TOWN COUNCIL MINUTES OF SPECIAL TOWN COUNCIL MEETING HELD ON JULY 29, 1993

I. CALL TO ORDER AND ROLL CALL. President Weinberg called a Special Town Council Meeting to order at 9:00 AM on July 29, 1993 in the Town Hall Council Chambers. On roll call, the following Elected Officials were found to be in attendance: Mayor Ilyinsky, President Weinberg, Councilwomen Douthit, Smith and Royal. (Absent was President Pro Tem Wiener). Also attending were Town Manager Doney, Town Attorney Randolph, Town Clerk Peters, Finance Administrator Crozier, Mr. Elwell, Mr. Jakubiak, Mr. Myers, Mr. Moore, Mr. Greene, Mrs. Porter, Mrs. Zamecnik, Mr. Bitzer, Chief Terlizzese and Chief Elmore and Mrs. Kelley. Roll Call

II. INVOCATION AND PLEDGE OF ALLEGIANCE: Invocation was given by Mrs. Peters. Pledge of Allegiance was led by Mayor Ilyinsky. Invocation

III. APPROVAL OF AGENDA: Motion to approve the agenda as printed was made by Mrs. Royal, seconded by Mrs. Smith. On roll call, the motion carried unanimously.

IV. FY94 PROPOSED BUDGETS: FY94 Proposed Budgets:

A. 1993-94 FISCAL YEAR "TENTATIVE" MILLAGE RATE AND BUDGET FOR GENERAL FUND AND PROPOSED BUDGETS FOR OTHER FUND GROUPS. Before conclusion of meeting, in accordance with Section 200.065 (2) (b), Florida Statutes, the Town Council shall announce and advise on the following:

1. Advise Property Appraiser of Town's Proposed "Tentative" Operating (General Fund) Millage Rate, Rolled-Back Millage Rate and Debt Service Millage Rate.

Mr. Doney explained the purpose of this meeting is to have the Town Council by motion set a tentative Operating General Fund Millage Rate and he is recommending as identified in the July 27, 1993 memorandum to the Mayor and Town Council, a tentative General Fund Millage Rate of 4.7000, which is $4.70 per thousand dollars of taxable value. He advised this figure of 4.7000 mills for operating purposes is a 12.07% increase over the rolled-back millage rate and it must be announced that the rolled-back millage rate is 4.1937 mills or $4.19 per one thousand dollars of taxable value.

Mr. Doney advised the major reasons for which the proposed General Fund Budget is anticipated to increase are set forth on Exhibit "F" in the package, informing all the reason he is being so specific is because Chapter 200 of the Florida Statutes requires that the conduct of this meeting and the matters which the Council must consider be done very specifically.

He referred to Exhibit F which indicate the major items and identify the dollar difference between FY93 Adopted Budget of $28,266,741 and the FY94 Proposed Budget of $28,933,543. He reported the major items are:

1. Transfer to Capital Improvement Fund is proposed to increase from FY93 to FY94 by an additional $228,000.

2. Sewage Disposal Charges is proposed to increase from FY93 to FY94 by $240,000.

3. Aerial Fire Truck purchase - the first year of a five year lease purchase proposed cost is $110,000.

He is recommending a slightly higher millage rate in order that at the September hearings of the Mayor and Town Council, a potential pay increase can be considered and also consider other potential changes should they arise before the September hearing. He explained the reason for the higher tentative operating millage today is in order that the Town can avoid the expense of special notification of having every Town tax payer notified by first class mail, if the Council would elect to have a tentative operating millage higher than that set today,

Mr. Doney advised the proposed Debt Service millage rate which is down for FY94, and it is his recommendation it be set at .5513 which is down from .7338 for FY93. He reported this is the principal and interest on the outstanding General Obligation Bonds and is reduced by approximately 25%.

He advised the total millage which is the 4.7000 plus the .5513 is 5.2513 mills and is a 6.47% increase over the FY93 adopted total millage of 4.9322 mills.

Mr. Doney referred to his memorandum of 7-27-93 under the heading "Staffing and General Pay Increase Issues" it states this will need to be considered at a later date after the salary survey is concluded. He believed this survey will be completed and this issue can be considered at the August 30th Finance & Taxation Committee meeting or the September 7, 5:01 first public hearing on the proposed budget for FY94.

