not the case. Mrs. Smith reported this particular list was on the original list of historic trees when the Ordinance was put into place in 1973. Mr. Schlegel advised this particular list is not recorded in the public records of the County, so that someone doing a title search of the property could not be aware that there are restrictions. Mr. Randolph responded the Ordinance is not recorded in the public records and evidently it has not been recorded. Mr. Schlegel noted he had done the title search and there is nothing in the record.

Mrs. Wiener stated her concern that the person who sold the property had the obligation to let the new owner know there was a historic tree on the property and she was outraged that there evidently are no other procedures in place.

Mr. Moore advised when a property is landmarked, that does become a part of the record, however, he did not believe there was a requirement that the trees on which the property were located were recorded in the County records. He stated a record does exist in Mr. Dusey's office and in his office, but he doesn't know what the logic was when the Ordinance was originally passed.

Mr. Schlegel reported his client became aware of the fact that his property had on it an historic tree when the Town notified him by way of a letter which is evidently sent annually to the property owner, however, this was well after the closing.

Mrs. Wiener thought that any historic trees should be part of the public record so any attorney doing a title search would become aware of the fact that there is an historic tree on the property. She felt the Town had made a mistake as there is nothing in the public records and she thought that something should be done about that issue.

Mrs. Smith recalled this property was subdivided and asked if that had to be approved by the Town? Mr. Schlegel advised the property has not been subdivided but there is a lot split. He recalled the realtor did state there were two protected trees on the property and there are eight located on the property, and the concern is the timing, as if he is not allowed to remove the tree, he has a much less valuable piece of property and if he is forced to move the tree, he would have to wait at least three months after pruning.

Mr. Schlegel explained his client wishes to expand the pool house. He advised this tree is a relatively common tree and he believed the reason it was declared an historic tree was because of its height as this is in an area where there are many trees.

Mrs. Wiener asked to hear from the arborist. Mr. Hoyt, the arborist addressed the Council noting it is a large tree and was probably declared an historic tree because of its size and it is an impressive tree. He believed the tree has been trimmed a few times and has a few problems associated with that, but other than that it is a beautiful specimen tree. Mrs. Royal asked what the average life span of a tree of this type is, to which Mr. Hoyt responded he really doesn't know as they are imported from South America and in their native land, they probably could live to be 120 to 150 years, but that has no bearing on what will happen to it in South Florida although he believed there were long lived trees here and this one is probably 70 years old and it could be considered an overly matured tree. Mayor Ilyinsky asked if there was a bigger one of this kind in Palm Beach to which Mr. Hoyt responded negatively but indicated he has seen a larger one elsewhere.

Mrs. Wiener asked what did Mr. Hoyt believe the chances were for this tree if it were moved? Mr. Hoyt responded he thought the method of transplant should be a little different than what the Town arborist has laid out for them but he felt if the tree root ball were boxed, which is a method designed in California and has been very effective on the moving of large trees, and if the tree is properly done with this technique, the chances for survival would be reasonably good. He stated trees of this size are not commonly moved. Mrs. Wiener asked if he meant 80% or 30%? Mr. Hoyt responded he would go along with the 80%. He stated he doesn't become involved in projects which he doesn't think are viable. He reported recent literature has come out that it will take one year for every caliber inch of tree trunk to establish that tree before it is back to its full root system and it will need additional care over the norm. Mrs. Wiener asked if they would have to cut it back severely before it was moved. Mr. Hoyt stated he did not believe so, although some pruning and some thinning would have to be done, and there are some structural weaknesses that need to be removed but other than that the tree would be transplanted in tact and almost at its full size.

Mrs. Wiener made a motion that they grant permission for the tree to be moved under the proper supervision of the Town's expert. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Mrs. Wiener thought whatever needed to be done should be done to record the historic trees in this Town and it should be done as rapidly as possible, as it isn't fair for people to sell property without giving full knowledge to the prospective buyer of everything on that property. Mrs. Royal suggested this recommendation be sent to the Ordinance, Rules & Standards Committee. Mr. Randolph felt the Ordinance needed to be amended as it doesn't have a provision in it for recording. Mrs. Wiener asked if it could be done without going through the Committee so it can be done quickly. Mrs. Smith recalled the realtors were told that it was their obligation to notify their clients about historic trees and they agreed to do that, as the tree survey was updated in the eighties. Mrs. Wiener did not think the responsibility of the Council could be put onto the real estate agents.

Mr. Moore clarified that this information is available in the Planning, Zoning and Building Department and asked Mr. Schlegel if he had checked with his office to which Mr. Schlegel responded he did not represent the client at the closing of the property.

Mrs. Wiener felt that was not the point but this has escaped them and it will be corrected.

2. Consideration of Town Participation in Beautification Projects in Commercial Zoning Districts.

- a. Letter Dated July 19, 1993 from Mr. Stephen L. Keidaish, President, South County Road Association.
- b. Letter Dated July 20, 1993 from Mr. John Surovek, President, Worth Avenue Association.

Mr. John Surovek, President of Worth Avenue Association addressed the Council requesting the termination of their ten year agreement of 1983 with the Town. He advised they do have a major capital expenditure and they continue to maintain all of the plantings, trees, hanging pots. He recalled in the past if they had a problem with the trees, they would remove it and replace it, but they can't do it anymore as concrete has to be cut. He advised in the ten year period only three trees have had to be replaced, two because of automobile accidents and one simply did not make it. He would like to see the Council terminate the agreement of 1983 with regards to Worth Avenue.

Mr. Surovek clarified that when a tree dies, they don't have the time to find the funding to replace it and they wish to work with the Town on this and they won't quit being volunteers, but should a disaster strike, they simply don't have the resources to replace the trees. He commented on the good fortune that they haven't had trees blow down in a big storm, nor have they had vandalism problems. He was apprehensive that should something happen and they would have to replace a dozen trees, they are bankrupt. He recalled when they had the Avenue torn up with the replacement of the sewers, the Association took over the maintenance of the landscaping and they have been doing that for ten years and they lost three trees in a decade. He advised they cannot compete with the grand avenues of Royal Palm and Royal Poinciana and he is here to request the Town's support and the Agreement be terminated. He advised all they are looking for is maintenance.

Mr. Doney reported if the Town Council wishes to supersede that policy question made by the Town Council in 1983, through the Public Works Committee, and have the Town maintain the trees and assume the liability, and would no longer have the Certificate of Liability insurance from the Association, it would take a motion of the Town Council to direct that action.

Historic
Trumpet Tree
(cont'd)

Beautifica-
tion Project

Beautification
Project
(cont'd)

Mrs. Smith asked Mr. Surovek if he had a dollar amount for the maintenance of trees on Worth Avenue for a year? Mr. Surovek stated they probably spend approximately seven to ten thousand and another seven to ten thousand in volunteer dollars. He stated they fertilize, and prune and replace the underplantings.

Mrs. Smith asked if the Town maintained the trees and did away with the underplantings of the hibiscus plants and the hanging baskets, would they have any alternate suggestion for ground cover? Mr. Surovek believed they would like to maintain the ground cover and would work with the Town to do so.

Mrs. Royal asked Mr. Surovek what the insurance cost them annually to which Mr. Surovek responded he did not know. Mrs. Royal suggested that premium money be put into the ground cover maintenance. Mr. Surovek responded he would like to see more plantings on the Avenue, and make it a more grander Avenue than it already is.

Mr. Weinberg commented many areas are going to xeriscaping. Mr. Surovek did not believe irrigation was necessary at all although they had minor problems in the one hundred block, from salt from the beach. He was concerned about a disaster.

Mrs. Smith reminded all that if there was a disaster all of the Town would be losing their greenery. Mr. Surovek understood that, pointing out the Town would be responsible for replacing the trees on Royal Palm and Royal Poinciana Way and he would like to Agreement terminated and the Town take over that responsibility for Worth Avenue also.

Mrs. Wiener thought if they were looking at one area of Town as far as beautification and making it right, it would only be equitable that Worth Avenue should be included in that. She noted the Worth Avenue Association has picked up the tab themselves all these years, and that is one of the reasons she is not anxious to do anything immediately. She thought it could be a part of Mr. Dusey's assignment in putting the budget together for next year and sitting down and talking with the people from the Worth Avenue Association and incorporating and seeing how this could be worked out for the betterment of the Town and for the enjoyment of the residents and for the tax paying shopkeepers, both on the Avenue and on South County Road. Mr. Weinberg believed Mr. Ugi should also be involved to which Mrs. Wiener agreed, noting it should be with full cooperation of all involved.

Mr. Surovek commented while they have their Plan in order, he would still like to see the 1983 Agreement terminated. Mrs. Wiener thought she would like to see it be a part of the budget deliberations for next fiscal year, as the budget is set for Fiscal Year 93-94.

Mr. Doney asked to hear the comments of Mr. Dusey. Mr. Dusey addressed the Council, advising them that if the Elected Officials choose to proceed in this direction, they will do their best to do whatever the Council wants them to do. He pointed out the issue that perhaps there needs to be adopted a level of service as to what they will be providing to South County Road and to Worth Avenue, as Worth Avenue is looking for maintenance and that would be including the hanging baskets with flowers in them. South County is looking for maintenance after their trees are planted. Mrs. Wiener understood that the Worth Avenue Association is not leaving the entire maintenance up to the Town. Mr. Surovek agreed, noting they have an ongoing budget and an ongoing group to do so, within reason, and they are looking for maintenance of the trees in particular. He stated the Association will furnish the flowers and the hibiscus underplantings and will continue to maintain those.

Mr. Dusey commented he was sure they could work that out. Mrs. Wiener suggested they sit down and talk to each other about this.

Mr. Dusey noted there was a request for a part time individual who is now employed by the Association who sweeps the walkways and maintains the landscaping on a daily basis and that is part of the request also. Mr. Surovek announced they too have a budget and what they are looking for is a personable retired custodian who will clean the area. He advised the curbs are not really cleaned although the street sweeper goes down there, but this is a simple matter and he would like them to take over that, and it is a modest sum. He advised they don't want a Town employee going down the street but when their plan gets together, that employee may become theirs, and their concern at this time are the trees and other simple maintenance, and the rest, they will take care of.

Mr. Weinberg noted most of the shop owners take care of the sidewalk in front of their shop. Mr. Surovek stated they have done it for a decade. Mr. Weinberg asked why they wanted to deprive themselves of that? Mr. Surovek explained they wanted to continue to do that to a degree, and they what would like to do is have someone with a garbage can, a broom and in uniform, something like a Town valet. Mrs. Smith thought they skipped out of the area. Mr. Surovek thought maybe it would be a Worth Avenue valet, but someone who is there to consistently clean the Avenue as they don't have that now. Mrs. Wiener pointed out this person would be the Association's and not the Town's. to which Mr. Surovek agreed.

Mr. Dusey pointed out they asked for this and now he is saying they don't want the Town to do it. Mr. Surovek responded this would be together with the Town. Mrs. Smith pointed out this cannot be at the expense of the Town.

Mr. Weinberg advised they need to get on with the agenda. Mrs. Smith noted the advice of the Council to Mr. Dusey is to to forget the valet.

Mr. Dusey addressed the issue of the electrical systems for lighting, which is not included in any proposal and he assumed that remains the responsibility of the Association, if they are to take over the maintenance of the palm trees. Mrs. Wiener suggested Mr. Dusey get together with the Association and tone them down to a reasonable point, but at the same time, the Town can do something for them and this be a part of the budget process for FY94-95 as to what has been agreed upon.

Mr. Dusey reminded the Council they did take over the installation and maintenance of the Christmas Tree on Worth Avenue which cost \$13,000. Mrs. Wiener thought they needed to give that back to them as that hysteria is over. Mr. Doney reported the Town is responsible for three trees for the merchant associations in the Town. Mr. Dusey believed it all could be part of the negotiations.

Mr. Paul Henry from the Worth Avenue Association addressed the Council, noting this process will take some time and in the meantime, they would like permission to have the sidewalks cleaned professionally and the Worth Avenue Association has put aside money to do that before the Season starts, and this would basically be to remove the gum and clean up the gutters and then have the gutters repainted. He indicated they would like this to happen now and then the negotiations for the landscaping be for next year.

Beautification
Project
(cont'd)

Mr. Dusey recalled last year a representative came to ask that the sidewalks be pressure cleaned and it was during the Season and this request is timely and all they have to do is apply for a permit. He advised he would be glad to take care of the repainting of the curbing, and they would spruce up the Avenue together. Mrs. Smith asked Mr. Henry if he was requesting the Town to repaint the curbing to which he responded affirmatively, noting that would come after the pressure cleaning.

Mrs. Smith thought they were attempting to cooperate and will repaint. Mr. Henry pointed out there is a time element involved. Mrs. Wiener moved that the Worth Avenue Association be permitted to pressure clean the sidewalks on Worth Avenue and any paint that needs to be done on the curbs will be provided and the paint will be provided by the Town of Palm Beach and the work will be done as soon as possible.

Mr. Henry requested they be allowed to pressure clean as early as possible during the day. Mr. Moore noted this would be 8 AM. Mr. Henry indicated he would like to start at daybreak and one of their volunteers will be with the cleaning people at all times. Mr. Moore advised daybreak would be 6 AM and he would suggest they compromise at 7 AM, to which Mr. Henry agreed and to which the maker of the motion agreed.

Mr. Henry asked if they could do it on a seven day a week basis to which Mrs. Wiener and Mrs. Smith responded it would not be possible to do it on Sundays. Mr. Henry advised they could only work three hours as they would have to stop at 10 AM, due to the traffic.

Mrs. Smith suggested the timing of this be dealt with the Administration and seconded the motion with the condition that the work be allowed for six days a week, excluding Sunday, and the starting time would be 7 AM.

On roll call, the motion carried unanimously.

3. Consideration of Proposed Interlocal Agreement with Palm Beach County Regarding Newly Authorized Five- Cent Local Option Gas Tax - Request Authorization for Mayor to Execute Agreement - Mr. Doney explained the Palm Beach County Municipal League has sent a letter and he recommended the Interlocal Agreement be authorized and the Mayor be authorized to execute the Agreement, as this would change the revenue participation formula from 80% to 79% and from 20% to 21% to the municipalities. Mrs. Wiener moved the proposed Interlocal Agreement with Palm Beach County regarding the newly authorized five cent local option gas tax be authorized and the Mayor execute the Agreement on behalf of the Town of Palm Beach. Seconded by Mrs. Royal. On roll call, the motion carried unanimously.

Interlocal
Agreement
Re:Gas Tax

4. Consideration of Architectural Design and Related Issues Concerning Replacement South Fire-Rescue Station Mr. Dusey recalled there was an architect change on this project and the original design showed a flat roof over the equipment bays and the new architect has come up with a different rendering, with the same architectural style approved earlier, but he wished the Council to view it. He showed the drawings noting there is a barrel tile roof and it is Mediterranean style. Mrs. Smith asked if the pitches of the roof were the same? Mark Marsh, Architect responded the pitches are all the same and showed the renderings from all angles. He noted there is a sixteen car parking lot to accommodate the employees. Mrs. Royal asked how many square feet? Mr. Marsh responded 13,000, noting the footage has not changed. Mr. Weinberg asked if there was an all purpose room to which Mr. Marsh responded there is which would accommodate 70 to 100 people at 970 square feet. Mrs. Wiener noted this will be large enough to accommodate the voting in the south end of two precincts.

South Fire-
Rescue Station

Mr. Weinberg noted the bell tower and asked if it would be put to any use? Mr. Marsh responded it primarily is there as an aesthetic feature and is a main stairwell. Mr. Weinberg thought it would be a place for a clock or carillon.

Mr. Moore advised this will be coming before the Council as a Special Exception at the September Town Council meeting. Mr. Dusey advised the staff seeks the Council's endorsement so the final design plans may be initiated. Mrs. Wiener thought they had general concurrence of the Council. Mr. Dusey advised they are moving quickly now. Mr. Moore advised this will go before ARCOM on August 25th. Mr. Dusey asked if this was with the Council's approval to which Mrs. Wiener responded affirmatively. Mr. Weinberg asked if the bay doors were automatically closed to which Mr. Marsh responded affirmatively. Mr. Moore clarified that the entire Council is authorizing this to go before the Architectural Commission prior to them hearing it for a Special Exception and the Council agreed.