Mr. Doney reported the total personnel complement is down by three positions for next year and these are identified in Exhibit "I", and are the elimination of two labor positions in the Parks Division of the Public Works Department, as recommended by Mr. Dusey. He advised the third position is the change from a full time fire inspector position to a part time contractual fire inspector position for the Fire-Rescue Department. Mr. Weinberg noted this reduction represents less than one per cent of the total personnel complement.

Mr. Doney recalled at the Finance & Taxation Committee meetings, there were numerous exhibits and he has identified and enclosed copies of same. He stated he will be making comments on User Charges; Cost Savings Measures; and Federal, State and County Mandates, as he thought these were important when considering the overall context of the Town's proposed budget.

FY 94 Proposed Budget (cont'd)

Mr. Doney referred to page two of the 7-27-93 memo on the Preliminary Taxable Value noting it has increased by approximately .7% from $4,123,033,969 for FY93 to $4,150,188,569 for FY94 which is a $27,154,600 increase.

Mr. Doney referred to Exhibit B which identifies the millages for FY93 adopted and FY94 proposed and the percent of the change from FY93 to FY94. He reported the adopted millage for FY93 was 4.9322 and proposed for FY94 is 5.2513 which is a 6.47% increase. He stated the difference in percentages for Operating and Debt Service is shown on this Exhibit. He stated the 4.7000 mills is a 12.07% increase over the rolled back millage rate. He thought it was important to note that in terms of actual proposed dollar expenditures, that the budget for the Operating Fund that he is recommending is $29,390,452 which is $1,123,711 or 3.98% higher than the FY93 Adopted General Fund Budget of $28,266,741.

Mr. Doney explained the major items identified on Exhibit C is the estimated cost to a Town Taxpayer for each $100,000 of General Operating Fund Expenditures, which would be funded by Ad Valorem Taxes and he went through one example which showed with the millage of 4.1984, which was last year's millage, on a property assessed at $200,000 would have paid $839.68 in Town Taxes. He reported with the millage of 4.2236, which is a $100,000 increase in ad valorem taxes on that same valued property would pay $844.72 or an increase of $5.04 per $100,000.

Mr. Doney referred to Exhibit D which identifies the Taxing Authorities which have jurisdiction to levy taxes within the Town of Palm Beach, with the FY93 estimated ad valorem taxes to be paid by Town Property Owners based upon the Final Taxable Value of $4,123,033,969 and the largest millage and taxes are for the Palm Beach County Schools with the millage at 9.6030 and the dollar amount is $39,593,495. Mrs. Smith announced these taxes for the school board will increase again this coming year.

Mrs. Douthit asked if the Health Care District had maxed out on their millage of 1.4750 to which Mr. Doney responded they have not as he believed the maximum millage is 1.50. Mr. Doney recalled these taxing districts were previously addressed and created by the County and are separate and apart from the County and are independent taxing districts. Mrs. Douthit noted the South Florida Water Management District is almost double of what it was last year. Mr. Doney stated it would probably be increased next year because of the Everglades clean-up issue.

Mr. Weinberg thought it should be highlighted that the taxes to be paid by Town property owners are $88,789,949, which includes the Town taxes, which are $20,335,628.

Mr. Doney referred to Exhibit E which showed revenue sources for the past three years and they will note the total three year variance is down by approximately $99,390. He stated the need for additional ad valorem taxes to fund the proposed budget is impacted by the decrease in major State revenues and the decrease of interest on idle funds. Mr. Weinberg noted there are no projections for FY94 on this exhibit. Mr. Doney responded the projected figures are shown on Exhibit J.

Mr. Doney reported Exhibit F are the major items which show the expenditures and this has been covered previously in the meeting.

Mr. Doney referred to Exhibit G noting this shows the millage rates for each year from 1985 through 1984 for each of the taxing units which have jurisdiction within the Town's corporate limits. He advised the grand total for all the taxing units for FY94 is 22.5011 mills and the Town taxpayer's portion is 23.34% or twenty-three cents out of every dollar goes to operate the Town of Palm Beach. He again pointed out the largest recipient of Town Taxes is the Palm Beach County School Board which is almost 45% or forty five cents out of every dollar.