5. Consideration of Settlement with KLK Builders Regarding Central Fire-Rescue Station - Mr. Dusey recalled almost a year ago the Central Fire Station was almost completed and since that time they have been trying to close out the project with the contractor with no success. He stated a representative from the the bonding company approached him and they have worked out a compromise, noting the Town will receive liquidated damages for the delay of 106 days of \$15,900 and between the bonding company and the contractor all the sub-contractors who have filed liens on the property will be paid. He advised the down side is the warranty will be lost up until October 12, 1993, as the warranties on the major equipment in the building lies with the manufacturer. He advised his recommendation is to have Town Council approve the Agreement to which the Town Attorney advised it appears to be a good settlement. Mrs. Wiener moved approval of the settlement as presented by Mr. Dusey with KLK Builders regarding the Central Fire Rescue Station. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

KLK Builders

Contract
FY94 - Fire
Inspector

6. Request Authorization for Town Manager to Execute Contract for Fire Inspector for FY94 - Mr. Doney recommended the contractual arrangement for the Fire Inspector be renewed for FY94-95, as this has been a savings of approximately \$24,000 in a nine month period. Mrs. Wiener moved the Town Manager be authorized to execute the Agreement for the Contractual Fire Inspector for FY94. Seconded by Mrs. Royal. On roll call, the motion carried unanimously.

XII. APPROVAL OF WARRANT LIST AND FUND EXPENDITURES FOR JULY 1993 Motion was made by Mrs. Wiener, seconded by Mrs. Smith to approve the Warrant List and Fund Expenditures for July, 1993. On roll call, the motion carried unanimously.

XIII. COMMUNICATIONS FROM CITIZENS

Communications
from Citizens

LaMonagasque
Restaurant
2505 South
Ocean Blvd.

A. Raymond Maistri, owner of La Monagasque Restaurant, 2505 South Ocean Blvd., addressed the Council noting he was notified by the Code Enforcement Board he was in violation of a Town Ordinance by advertising his restaurant and he appeared before them and pleaded Not Guilty and they informed him to come and speak to the Town Council. He advised he closes his restaurant from June to October for lack of business and he is hurt by the fact that he cannot advertise. He found by placing an ad in the Palm Beach Post last year, it did increase his business and he would like to request permission from the Town Council to allow him to advertise on limited occasions particularly around the various holidays. He stated his restaurant is a peaceful operation and he does not disturb or create any problems for anyone. He furnished the Council with letters from surrounding residents supporting his request to advertise.

Mrs. Smith asked why he was not on the agenda? Mr. Maistri advised he did meet with Mr. Zimmerman who told him to come and address the Council.

Mr. Moore reported this gentleman was cited for a violation of advertising which is a violation of the Zoning Ordinance as this restaurant is a nonconforming restaurant in the multi-family district in the building known as the President. He was advised of the procedure and came before the Code Enforcement Board who withheld adjudication, subject to his appealing to the Town Council. He advised this should be a variance request. Mrs. Smith wondered why he was not told he needed a variance and helped with the procedure. Mr. Zimmerman addressed the Council, stating he is not sure that he needs a variance and he didn't tell him that he needed one.

Mr. Weinberg noted he does have this restaurant on the first floor of a condominium and he recalled in the past and probably before this gentleman took over the operation of the restaurant, there were problems and he asked if he had the permission of the condominium and did he ask them how they felt about the advertising and also he believed there may be a parking problem. Mr. Maistri responded he has permission and there is plenty of parking as his restaurant does not have a great number of seats.

Mrs. Royal noted a letter is in the back-up information from Mr. Fendrick as President of the Condominium owners, noting they have no objection to the restaurant or to their advertising in local newspapers and magazines. Mrs. Wiener asked when he purchased the restaurant, was he made aware of the fact that there would be no advertising allowed to which Mr. Maistri responded affirmatively stating he is here now to try and change that.

Mrs. Wiener asked Mr. Moore if there was some way this could be handled as he is aware of the fact there can be no advertising, and he is appealing to the Council for that right. Mr. Randolph reported the Code Enforcement Board's hands were tied as they can only act on whether someone is in violation or not, and the Code Enforcement Board told him they couldn't help him and his relief was from the Town Council. He didn't think the relief he needs can be given to him under the forum of Citizen's Comments, and it may need an amendment to the Ordinance or a variance and staff should look at it and advise this gentleman what he needs in order to seek the relief.

Mrs. Wiener moved this matter be deferred until the September Meeting and this be done properly. There was no second to the motion. Mrs. Smith advised in the meantime, there can be no advertising. Mr. Moore recalled at one time this was a conforming restaurant when the President apartments were a hotel, but now it is nonconforming and a determination needs to be made as to whether or not he can apply for a variance as it may possibly be exacerbating the nonconformity, and it may need an Ordinance change.

Mrs. Wiener asked if he was aware of the fact that he would not be able to advertise to which he responded affirmatively, noting he has taken his ad out of the Yellow Pages as he was told that was not allowed also.

B. Adrian Winterfield, 445 Brazilian Avenue addressed the Council on the Mar-a-Lago Declaration of Use Agreement, asking the Council to evaluate the document as if they did, he thought they would agree there are some deficiencies. He felt one of the major ones is the fact there has been no timetable established, recalling in the Prologue it states: "The owner shall convey title." and there is no time limit placed or control upon the procedure which needs to be followed. He asked if a Securities Registration is required for the offering of memberships. He noted in Article One, it states no consent to performance is required of anyone and if that means operation of the Club, he believed that statement was inaccurate. He believed authorization would be required from the Division of Restaurants and Hotels for the guest suites and the restaurant. He contested the position taken by the applicant on the guests suites and by Mr. Brisson, and the examples they cited are not comparable to the Mar-a-Lago Club.

C. Majorie Dyer Lewandowski, who owns property on Seminole Avenue, addressed the Council on the renovations now being done at the restaurant formerly known as Lulu's at the corner of Bradley and Seminole Avenue, and she wanted the Council to know that in front of the restaurant there are two parking spots and there are always three or four automobiles parked there, which makes it impossible for traffic to go south on Bradley Place as you simply cannot see to pull out into traffic. She stated she has called the police several times to ticket the cars. She requested the Council to have the Code Enforcement people and the Police to patrol this area to try and keep it safe. She noted the cars belonging to the people who are helping to renovate the restaurant do block her driveway and she cannot get into her driveway. She suggested that perhaps the streets needs to be marked with the grids which will point out that there is no parking allowed in these particular areas. She recalled the occupational license was granted with the provision that there be valet parking and she asked if that provision would be self-policing or would someone from the Town be overseeing it? Mrs. Wiener recalled the valet parking was to preclude screeching of tires

Winterfield
Re: Mar-a-Lago

The former
Lulu's
parking

and slamming of doors and loud conversation, however, she thought someone on staff should advise these people that they are already causing problems in the neighborhood. Mrs. Lewandowski noted they are open for lunch and she didn't realize the provision of valet parking was just for dinner.

Continuation of parking problem at Lulu's

Mrs. Royal asked Mrs. Lewandowski how she knew the improperly parked cars belonged to the restaurant? Mrs. Lewandowski responded she really can't say for sure but she has been remodeling the house on Seminole since January and this problem did not start until after the activity started for the restaurant and all she is asking is the parking enforcement people do make an effort to enforce the proper parking in this area.

XIV. DEVELOPMENT REVIEWS

- A. Major Matters Previously Considered by the Architectural Commission at Their Meeting of July 28, 1993 - Excerpt Available in Town Manager's Office - Motion was made by Mrs. Wiener, seconded by Mrs. Smith to approve the matters considered by the Architectural Commission. On roll call, the motion carried unanimously.

Major Matters
RE: Architectural Comm.

The major matters were:

- B11-93 - New residence for Mr. & Mrs. Rimoni, 218 Miraflores Dr. - Removed from agenda.
- B27-93 - Parking Deck for J. Grace, 230 Sunrise Ave. - Deferred
- B35-93 - Gardens and Pavilion for Preservation Foundation of Palm Beach at 386 Hibiscus Ave. Approved.
- B39-93 - Addition to residence of Mr. & Mrs. Monks, 220 Ocean Terrace. Deferred.
- B41-93 - Additions and remodeling for Paul Z Okean, 203 Via Vizcaya. Approved.
- B46-93 - Meeting Room Facility for The Colony Hotel, 155 Hammon Avenue. Approved conditionally.
- B1-93 - Revisions to a previously approved project for R. M. Furland at 745 Hi Mount Road. Approved.
- B15-93 - Statues for Mr. & Mrs. George Milidrag, 445 Antigua Lane - Approved.
- B51-93 - Revision to approved landscape plan for James Sirigotis, 256 Miraflores Dr. - Approved.
- B21-93 - New residence for Solcon 3000, 127 Everglade Ave. - Approved conditionally.
- B49-93 - Addition and remodeling of residence for Mr. & Mrs. Robert DeMario, 275 North County Rd. - Approved conditionally.
- B50-93 - Demolition of residence and small structures on the property of Melvin F. Frankel, 146 Atlantic Ave. - Approved conditionally.
- B51-93 - Additions on the west and rear of the property of Mr. & Mrs. Ted Blanch of 686 Island Dr. - Approved.
- B52-93 - Exterior renovations to residence of James D. and Georgiana W. Kornwolf. Approved.
- B53-93 - Demolition of residence at 1485 S. Ocean Blvd. (Dan Swanson) - Approved conditionally.
- B54-93 - Renovations to 238-240 Worth Avenue and the Courtyard (Palm V. Associates. Approved conditionally.
- B55-93 - Addition to residence of Harvey and Rosemary Cove, 309 Tangier Avenue - removed from agenda.
- B56-93 - New residence for Mr. & Mrs. Michael J. Pucillo, 224 Dunbar Rd. Approved.
- B57-93 - Addition of second floor over existing garage for Irwin Levy, 900 N. Lake Way. Approved.
- B58-93 - Demolition and new residence for Euro Homes, Inc., 219 Everglade Ave. - Approved conditionally.
- B59-93 - Entry and garage for Mary K. Coffin/Neil Elliott, 222 Miraflores. Removed from agenda.
- B60-93 - Demolition and New residence for Dr. Michael and Virginia Longo, 210 Colonial Lane - Approved conditionally.
- B61-90 Addition to kitchen for Leverrier, Inc., 132 N. County Rd. Approved.