Mr. Doney referred to Exhibit H which shows the percentage rate of the tax rate for each taxing unit and the Town of Palm Beach rate is going from 22.80% for FY93 to a proposed 23.34% for FY94, and this principally relates to the decrease of the interest on idle funds and the decrease in State Revenues. He advised a proposal has been received from First Union to expand and add an additional service for interest on idle funds. He reported that First Union already does handle a portion of the Town's banking activities and Mrs. Crozier will investigate this further and provide a written report, as he believes they need to ensure that security-wise, there is proper collateralization, and from the day-in-day-out transactions, that it is in the Town's best interest to continue with First Union. He advised they are not in a position to make a recommendation on this at this point, but this is under way. He anticipated that they will be able to increase the interest on idle funds, thereby decreasing the need for the taxes for FY94. Mr. Weinberg asked what rate of interest is the Town now receiving to which Mr. Doney responded through the State Board of Administration, it is approximately 3.5% and they are hoping they may be able to do better than that. He recommended the Town Council first consider that they add an additional item under the Banking Services Agreement with First Union as there are advantages which will identify why, since all of the Town's accounts are with First Union and this was done by sealed bid and they will demonstrate why it will be advantageous for the Finance Department and the Town to continue the services with First Union, as far as investment management services are concerned.

Mrs. Royal asked if the contract would be administered by Mrs. Crozier, to which the Town Manager responded affirmatively, noting it would first have to be brought back to the Town Council, after the further research is done on it.

Mr. Weinberg believed the criteria should be security and major return on the monies invested and he has nothing against First Union, but did wonder if they were the best organization to satisfy the criteria. Mr. Doney advised one of the potential problems would be if they do have their investment management services performed by another bank or investment institution, the transactions which the Finance Department does on a day-by-day basis, and First Union is local and accessible. He stated these issues will be detailed in the memorandum.

Mayor Ilyinsky recalled at one time there was a philosophy to not put all the monies in one bank. Mrs. Crozier responded that was the philosophy, but she felt that could still be accomplished, as the investment portion of the contract would be handled by the Trust Division, which is separate from the Banking Division. She advised it does make it easier to have the Town's daily transactions in the same bank which would perform the investment transactions, as logistically the monies would be readily available if they needed to be transferred.

Mrs. Smith asked when this memorandum on the research would be ready to which Mrs. Crozier responded she hopes to have this memorandum finalized within the next week or two. Mrs. Smith

FY 94 Budget Matters (cont'd)

understood that First Union does all its clearing through North Carolina, so there is twenty-fours lost with dividends and interest being credited and asked if that item could be covered in the memorandum. Mrs. Crozier responded they will be talking with First Union about sweeping the account and that is one of the items they wish to cover. Mrs. Smith didn't believe they should be directing this business only to First Union and they should be addressing this to other financial institutions to see what could be offered.

Mr. Doney reported they do have a banking services agreement with First Union and there are three more one year renewals coming up with First Union. He stated he had a concern with the personnel they have in the Finance Department that there is only so much that can be done, and he wants to ensure from a work load perspective and skills, knowledge and ability perspective, that there is adequate personnel to do what needs to be done, as the biggest concern is the investment of idle funds which are now handled through the State Board of Administration, and he wishes to continue to do what is the most secure procedure for the Town. He believed if they go to bid for banking services, perhaps all of the banking services needed to be bid. Mrs. Smith asked that all of these issues be covered in the memorandum.

Mrs. Crozier reported the intent would probably be to bid all of the services as a package and when the existing contract expires in November of 1995, that would be their intent.

Mrs. Smith recalled there was discussion on idle funds at a recent Finance & Taxation Committee meeting. Mr. Doney advised the memorandum would probably come before the Mayor and Town Council within sixty to ninety days as the memorandum to which Mrs. Crozier referred would have to be reviewed by the Town Attorney and the Auditors and staff.

Mrs. Royal asked if the rate of return on interest on idle funds was raised, what effect would this have on the budget? Mrs. Crozier responded it would be premature for them to answer that question now, but hoped it would be in the approximate area of 25 to 50 per cent, but until they see some history and see what can be accomplished by them actively managing the investments, based on the liquid cash needed by the Town on a daily basis, she does not have the answer. Mrs. Royal asked if it would be able to reduce the millage rate to which Mr. Doney responded that potentially it will, however, it may be too early before they are required to set the millage and he views that as possibly being able to reduce FY94-5 millage, as they will be able to build up the Fund Balance, which in turn will have a positive effect.

Mrs. Royal noted the School Board hearings on their budget are being held shortly and asked if the Town sent anyone to attend those meetings? Mrs. Douthit responded several Council members and the Mayor have attended in the past. Mr. Doney recalled the elected officials have attended the meetings and objected to the increases, but they did not appear as a designated representative of the Town.

Mr. Weinberg suggested that perhaps some time in the future, the Town may have to hire a lobbyist to represent them at the County meetings to fight for the Town in these tax issues and it may sound like a radical idea, but some day they may need to talk about this. Mr. Doney noted that the workload on a day-to-day basis is increasing and trying to keep track of what the County and the School Board are doing is almost an impossibility.

He advised the School Board had its budget hearing last evening. Mrs. Smith stated they suggested a four per cent increase.

Mr. Doney referred to Exhibit "I" which reflects the expenditures and other funds' proposed budgets. Mrs. Smith pointed out the increase for the Four Arts Library from $80,000 to $100,000 was discussed at length by the Finance and Taxation Committee and Mr. Safrin from the Four Arts did attend their meeting. She advised the increase was given with the condition that there would be no further requests for increases from the Library for a five year period, and they would not be coming back to the Council for an increase, unless there was a very special request. Mrs. Royal noted the request was made of the Society that they extend their hours and perhaps provide a bookmobile for service to the citizens in the north and south ends of Town and asked if there was a response to those requests? Mrs. Smith responded the Bookmobile, they thought not, but they are considering having the Library open Saturday mornings or perhaps extended evening hours. Mr. Weinberg advised he has met with Mr. Safrin on a social occasion and they discussed the Bookmobile idea and they both agreed they would explore that situation and Mr. Weinberg agreed on behalf of the Citizens Association South of Sloan's Curve to explore the situation as well, so there may be a possibility that the Citizens Association may procure a Bookmobile and donate it to the Town or to the Four Arts.

Mr. Doney indicated Exhibit "J" identifies revenues for FY92 Actual and FY93 budgeted and FY94 proposed and it shows the per cent variance and a dollar variance in the revenues.

Mr. Doney referred to Exhibit "K" which is the proposed Capital Improvement Program for FY94, and the Public Works Committee will be considering the renovation of the Town Council second and third floors. He stated this potentially could change after a decision is made by the Committee and considered later by the Town Council.

Mr. Doney referred to Exhibit "L" which is the 1993 Certification of Taxable Value, which has been certified by the Property Appraiser as of July 1, 1993 as being the Town's Gross Taxable Value for Operating Purposes which is $4,150,188,569 for FY94. He thought it was important to recognize there was a Letter to the Editor by James Nemec pointing out the Council waits until summertime to consider the budget when everyone is out of Town.

Mr. Doney reported he will respond to Mr. Nemec so everyone knows this is not the case and it is a matter of State Law that the budget is considered at this time of the year. Mrs. Smith hoped the newspapers would be able to stress the point that these meetings are mandatory at this time of the year.

Mr. Doney indicated to the Mayor and Council one of the things they must do today is authorize that the Certification be completed and filed with the Property Appraiser, and after he receives it, the Property Appraiser in mid-August, everyone who owns property in Palm Beach County will receive a Notice of Proposed Property Taxes and the rolled back rate and the proposed budget for next year and what the dollar impact will be.