B. Variances, Special Exceptions and Site Plan Reviews

Old Business

1. Special Exception No. 11-93 - Clarification Regarding Preservation Easements for Proposed Mar-a-Lago Club - Mr. Randolph advised the first responsibility he had was to prepare the Declaration of Use Agreement with the conditions and stipulations recommended by the Council and he has done that and Mr. Trump has executed the document. He recalled at a subsequent meeting on the budget, he was directed by Council to meet with Mr. Rampell and discuss with him the concern that the preservation easements which were to be voluntarily given were not yet in place. He has had many discussions with Mr. Rampell and it is Mr. Rampell's belief that there never was any agreement on his part to make the preservation easements a condition of the granting of this application, and in fact, he stated he attempted to make that clear because of a position that he wanted to protect for his client. He believed the position that the Town Council finds itself in now is if they want protection that these easements should be in place prior to the Agreement being signed or prior to the Club opening, they are at loggerheads in a sense, as in order for these easements to be entirely voluntary and in order for the applicant to realize the protections he needs, that this stipulation cannot be a condition and it can't be a quid pro quo nor a condition and in light of the position taken that it can't be a condition, he cannot guaranty that indeed this will occur. He emphasized that this is not a reconsideration of the Special Exception application and this is not a public hearing as that application was acted upon and they are merely here today for a clarification, however, if they wished to impose further conditions, it would mean reopening the public hearing and that would mean readvertising, etc.

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Mrs. Wiener found the very idea of talking about the possibility of reopening this after the Council's instructions have been given makes no sense to her. Mr. Randolph advised if this Council is going to consider things that have not been considered before, this is not the time to do it and today they are simply clarifying what has been done and this cannot be reopened today but in a different manner at a different time.

Attorney Paul Rampell addressed the Mayor and Council, indicating he can only repeat what he has written and go over the record and summarized what has happened, pointing out in the application there is a statement that Mr. Trump and/or the applicant, within a reasonable period of

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(cont'd)

time shall voluntarily make an income tax deductible donation of preservation easements covering the critical features identified in Chapter 3, to a governmental unit or charitable organization as defined in certain sections of the Internal Revenue Code. He recalled at the May 13, 1993 hearing there was a discussion between himself and Mrs. Wiener about the possibility of these easements going to the Landmarks Commission, which is not relevant to this but he did make a statement that there was a little bit of difficulty when they get into the specifics of where the Preservation Easements should go, because if the Town requires them or directs where they may go precisely, Mr. Trump loses his deduction and it would interfere with his donative intent. He advised they could not begin operations as a Club until the preservation easements are given.

Mrs. Royal asked why? Mr. Rampell responded if the Preservation Easements are a part of the contractual agreement, he is no longer doing it voluntarily or in a charitable spirit, and he doesn't get the deduction. Mrs. Royal stated that isn't what she asked, what she wanted to know is why did he say they couldn't begin operations unless the easements are given? Mr. Rampell responded the reason being is that they have made an explicit representation in their application that they are going to give them and if they don't the Town has three remedies available to it:

- (1) Withhold the Certificate of Occupancy;
- (2) Town would have an action against Mr. Trump for making a misrepresentation;
- (3) Fraudulent inducement that they have made statements inducing the Town to enter into the Declaration of Use Agreement based on explicit representations.

Mrs. Royal asked Mr. Randolph if he agreed with these statements to which he responded he could not entirely agree with them as all are representations of what could happen but they would have to possibly occur through litigation and he believed they are subject to interpretation, noting although the entire application is picked up in the Agreement, Chapter One is one of the chapters not recited in the Agreement, so some argument could be made. He thought that Mr. Rampell's statements were legitimate arguments but he couldn't offer them to the Council as protection for the Town and to assure them that the easements would have to be in place, and in fact, that is what is being stated by the applicant that that assurance cannot be given, as it will hurt their tax situation.

Mr. Rampell advised the problem is that Mr. Trump cannot sign in the Declaration of Use Agreement a provision which states he will give the Preservation Easements, as the deduction will be lost. He recalled he and Mrs. Smith having discussion in one of the hearings about the tax benefits of these preservation easements and they are very substantial and he only mentions that, because the reality is that his client would be stupid to not give the preservation easements to a charity or a government agency, recalling the rule of thumb according to Mr. Steven Small, their preservation expert, is the deduction is between ten and twenty per cent of the value of the property. He recalls he was careful about this when it was being discussed as he doesn't know whether Mr. Trump will get the deduction, because he doesn't know if he has taxable income, but assuming he does, there are some overwhelming incentives for him to donate the easements.

Mr. Rampell reminded all on June 3, 1993 a motion was made that Special Exception 11-93 with the Site Plan Review be approved, subject to all of the conditions being incorporated in the Declaration of Use Agreement. He recalled Mr. Randolph told the Mayor and Council that the Agreement would not come back to the Council for review, as this would be handled by the staff and Mr. Randolph stated he would like to make it a part of the record the irrevocable power of attorney with regards to the easement and the motion carried 4-1. He recalled another motion was made authorizing the Mayor, the President of the Council and the Town Manager to sign the Declaration of Use Agreement, so it is their position that the officials do not have the discretion to not sign the Agreement and he would like it to be signed. He noted Mr. Randolph in a letter sent to him stated it was his opinion the document was in a form ready to be executed by the Town officials. He urged them to sign the Agreement as it is Mr. Trump's position that he has signed a finalized contract and the deal is done.

Mrs. Royal asked Attorney Randolph if the Agreement is executed and they do the renovation work and Mar-a-Lago is ready to open, and there are no easements in place, on what basis can they be denied a Certificate of Occupancy. Mr. Randolph responded the Declaration of Use Agreement does pick up the application and it has the provision in it that says this is the entire Agreement of the parties and no other agreement shall be binding unless in writing between the parties, and that is a problem they could be facing in the future. He thought the whole point is that in order for the applicant's donative intent to remain a donative intent, the Town Council cannot extract from him a quid pro quo or something that will give them the assurance that the Donative intent is going to be filed. He has had many suggestions in this regard and those have not been acceptable to the applicant since they sounded like they are an extraction from the applicant who needs to voluntarily give these easements.

Mr. Rampell reported when the Declaration of Use Agreement is signed, it will place deed restrictions on the property which are the exact equivalent of the Preservation Easements. He exhibited a drawing of critical features and they are referenced in the Agreement and in the Preservation Easement, so these critical features are protected three times, as all of the exterior features are already subject to the jurisdiction of the Landmarks Commission, so nothing on the exterior could be changed. He noted Article V states the critical features will not be altered, so the deed restrictions are already in place. He thought the deed restrictions assure the Town of total and permanent preservation of the critical features. He thought it would be absolute idiocy for Donald Trump to not give them away as they are already subject to deed restrictions and the exterior is subject to the Landmarks Commission scrutiny and if the Town requires the easements as a condition, they cannot get the deduction so he asked that this not be imposed as a condition. He recalled Mr. Randolph had suggested they record the irrevocable power of attorney and he resisted the idea initially but then conceded to do that. He advised a statement was wanted to the effect that a Certificate of Occupancy not be issued until the Preservation Easements were in place and he has provided a letter to that effect.

Mr. Rampell stated the reason why he wanted Mr. Trump to sign the Irrevocable Power of Attorney was a good faith showing to the Council that he was serious about granting the Preservation Easements and he is the holder of that power of attorney.