FY 94 Budget (cont'd)

Mr. Doney noted the next Exhibit "M" shows examples of current year's actual millage, FY94 proposed millage and the percentage increase in taxable value over FY93 which is 0.659%. He stated four examples have been given of what the increase in taxes will be for a property appraised at $225,000, $425,9000. $625,000 and $825,000 and the Town tax impact, if the proposed operating millage and debt service millage was adopted and what it would be in actual dollars to a Town taxpayer. Mr. Weinberg thought it was very important to emphasize to the people in the Town who pay taxes, that their tax will be a certain percentage of what it was last year as when they start talking about millage rates and rolled back rates, and it is confusing, as they don't live that way. He felt that John Q. Public deserves to know very simply that his taxes are such and such and a highlight should be that these taxes are exclusive of the County taxes and other taxing authorities. He believed when people read about the increases, they get confused as to what it costs them. Mr. Doney thought it would be helpful if the newspapers could publish each taxing authority and what it costs in dollars and cents, as when they look at Exhibit "M" and they want to refer to $5.25 per thousand dollars of taxable value, as that is much easier to understand than 5.2513 mills.

Mr. Doney stated the next Exhibit is a List of Exhibits dated July 2, 1993. He included this because there has been a lot of effort expended in preparing and reviewing the proposed budget, this is a summary of materials and exhibits which have been considered at the June 9th and 10th and the July 7th Finance & Taxation Committee meetings.

Mr. Doney noted the next Exhibit is a List of Exhibits dated June 4, 1993 and he mentioned Exhibit "D" which is Potential User Fees; Exhibit "E" Cost Savings Measures Report and Exhibit "F", Report of Unfunded or Partially Funded Mandated Expenditures, Federal, State or County as these are quite significant with regards to the impact they have on the Town's General Fund Budget. He noted a new exhibit not provided before is Exhibit "J" which is a Professional Services Summary.

He believed as they get into the hearings, it is important to note what effect potential "User Charges" cost-saving Measurements and mandates have upon the Town's budget.

Mr. Adrian Winterfield asked if when the representative from the Four Arts was before the Council, was there any discussion as to the fee charged relative to the use of the Library and the reason he raises this question is because it is the general practice, when there is a Municipal Library, for residents to be able to use the Library without charge and that is not the case with the Society of Four Arts. He believed members of the Society are treated differently than others. He thought if this is functioning as a municipal library, there should be no charge for individuals to use the Library and it would seem more appropriate to extend this benefit to general users than to seek extraordinary supplements such as the Bookmobile discussed earlier.

Mr. Doney believed if the Town didn't contribute to the Society of the Four Arts Library and the Countywide Library millage would be applied to the residents of the Town, it would be from all Town taxpayers and it would be approximately one and one half million dollars higher paid on an annual basis toward the Countywide Library services. He stated he will talk with Mr. Safrin on this subject. Mrs. Douthit remarked she always has been charged to join a library in order to check out books. Mrs. Smith believed everyone pays a $20 fee whether they are a member of the Four Arts or not. Mr. Weinberg asked Mr. Doney to explore this situation.

Mr. Doney recalled an additional $5,000 would need to be appropriated relative to the Water Conservation Program, to which Mrs. Smith did not agree. She recalled discussing $4000 which would be used for mailings to the public or could be applied in another way. Mr. Moore advised they indicated in their general planning fund, because it was part of the Comprehensive Plan in addressing water reduction and usage, they would be able to fund $5000 this year as well as the xeriscape project and they plugged in another $5000 for next year. He has discussed this with Mr. Elwell and with Mr. Dusey and either they did not fully understand what was the extent of the Committee meeting and they will revisit the subject of the extra $5000 prior to the August 30th meeting and bring the information back to the Council. He understood they should only apply $5000 which was budgeted for FY94 and the issue of the property notices may be a germaine issue and that was another $4000 of the potential $5000. He recommended that they revisit the subject and if the additional $5000 is over and above what has been budgeted, they will bring it back to the Town Council.

Mrs. Smith thought this should be revisited as it was not her understanding there would be an additional $5000 budgeted. She recalled part of the information on this subject was going to be placed in the Calendar so there would not have to be an additional budgeted item. Mrs. Smith asked this be taken back to the Public Works Committee for a recommendation.

Motion was made by Mrs. Royal to approve the Tentative Operating Millage Rate for FY94 Proposed General Operating Fund Budget of 4.7000 mills, or $4.70 per one thousand dollars of taxable value. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Motion was made by Mrs. Royal that for FY94, the rolled back millage rate be 4.1937 mills or approximately $4.19 per one thousand dollars of taxable value and additionally, a Debt Service Millage Rate for FY94 be .5513 mills or fifty-five cents per one thousand dollars of taxable value for FY94 Proposed Budget. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Set Public Hearing

2. Set the Date, Time and Place of a Public Hearing When Town Council Will Consider and Act Upon Tentative Proposed Millage Rate and Tentative Budget for General Fund and Other Funds (Proposed Date: Tuesday, September 7, 1993 at 5:01 PM in Town Council Chambers and for Final Adoption Public Hearing, Proposed Date: Tuesday, September 14,1993 at 5:01 PM in Town Council Chambers.

Mrs. Smith moved that the proposed date for the first Public Hearing to consider and act upon the Tentative Proposed Millage Rate and Tentative Budget for General Fund and Other Funds for September 7, 1993 at 5:01 PM. Seconded by Mrs. Royal. On roll call, the motion carried unanimously.

Mrs. Smith moved that the second public hearing to consider the final adoption of the millage rate and Tentative Budget for General Fund and Other Funds be September 14, 1993 at 5:01 PM in the Town Council Chambers. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

FY94 Budget

1993 Certificate of Taxable Value

3. Authorize Town Manager to Execute 1993 Certification of Taxable Value with Details Directed Today. Mrs. Royal moved the Town Manager be authorized to execute the 1993 Certification of Taxable Value with details that have been directed by the Town Council today. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

B. ANY OTHER FY94 PROPOSED BUDGET MATTERS. Mr. Doney advised for correction and clarification he will be writing a letter to Mrs. Ratliff at the Palm Beach Civic Association as in their Newsletter Bulletin, they referred to the budget hearings and they had an erroneous figure, which he thought should be clarified for their membership. He noted he was quoted as suggesting there be User Fees and he wanted it to be clear he was not a proponent for User Fees but wanted to have everyone aware of the significant impact potential User Fees have upon the Town's budget. Mrs. Smith thought they should print a big retraction as this should be very clear to their membership.

V. ANY OTHER MATTERS:

A. Mr. Weinberg noted there has been in attendance today two members of the public who were interested in the budget.

Preservation Easement at Mar-a-Lago

B. PRESERVATION EASEMENT AT MAR-A-LAGO: Mrs. Smith advised she has received another draft of the Mar-a-Lago Agreement and in reading it, she had a concern that the preservation easements agreed to as one of the conditions for approval, including the voluntary offering of the interior easements are not in place.

Mrs. Smith recalled all of the members of the Council, according to the tapes she listened to and the minutes of June 1st, expressed their concern as to the preservation of this property. She stated these concerns were apparently alleviated by the voluntary designation or the offering of the Preservation View Shed Easements by Mr. Trump which would save the property. She didn't believe that Mar-a-Lago will be preserved if the Agreement is signed prior to the Preservation Easements being in place.

Mrs. Smith requested the Council consider looking at the draft agreement and discussing the Preservation Easement at the August 10, 1993 Town Council Meeting.

Mr. Randolph responded the issue of the Preservation Easements did come up in his discussions with the applicant's attorney as the Declaration of Use Agreement was being prepared, and it was represented that the Preservation Easements may take several months to complete. He stated it was because of that, in preparing the Agreement, other means were sought to assure the Council that the Preservation Easements would ultimately be put in place, one of which was to record the Irrevocable Power of Attorney and to get a commitment that the Easement would be in place prior to the Occupational License being issued.

Mr. Randolph has received two comments in writing that the Preservation Easements should be in place prior to the Agreement being signed. He has reviewed the minutes of the Town Council and there was a statement by the applicant that the Preservation Easements would be granted voluntarily. He doesn't know what the intent of the Council is to have them in place prior to the execution of the Declaration of Use Agreement and he believed he needed some indication from the Council as to how they wish to proceed.

Mrs. Smith asked if there would be any reason why the Town Council couldn't discuss this at the August meeting, as they all know a cash negotiated donation is the standard practice with all reputable Easement holding organizations, in order to cover the cost of administering the Easements. She stated that fee could well be one-half of one per cent of the appraised value of the entire property, so they are talking about a substantial amount of money. She thought in this case they are talking about a minimum of $75,000 as a fee to be paid by the applicant to the organization that would be administering the easements.