Mr. Randolph asked if Mr. Trump could cancel that power of attorney? Mr. Rampell responded in his legal opinion, Mr. Trump could not cancel it as it is irrevocable. Mayor Ilyinsky asked would

happen if Mr. Trump no longer had Mr. Rampell as his attorney of record? Mr. Rampell stated it is irrevocable. Mr. Randolph commented that his opinion is different from that. Mr. Rampell commented they disagree but it is his legal opinion it was intended to be irrevocable and it is his opinion that it is irrevocable and he is prepared to exercise it today. He has sent the agreement to Mr. Randolph and he could exercise it in favor of the Town to take effect within one year, if he cannot give it away to another donee.

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Mrs. Smith recalled she brought this up at the July meeting because in the course of many discussions on Mar-a-Lago, the easements were volunteered by the owner and they were asked to not make it a condition, so as to not eliminate the donee's intent, which the Town Council did and she believed if they hadn't made that request of the Council, they would have made it a condition of approval that the Preservation Easements be donated prior to the signing of the Agreement, however that didn't happen. She hoped he would agree and in the interest of cool heads and calmness, and asked if it was not true that if the Preservation Easements and the Open view shed easements were to be donated within the next month of two to the National Trust for Historic Preservation, the entire conversation would be moot to which Mr. Rampell agreed. Mrs. Smith understood the Preservation Easement process can take three to four months and it has been two months and there was a letter received from the National Trust stating it was in the process, and she asked if there was any reason why this matter could not be brought to fruition within the next month or two, as everyone would be comfortable and the discussion will be over. She didn't want to bring up any more questions on surveys and view sheds, and drawings and people discussing the Agreement and she asked if there was any reason this could not happen within the next month or two? Mr. Rampell responded there was as they may not give the Easements to the National Trust. Mrs. Smith asked she would substitute other organizations then and asked if there was any reason it could not be given to another organization, as she recalled Mr. Trump intended to utilize this donation in the year 1993, and it doesn't have to be the National Trust. She stated it is obvious the Town cannot take it as they cannot take taxpayer's money to monitor the preservation easements and asked if there was any reason why within the next few months the easements could not be donated to any organization that they choose to give them to? Mr. Rampell stated they can't control the time that these donee organizations require in order to analyze the easements and in order to determine what endowment they want to have for the Easements, and it is beyond their control, as he is surprised they haven't received a response from the National Trust, and they have had it for over two months. He has received a copy of a letter from them to Mr. Randolph stating they are proceeding and he outlines further internal steps that will be undertaken, but they are time consuming, so they don't know if it can be done in one month, two month, or three months. He stated if things do not work out with the National Trust and they go to an alternate donee, it may take more time and he really didn't know how long it will take, but it is their hope it will be done in 1993 for Mr. Trump's tax planning, but he cannot control the timing.

Mrs. Smith announced the Town of Palm Beach is not in a position to be involved in any type of negotiation, as they could not do it. Mrs. Wiener asked who said they can't hold the preservation easements and this would not be what she would like, however, they are getting away from the whole point of the conversation and she would be seriously concerned if the National Trust didn't have this for the past two and one half months; and she would be seriously concerned if Mr. Trump were not doing his end of this, and as all know, government never works as quickly as it might, as it been indicated they have been contacts by organizations in the Town who are involved in this matter and in her opinion, should not be involved, and she thought if people would just let the Town and Mr. Trump handle this matter, they would be moving in a direction that they should move in. She recalled in the past when they were working with the Reef, there seemed to be no trouble with the Town putting all of its efforts and money and personnel in trying to move something along in the State of Florida, so she saw no reason why an official letter could not be sent from the Town, saying we are awaiting the results and are anxious for the National Trust to accept this easement. She takes comfort from the fact that number one, it has been volunteered, and number two, it was followed through immediately and she thought the Town should get behind it and make sure that this thing happened as rapidly as possible.

Mrs. Smith asked if the Town were in a position to represent an individual owner in a case which involved his tax status - she didn't think so. Mrs. Wiener felt they could certainly say they are anxious - and the fact of the matter is do we want the easement or don't we? - do we want to make it difficult or not and they should make up their minds as to what is the final thing the Town really wants - do they want to have an argument or have everything fall apart or do they want to make sure the easement is in place. Mrs. Smith announced it is not going to fall apart as Mr. Randolph has explained the Agreement has been voted on and has been approved and this condition which the Council felt comforted by and did not make it a part of the Agreement at the request of the applicant and it is not a condition, so it cannot be included but the implication was the Preservation Easements would be in place and many members of the Council were comforted by the fact that Mar-a-Lago was going to be preserved which Mr. Rampell has indicated to us was what Mr. Trump wanted to do.

Mrs. Wiener noted she was not at the last meeting and she read the minutes of that meeting and she thought she might be misinterpreting something and either the wall has already been built and the trees are in and the sprinkler system is in and all of the other items are done and need to be accomplished prior to the time that everything is signed, or they begin to be accomplished after the Agreement is signed and prior to the CO, but as far as she is concerned, there is not one item on that list which is any more important than any other item, and they all have to be completed before a CO can be given by this Town and why this item is being zeroed in on, she has no idea. Mrs. Smith stated she brought it up. Mrs. Wiener asked her why she didn't bring up the trees, or the walls. Mr. Randolph pointed out the legal difference is those items are in the Agreement and the Preservation Easements are not in the Agreement.

Mrs. Smith commented that many people have talked about the Preservation Easements from the very beginning and this is not an afterthought, as she brought it up as it was her interpretation that they would be recorded at the same time as the document and she brought it up at the July 29 meeting and now they are having a discussion and she wanted to be very sure that they didn't think it was an afterthought on her part as she has been talking about this from the very beginning. Mr. Rampell disagreed with the notion that there was anything anywhere in the transcript or the minutes, correspondence, application, anything in writing that specifies the sequence in which these documents were to be signed before the Town signed the Declaration of Use Agreement and if Mrs. Smith had that expectation, it was a private one. Mrs. Smith responded she couldn't because he asked that the Preservation Easements not be a condition of the approval, so she couldn't ask that they be signed as it was not a condition. Mr. Rampell stated if she is now trying to make it a prerequisite of the execution of the Declaration of Use Agreement, it is becoming a condition of

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the Agreement. Mrs. Smith responded she brought it up in conversation at the July 29th meeting as she explained at that time, the Council operates under the Sunshine Law and it would be the only time that she could bring it up as she can't discuss it with other members of the Council.

Mr. Rampell stated they have money set aside for the Endowment and he has tried to give them to the National Trust and they are ready to roll and they also have a back-up organization if the National Trust states they are not willing to take them. Mrs. Royal asked how much money did he have set aside. Mr. Rampell responded he would rather not disclose that.

Mr. Weinberg recalled when they voted on this, the Council assumed they would have to have time to get the Preservation Easements and Mrs. Smith asked you when does this agreement go into effect and Mr. Randolph responded it was considered approved as of that day, subject to final details being put into the Agreement and incorporating the conditions agreed upon and he advised that it would not come back to the Mayor and Town Council for review or approval, as it would be handled by the staff. He believed Mrs. Smith brought it up and she is entitled to her thinking and to her concerns, but he noticed they are going back and forth and the major problem is the preservation easement. He noted Mr. Rampell's difficulty was getting sufficient time to do it and he asked if he would be able to present an easement to the Council by December 31, 1993? Mrs. Wiener stated she would have a serious problem if this had not been presented to the National Trust already, but she thought they should move forward and make a decision.

Mrs. Smith hoped that it would go to any organization to take it out of the political arena, as they don't want Mar-a-Lago discussed as a local issue and if it were given to whichever organization, particularly the National Trust for Historic Preservation which is the premier organization of the country, there would be no political pressure and it would be handled by experts in the field and the Council would not be a part of it and that is why she hoped it would be done and over with. She stated they are merely discussing the preservation easements.

Mr. Rampell noted they were also discussing whether or not the Town will sign the Declaration of Use Agreement and asked if they will sign it? Mr. Randolph pointed out that doesn't take another motion as he thought they were talking about the preservation easement, unless they are going to clarify something in the agreement.

Mayor Ilyinsky commented this entire process has taken six months whereas the Magna Carta was written in three days and the Constitution in one and the Bill of Rights in four, and he thought they all have shown a great deal of patience in this proceeding and as the ranking Ombudsman he suggested he sincerely believed this was the best use for the property if they want to preserve its beauty. He thought the name Donald Trump had little to do with this argument as he has been capably represented by Mr. Rampell and he would like to say that while he is not completely happy about this, he is ready to sign the agreement as he honestly believes that enough has been said about it and he will trust Mr. Rampell to get the Preservation Easements in place and agreed that Mr. Trump would be an idiot to not pursue the subject as he will have lost a great deal of money and he hoped the Town Council would get on with this.

Mrs. Wiener moved that the authority to sign, based on what was heard today, be given so that the Agreement can be executed within the next twenty-four hours by Mayor Ilyinsky, President M. William Weinberg and the Town Manager, Robert J. Doney.

Mrs. Royal asked the Irrevocable Power of Attorney be on record and it should also be on record that there will be no Certificate of Occupancy from the Town to the Mar-a-Lago Club even if every blade of grass is where it ought to be, until the Easements are in place, and if there is any other conditions that should be added, she would like to add it in now, and then she will second the motion.

Mr. Randolph asked if the document which Mr. Rampell has stated he will send us a part of the consideration as he needs to know that as if he is going to go back and speak with Mr. Rampell, he needs to know what is expected. Mrs. Smith recalled he stated if at the end of a year period and there are no preservation easements in place, Mr. Rampell stated he will give it to the Town. Mr. Rampell stated he is willing to sign it and that offer does remain.

Mr. Rampell noted he did make three revisions and turned them over to Mr. Randolph. Mr. Randolph stated that was correct as one was they would have the mortgagee's consent.

Mr. Weinberg noted the motion was made by Mrs. Wiener and asked if Mrs. Royal's statement was a second to the motion to which Mrs. Royal agreed. Mr. Rampell noted that is difficult since it would hamper the tax deduction.

Dr. Lilja addressed the Council and suggested a letter be sent by Mr. Trump about the Irrevocable Power of Attorney and that he approves and asked if that would help to which the attorneys did not agree it would.

Mrs. Polly Earl addressed the Council speaking for the Preservation Foundation stated her concerns have been voiced and the decision is made and she has no interest in talking again about the traffic, the guest rooms, etc., and her concern is the protection of the property and they rely upon the representation that the easements will be there to protect the property in all of its existence as a Club. She felt the easements needed to be in place before they start doing the renovations which might impact on the exterior. Mayor Ilyinsky noted the exterior is already landmarked. Mrs. Earl agreed it was and she pointed out the Preservation Foundation does hold easements on certain properties in the Town and when the owner comes to make some renovation, the Landmarks Preservation Commission takes a look at it but they look in a straightforward manner as they don't have the time, the staff, etc., to probe beneath the surface. She recalled they were looking at one of the properties on which the Preservation Foundation held the easement and they as the easement holder had the responsibility to look at this very carefully and they urged the Landmarks Commission to defer the matter until they had the opportunity to look into it further and it was deferred and there was a solution brought back at the next meeting which was to everyone's liking. She stated that is why they all believe these easements do offer the protection that the property needs and that is why they are all marching in the same direction at this point. She suggested they write to the Trust, as Mrs. Wiener has suggested, and ask them to move forward quickly and they build on what Mrs. Royal is suggesting about the Certificate of Occupancy not being released until the easement is in place; and that they build on Mr. Weinberg's suggestion that they all march together and trust each other and this not be made a condition and Mr. Trump

and his representatives not mistrust the Town and try and get the easements through in a reasonable amount of time and they all work together.

Mrs. Wiener stated she would like her motion to stay without the amendment that Mrs. Royal put on it with her second. Mr. Rampell pointed out the amendment jeopardizes their deduction and he will accept the position of the Town that they will withhold the Certificate of Occupancy. Mrs. Smith pointed out they are here discussing this today because the Mayor stated he would not sign the Agreement without a motion and he doesn't need a motion to sign the Agreement, nor does President Weinberg need a motion. Mr. Randolph advised they have already been given direction to sign the Agreement. Mr. Rampell pointed out there already is a motion.

Mr. Weinberg stated he was willing to sign the papers and would join the Mayor to which Mr. Doney also agreed. Mrs. Wiener asked they be signed within the next twenty four hours.

Mrs. Smith noted the motion is then withdrawn and the papers will be signed. Mr. Doney stated the issue is that the Council voted on July 29 that they wanted to consider this and now they have the authority to sign the Agreements and he asked if anyone had any questions they should be raised now. There was no response from any of the Department Heads. Mr. Randolph noted the consensus is whether there is a motion or not, as far as the Preservation Easements are concerned, it is not a condition and we are moving forward with the execution of the Declaration of Use Agreement. Mr. Weinberg stated it will be done shortly. Mrs. Smith stated in the same way as if she hadn't brought it up on July 29 and they wouldn't be discussing it today. Mr. Randolph did not agree as he had discussed alternative methods of giving the Town some satisfaction that the easements would be placed and those have been discussed and rejected and he believed the consensus was that the document be signed. He stated since the issue has been raised, he has been presented with a document that Mr. Rampell stated he will sign and as he understands it there is nothing more to be done and nothing more that he needs to do and there are no other documents to be signed at this time and it will simply be the Declaration of Use Agreement.

Mrs. Wiener noted the policy has been made by the majority of the Council and the Agreement will be signed.

New Business

2. Variance No. 36-93 - Dr. and Mrs. James Harris, 303 Pendleton Avenue; to allow construction of a second story addition to an existing one story, with a 10' west side yard setback in lieu of 15' required. R-B District. Attorney Robert Deziel addressed the Council requested the variance for his clients, Dr. & Mrs. James Harris. He stated the hardship is the lot is situated on a corner lot which requires two front yard setbacks, one on Pendleton and one on Cocoanut Row. He requested a second story addition above a one story room located behind the garage. He exhibited pictures showing the lot is heavily landscaped. He reported the neighbor to the west, Michael Colon, who requested the improvements not have any windows on the west side to which his clients have agreed. He noted the variance request is that they be allowed to build within 10' of the sideyard setback line whereas 15' is required.

Spec. Excep.
11-93
Re:Mar-a-Lago
(cont'd)

Var. 36-93

Mr. Moore reported there is no problem with the rear setback and there is an existing one story structure at the ten foot setback which was required when the structure was built. He asked if this is granted, there be a recordable agreement for future property owners that there would not be permitted windows on the west side.

Mrs. Royal moved the Variance No. 36-93 be approved with the condition that there be a recordable agreement noting no windows would be permitted on the west side. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

3. Variance No. 37-93 - Solcon 3000, Inc., 1332 N. Ocean Boulevard; to allow construction of a single family residence in compliance with all height restrictions, but due to the sloping terrain and the dictated split level design, would be defined as a four level/story residence. R-B District. Randall Stofft, Architect addressed the Council, noting this is a corner lot and they wish to lower the garage and the room above it, so that they do not have to ramp up into the garage, and it will lower the height and the mass of the building. Mrs. Smith asked if this is new construction to which Mr. Stofft responded it is as they are demolishing the existing structure. Mr. Weinberg asked how tall is the building, to which Mr. Stofft responded it is 27' to the peak of the roof. Mrs. Smith asked what was the cubic content to which Mr. Stofft responded it is 43%.

Var. 37-93

Mrs. Smith noted there are other houses in the area which have the same grade problems, and this appears to be a three story house. Mr. Stofft advised it is a very small footprint, as it is a two story house and he has designed it to look like one story and a half. He noted the house is set back an extra ten feet from the setback in the front.

Mr. Moore gave the staff comments, noting the house could be built to Code, although the garage element is lower than the main house. He thought it was actually four levels, not three stories. He recalled this type of architecture has plagued the Zoning Ordinance for a number of years, and the Zoning Commission studied this issue of split levels in 1984 and 1985, and they did not agree with the split level concept, nor did the Town Council so it remained in the Ordinance with the proviso that applicants could always come before the Council to ask for a variance. He stated they could grant 18" of split level as that amount is granted for dropped great rooms or sunken living rooms, but that doesn't help here as the area they want is between four and five feet, areas between floors. Mr. Stofft advised they need 2.6' to bring it down to 12" above the existing street.

Mr. Moore noted this presents two roof levels and one is lower by about 4.5' to 5' than the overall roof on the two story on the higher portion of the ground, so the variance request would bring it more into conformity, however, it does fly in the face of the Council's past policy of no split levels. He stated this has again be added to the Zoning Commission agenda and they will review it and bring it to the Council for their review next Zoning season.

Var. 37-93
(cont'd)

Mr. Weinberg thought the split tended to minimize the massiveness of the residence to which the architect agreed, as well as Mr. Moore. Mrs. Smith noted the entrance is on Ocean Terrace and they are using an Ocean Boulevard address and if the entrance is on Ocean Terrace, the line to the side is not the rear yard but is the side yard and the rear yard would be the north side of the property. She noted the swimming pool is going into the sideyard setback. Mr. Stofft noted this is an existing swimming pool and the plans are mislabeled, but all meet the required setbacks.