Mrs. Smith read from the transcript of the May 13, 1993 when one of the attorneys stated they had talked to the National Historic Trust and they "were very excited about the prospect". She stated there was no reason to rush through the signing of the Agreement, and if it takes a few months, she thought the Town Council had an obligation to the residents of the Town to ensure that everything that was discussed publicly has been agreed to and is in place for the preservation of this property and the comfort of the owner. She stated this was a major project facing the Town and she didn't think it would make any difference if it took a couple of months to have the Easement in place, as she didn't think it was fair to the owner to let him go ahead and spend thousands of dollars in bringing the property into compliance with the Code, and putting in a Spa, and then not give him a Certificate of Occupancy because the Preservation Easements are not in place. She thought all of these details should be ironed out before and she is only asking that this be on the agenda for the August 10th Meeting. Mrs. Douthit agreed stating nothing should be signed until everything is in order.

Mrs. Royal asked if this could not be handled administratively by the Town Attorney or does it have to come back to the Town Council. Mrs. Smith stated all she is asking is to discuss it and she didn't think they should discuss it today without giving the applicant the benefit of the fact that we are going to discuss it publicly. She would like to go on notice that this be discussed at the August 10th Town Council meeting and give the applicant a chance to have people there.

Mayor Ilyinsky agreed with Mrs. Smith to a great extent but he felt the bottom line is the very delicate negotiations between the Town and the applicant and he thought they needed to lean on the Town Attorney and ask him his advice, as he too believed the Preservation Easements are extremely important, however he would be uncomfortable to open this matter up for another public hearing. Attorney Randolph responded he didn't think it was appropriate that they reopen the public hearings in regard to the substance of the previous Agreement, and it shouldn't be rehashed, and he thought the matter was complete as far as the Agreement is concerned, however, it is not clear to him at this point what the intent of the Council was in regard to the Preservation Easements being in place and when they would be in place. He stated he was not sure that the minutes reflect there was any specific advice given to him in that regard.

Mr. Randolph stated he has been attempting through his negotiations with the attorneys to resolve that matter without coming back to the Council but was uncomfortable in signing the

Preservation Easement at Mar-a-Lago (Cont'd)

agreement without the Preservation Easement in place and without having some direction from the Council as to what they want to occur in that regard.

Mayor Ilyinsky agreed with Mrs. Smith but he wanted to know if the Town Attorney could accomplish this better than the Council can, to which Mr. Randolph stated he could attempt to have it in place prior to the execution of the Agreement.

Mrs. Douthit felt the Preservation Easements had to be in line, signed, sealed, delivered and organized prior to the signing of the Agreement, as that was part of the whole thing. She believed the Town had fulfilled their part and the Mar-a-Lago people have not yet completed their part.

Mrs. Smith reiterated the only reason she brought up the topic of the Preservation Easements was in order to be fair, as she thought if the Preservation Easements are in place, as she believed they should be, then she is comfortable with having the document signed. She read from the Town Council minutes of June 3, 1993 when Mr. Stephen Small representing the owner, addressed the Council "recalling the comments of Mrs. Wiener at the June 1st meeting, stating the Preservation Easement is what concerns the Town most." Mrs. Smith stated Mr. Small commented that he believed "this Preservation Easement would protect Mar-a-Lago the way Mrs. Post would have wanted to do so, as it is a very strict, tight document." She recalled he explained the definition of a Preservation Easement and the enforcement is given to a qualified organization and they are not given any development rights. She noted there was two pages of Mr. Small's comments on the Preservation Easement.

Mrs. Smith felt it was implicated that these Preservation Easements would be in place as a part of the Mar-a-Lago Club project, so her only concern is that they indeed be in place, prior to the signing of the document. She stated it is also stated in the minutes by the Mayor that if the two lawyers could not work it out, then it could come back to the Council.

Mr. Randolph advised he will make an attempt to resolve that administratively and if he cannot, it will have to come back to the Mayor and Council.