Mrs. Royal asked if they had a sketch of what the residence would look like if it were built to code? Mr. Stofft stated there was a drawing in their submission of the different levels. He noted 18" is permissible and he was asking for 2'6" which would raise the garage doors and the arches and put the roof line at a slightly higher level, and it is a five foot slope, and he thought it would be a benefit all the way around.

Mrs. Smith felt when it is looked at from North Ocean Blvd., it does give the appearance of a four story house, as there are windows on four levels.

Mrs. Wiener noted there is an appearance of different floors but at the same time, the overall mass is lower, and if he built to Code, it would be a higher height than what is shown. Mr. Moore stated it is about two feet, indicating the architect is actually asking for four levels or a split level, which the Ordinance does not address.

Mrs. Smith noted he is requesting an additional 30". Mr. Stofft responded that was correct and that would allow the house to sit more comfortably on the lot. Mrs. Smith noted if he were to put it down, the whole thing could be brought down and it would not have the appearance of four stories. Mr. Stofft stated he didn't do that but he did bring the second floor roof down another two feet and lowered the ceiling in that area, so the massing is broken up and the house will not appear like four stories, but like a story and a half. He felt it was a win-win situation for the neighbors and for Palm Beach to which Mrs. Smith asked why he thought it was a win-win situation? Mr. Stofft responded it brought down the massing and gives the home a better relationship to the existing older homes in the neighborhood and there is no benefit to leaving what is there now. Mrs. Smith responded she is not talking about leaving the existing home, but she is asking why a split level would be a win-win for Palm Beach. Mr. Stofft responded it gives a better relationship to the existing driveways and where everyone else is on the street currently.

Mrs. Royal felt it was a good idea for the Zoning Commission to review this as if they give directions to the architects on height, and it didn't matter how many floors they had as long as they stayed within the height restrictions. Mrs. Smith responded a four story house would appear massive, no matter how high it was. Mrs. Royal asked if that was so because the windows were at different levels? Mrs. Smith responded this is a difficult piece of property because of the slope in terrain which the owner knew when he bought the property. Mrs. Royal again asked her question to which Mr. Stofft responded the Architectural Commission asked them to break the roof lines and to create differences and he is here to do a better piece of architecture, as they did come for the variance because they had the option of ramping up and the Building Department advised them to raise everything up, but for the sake of better architecture, they are here requesting the variance, and he assured them the house will not appear like a three or four story building.

Mrs. Smith recalled there is a house in the north end which looks like a three story and she felt this one is definitely going to appear like that also. Mr. Stofft disagreed, noting there is not a stacked two story, as he has a garage and one story above the garage and there is no section of the house which is three stories. Mr. Moore remarked that visually from the south elevation, it does appear to be three stories, with the garage, the central part, and then a top story, which Mr. Stofft stated that is true but the height is not raised and it will be less massive than having it go straight up the extra five feet.

Mrs. Royal asked if Dr. Lilja can give the Council his opinion as he is a nearby neighbor and Dr. Lilja addressed the Council, indicating he is not representing his neighbors but he wanted the Council to know the feeling of what they have been going through in the neighborhood over the past three years, and he presented photographs of what his view is from his family room and is representative of what his neighbors view also. He noted they are all anxious to have something built there so they don't have to have this mess around them forever. He asked that something be built which is according to the Ordinance and reasonably compatible with the neighborhood. Mrs. Royal asked if he thought it would be better to have a house which required a variance but is not as massive, or a house built to code which will appear more massive? Dr. Lilja asked if they can come back to this after he finishes his statement as he believed there were some misstatements made in the presentation of the application. He felt there was no hardship as they bought the property and knew exactly what it was. He has counted the number of houses which are situated from Colonial Lane to Reef Road and there are twenty-nine properties with only two not being corner properties, so that means that twenty seven properties would be eligible for a variance and they have exactly the same problem. He reminded them that the suggestion of creating an R-BB District was turned down by the Council. He thought if this is granted, it will make the Zoning Ordinance invalid. He believed the application was defective in several respects as Mrs. Smith did point out the house faces Ocean Terrace not North Ocean Blvd., which means the side yard should be 15' and it is shown at 10'. Mrs. Smith responded it was mislabeled on the Plan and the setback is as required.

Dr. Lilja advised there are no dimensions on the plan except for the height, so there is no way to check for FAR and it is stated to be at 43% and when Mrs. Smith asked about the cubical content, they responded it was at 43% but that only applies to the first and second levels and they have not included the garage level. Mr. Stofft stated that was not correct. Dr. Lilja stated he is only reading what the drawings tell him.

Dr. Lilja noted the pool is nonconforming as it is understanding that when the building is torn down, everything else on the property must be conforming and if the pool is going to stay where it is, it needs a variance as it is not at the proper setback. Mrs. Smith asked if that was true? Mr. Moore responded the accessory uses can remain for one year and if it goes over that time, they would have to be removed.

Mrs. Wiener believed there seems to be a lot of mis- information here and she would like an explanation. Mr. Moore responded the variance request is for a four level within the height of the two levels and all of the FAR, Cubical Content is not there because that is not what is before the Council. Mrs. Wiener agreed stating they should not go through the same old game and she believes

what would make Dr. Lilja happy is to have a lovely garden on that piece of property and that is not going to happen.

Var. 37-93
(cont'd)

Mrs. Smith recalled she was the one asking about the cubical content because it is not on the Plan and she asked it as a direct question and not a trick question, pointing out that will have to be on the plans before it goes to the Architectural Commission and they are really looking at the variance here today. Mrs. Royal stated they do not have to address themselves to the FAR or Cubical Content, and she asked Dr. Lilja the question she asked before and that was would he prefer a house built larger according to the Code or this house which requires a variance and will have lower heights but less mass. Dr. Lilja responded he would like to have something that is pleasant and as inconspicuous as possible and the smaller the impression, the better it would be.

Mrs. Royal made a motion to approve the Variance No. 37-93. Dr. Lilja stated he hadn't finished his statements as yet, noting the drawings are not dated at all. Mrs. Wiener noted they were. Mr. Moore responded they are dated July 21, 1993. Dr. Lilja stated they are talking about two different things as the drawings he saw were not dated and the date that Mr. Moore is referring to is the stamped in date it was received by the Town, but the drawings are not numbered and not dated.

Mrs. Wiener noted there is a stamped in date. Dr. Lilja stated when he checked the drawing he asked if that particular drawing was the one that was valid and was told that was the one submitted with the application. Mr. Weinberg noted Mr. Moore has indicated it is a valid drawing. Mr. Stofft recalled the drawings were brought into the Town within the time allowed, but they don't finally date the plans until it is an approved project.

Mr. Moore was not sure why they were having this conversation as drawings can be changed at any time and the drawings that they have now are the last ones available.

Mrs. Royal moved that Variance No. 37-93 be approved. Seconded by Mrs. Wiener. On roll call, the motion carried 3-1 with Mrs. Smith voting against the motion.

4. Variance No. 38-93 - Stanley Knowlton, 255 Seaspray Avenue; to allow construction of a pergola setback 2' from the east property line in lieu of 10' and 6' from the front property line in lieu of 30'. R-B District. - Bill Maddox, Landscape Architect addressed the Council for the applicant requested the variance. He stated this will have a six foot hedge along the street and the pergola will be approximately eight foot tall and it will be covered with flowering vines. Mr. Moore explained staff cannot identify the hardship and there would be room to place the pergola elsewhere on the property without a variance. Mr. Maddox explained why he wished to place it in the location he requested was because they were creating a new entrance, installing larger trees and create a long view vista to the front garden and if the pergola is brought any closer, it will add to the clutter. He stated there is an existing palm tree which will hide a large part of the structure behind the six foot hedge and they would be willing to let it grow to eight feet. He noted the hardship is that they are dealing with a limited space to create a beautiful garden with a vista and a reflecting pool. Mr. Moore advised the previous owner originally permitted this as a pond. Mr. Maddox explained they wish to make it into a flowing reflecting pond. Mrs. Wiener asked if there was any way they could push it back a little further so it wouldn't be so visible. Mrs. Smith asked if they could get it further away from the south line? Mr. Maddox stated it would interfere with the long view if it was moved further away and noted there was a ten foot hedge on the east. He advised it is not a room but actually a garden arbor and it will have greenery and flowers on it. Mrs. Smith thought perhaps it wouldn't be too bad as it will be all flowers and vines. Mr. Maddox noted the graphics show that two feet will be seen, but they are not even going to see that. Mrs. Royal pointed out a letter of concern was received from a neighbor, Mr. Shaw of 318 Seaspray. Mr. Maddox thought what they want to do will create a more beautiful setting and get away from what he is complaining about, and he will talk to him and assure him the new owners would not be using this reflecting pool as a children's swimming pool as did the previous owners.

Var. 38-93

Mrs. Wiener moved that the Town Council grant Variance No. 38-93. Seconded by Mrs. Smith. On roll call, the motion carried 3-1 with Mr. Weinberg voting against the motion.

5. Special Exception No. 19-93 - Spencer Galleries, 240 Worth Avenue; to allow expansion of occupancy from 2,600 square feet to 2,900 square feet, all in excess of 2,000 maximum permitted. C-WA District. - Attorney Peter Broberg addressed the Council on behalf of Spencer Galleries who would like to increase their present store to 2300 square feet, which is allowed to remain in excess of 2000 square feet since it has existed prior to the time the Code was changed, and they wish to add 543 square feet, which used to be a part of this shop at one time. He noted Spencer Galleries is located next door and would like to incorporate this space into their gallery. He stated Spencer Galleries is Town-serving and have been in the Town for many years.

Spec. Excep.
19-93

Mr. Moore gave the staff comments, noting the applicant would have to demonstrate they are Town serving on an annual basis. Mr. Broberg stated he has a letter from Spencer Galleries' certified public accountant which states that based on his review of the patrons of the store, the percentage exceeds the 50% requirement in the Town Code. Mrs. Smith asked if the list of the clientele would be available for perusal to which Attorney Broberg responded if others are furnishing this, then it may be available, however, he doesn't know.

Mrs. Wiener read the letter and asked if next year they could present something better as it will have to be an annual report. Mr. Broberg stated the applicant will provide the Council with what they need next year.

A motion was made by Mrs. Smith, seconded by Mrs. Wiener that the Special Exception No. 19-93 be approved. On roll call, the motion carried unanimously for approval.

C. Other

Spec. Excep.
20-92

1. Special Exception No. 20-92 - Request by Dennis P. Koehler, Esquire, for a One (1) Year Time Extension - Temple Emanu-el, 220 and 222 Seminole Avenue; to allow construction of a 10,713 square foot addition of 8 classrooms and additional accessory/support facilities to Appleman Fellowship Hall. R-C District. - Mr. Maury Cohen addressed the Council noting that Mr. Koehler had to leave the meeting, and he is representing the Temple, as the secretary of Temple Emanu-el and co-chairman of the Building Committee. He asked for an extension of the authorization given to them last year to build a Fellowship Hall. He stated there was a defect in the title which was discovered at the closing and had to go through the courts to clear up the defect and it took time to give notice to the tenants and there were delays, and he requested the one year extension.

Mr. Moore explained the staff has no objection as this is the first request for an extension. Mrs. Wiener moved that the one year extension be granted for the Temple Emanu-el. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Mayor Ilyinsky suggested that items such as this which are normally granted the first time for one year should be a part of the Approved Agenda, as he knows this gentleman has been here all day, to which the Council agreed.

Consideration-
Request for
Waiver to
Section 6-34(b)

2. Consideration of Request for Waiver to Section 6-34(b), "Construction Specifications, Permit Fees -Projections", of Town Code by Mr. Robert Luther, President, Construction Technology, Inc., Regarding Replacement Seawall at 695 Island Drive - Mr. Moore noted Mr. Luther has also been here all day and staff has no objection to the use of the batter piling instead of the tiebacks that are normally used, as there is an encroachment of a swimming pool. Mr. Weinberg recalled there have been similar requests such as this before the Council and he believes they should allow this. Mr. Luther addressed the Council representing Mr. & Mrs. Howard Kessler of 695 Island Drive, and did some testing on the seawall and after the testing, it has been concluded the seawall is in terrible condition and in danger of failing, and conventionally they would use the tiebacks but as Mr. Moore has stated there is an encroachment of a swimming pool and there also is an existing dock which will be removed, the piling will be installed and the dock will be replaced and the piling will never be seen. Mrs. Smith moved that authorization be given to waive Section 6-34 (b) and the batter piling be allowed at 695 Island Drive. Seconded by Mrs. Royal. On roll call, the motion carried unanimously.

Deadline for
Zoning Items

3. Reminder of September 17, 1993 Deadline for Submittal of 1993-94 Zoning Study Items - Mr. Moore called the Council's attention to the deadline for submitting zoning study items.

Countywide
Intergovernmental
Coordination
Program

4. Countywide Intergovernmental Coordination Program - Consideration of Resolution No. 32-93 - Mr. Moore recalled when the Countywide Planning Council was eliminated, the end result is the Planning Directors of the various communities get together and perform virtually the same function, and he has budgeted a contribution of \$500 per year to fund this. Mrs. Wiener asked if it would be every year to which Mr. Moore responded it is \$500 for this year and it will depend on the cost associated with running a part time office as to what the costs will be in future years.

Res. 32-93

Mr. Randolph read the Resolution No. 32-93:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING THE COMPREHENSIVE PLAN AMENDMENT COORDINATED REVIEW INTERLOCAL AGREEMENT AND THE MULTI JURISDICTIONAL COORDINATION FORUM OF THE INTERLOCAL AGREEMENT AND AUTHORIZING THE PRESIDENT OF THE TOWN COUNCIL TO EXECUTE SAME.

Mrs. Royal moved that the Resolution No. 32-93 be adopted. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

XV. ANY OTHER MATTERS:

Bridge
Rehabilitation

A. BRIDGE REHABILITATION: Mr. Doney recommended a letter be sent by Mayor Ilyinsky to the Department of Transportation indicating the Town appreciates their efforts to coordinate this work to minimize the inconvenience to the Town residents, however, he has serious concerns about the Royal Park Bridge schedule and that work should be accelerated from April through December of 1996, to which the Mayor and Town Council agreed.

Deadline
for written
back-up

B. DISCUSSION ON DEADLINE FOR WRITTEN BACK-UP FOR TOWN COUNCIL MEETINGS: Mr. Doney stated it is a hardship when last minute items come in and the Mayor and Town Council do not have adequate time to review them and consider them properly. Mrs. Wiener felt it was a matter of urgency for the Council that was alright but when it is an urgency for a particular person, that should be put over to another meeting. Mr. Doney thought it was appropriate that the message should be gotten out by way of the Council so people are aware that they won't be able to submit their items at the last hour. Mrs. Smith felt it wasn't fair for the applicant or the Council to be considering something that has come in at the last minute. Mr. Weinberg agreed. Mrs. Wiener noted the Town Council books are available for pick up on Friday and anything that is not there by Friday so that the Council can look at it over the weekend, should be put over to the next meeting. Mr. Randolph believed there may be some emergency items which will come in and the Town Council will have to give it their attention, as people can come before them at a Town Council meeting and present it to the Council for consideration. Mrs. Smith suggested when a matter has not been submitted by the Friday before the Town Council meeting, they will have to be submitted in person, and if it is a Town matter, that can come to them, however, when letters are received after Friday, it will not be considered and if a fair hearing is wanted, they have to get it in by Friday so it can be put into the books.

Comcast Cable

C. COMCAST CABLE. Mr. Doney notified the Mayor and Town Council that the certification process deadline was moved up to September 1, 1993 and this will probably be a topic of discussion at the Florida League of Cities Conference.

D. PEP REEF. Mr. Doney advised the Reef is near completion and he thought it would be beneficial for American Coastal to give a final report at the September Town Council meeting, to which the Town Council agreed.

PEP Reef

E. INTERNATIONAL WATER RESOURCES NETWORK. Mrs. Royal noted there is a conference set up on this subject but it costs \$100 to attend, so she will not go but perhaps staff should be aware of the fact as it may be helpful for them.

International
Water Re-
sources
Network

F. LANDMARKS PRESERVATION COMMISSION - Mrs. Wiener noted her concern about the latest Landmarks Preservation meeting noting the last few pages of the last meeting minutes, there was major discussion on what the Town Council should be doing concerning the new Ordinance passed for all the Commissions that they be registered voters and she asked that they be reminded that the people who sit on these Commissions have a certain job to do and it is the Town Council who sets the policy.

Landmarks Pres.
Comm.

XVI. ADJOURNMENT - There being no further business, the meeting was adjourned at 7:40 PM.

Adjournment

Grace T. Peters
Town Clerk