President Weinberg gave his comments, recalling the Council has spent hundreds of hours on this subject and they have hired experts, they have had the staff involve themselves, public hearings have been held that ran for several days and after the public hearings were held, there were Executive Sessions and they reached a decision. He felt they had to follow through on that and they should get this easement which all are concerned about, but it was his feeling this was a done deal. He thought to bring this up to a public meeting once again would be like an explosion as they have spent many hours and much energy and emotions on this for naught. He stated it does sound like someone is trying to stall this matter, but it was his feeling a decision has been reached, there was a vote, and they agreed to a conditional agreement which has been reviewed and now they are at a point where the Mayor, the President and the Town Manager are authorized to sign the Agreement. He would state unequivocally and as non-emotional as he can, that he resents the possibility of bringing this back before the public and the problem should be worked out between the lawyers and the Town staff and he really didn't want to bring it up again in a public manner.

Mrs. Smith responded the only reason she wished to bring this up in a public manner is because they do operate under the Sunshine Law and she cannot discuss this with other members of the Council unless it takes place in a public forum. Mr. Weinberg stated he was aware of that but he didn't want to see this room crowded with lawyers again on this subject. Mrs. Smith commented she is merely bringing up the question of the Preservation Easement and she has to bring it up publicly and she has put memos in the file about her concern about the Preservation Easement and if Mr. Weinberg feels it shouldn't be discussed, so be it but she is only expressing her concerns that this Agreement should not be signed without all of the conditions complied with that were agreed upon. Mr. Weinberg responded the attorneys should be able to work this out. Mrs. Smith stated that may be so but the Agreement was approved conditioned upon many things, one being the Preservation Easements were a part of that condition. She recalled every member of the Council stated their concern for the Preservation Easements and now she is expressing her concern publicly since that is the only way she can do it, so she leaves it in Mr. Randolph's hands to see that the Preservation Easements are recorded with the proper donee organization prior to the signing of this Agreement. Mayor Ilyinsky agreed. Mrs. Smith was sure they would all agree on that.

Adrian Winterfield addressed the Council, taking issue with the President and the Attorney as it is up to Council to decide whether the Agreement is satisfactory. He felt the deal is not done and there are so many things to be decided and this cannot be turned over to the most brilliant attorney as Council cannot wash its hands of this and it is their responsibility to approve the ultimate agreement. He commented if there are items which require clarification, it is for Council to determine how best to handle it. He understands the Town Attorney would use its best efforts with regard to the Preservation Easement and obviously, if there is a difference of opinion, this would have to come back to Council.

Mr. Weinberg stated he is not going to defend the position of anyone but merely thought that in his mind they have reached an Agreement and it was turned over to the attorneys and staff to work out the details. He thought that Mrs. Smith was looking for a Preservation Easement and he has no opposition to that but he believed this should be done by those who are responsible to conclude it as the Council voted on it as an Agreement and he doesn't want to replay it again.

Mrs. Smith stated she doesn't feel it is being replayed as all she did was bring up one point as she felt one of the conditions agreed to by the Council and that is not in the Agreement. Mr. Weinberg reminded her this was turned over to the Town Attorney to work this out and she should let him work it out. Mrs. Smith agreed, asking what will happen if it isn't worked out? Mr. Weinberg responded the Town Attorney will report to them he can't work it out and then the matter will be reconsidered. Mrs. Smith asked if he could report to the Council on the 10th of August as to whether he has been able to work it out or the September meeting? Mr. Randolph responded it was his understanding that he is receiving specific direction to have the Preservation Easements in place prior to the execution of the Agreement, and that is what he will attempt to do and if he cannot, he will report back probably through a letter to the Town Manager. Mrs. Douthit and Mrs. Smith agreed.

PEP Reef

C. PEP REEF. Mr. Weinberg recalled at the last Council meeting, there was no report on the PEP Reef and he thought there was to be a monthly report. Mr. Doney stated there was no report received in June and it is not scheduled to be on the agenda every month. Mr. Weinberg believed they are scheduled to have a written monthly report every month. Mr. Doney advised Mr. Elwell has

PEP Reef (cont'd)

spoken to Beth Mitchell and she was going to submit a combined report for June and July. Mr. Weinberg asked to have June by itself and July by itself recalling it was to be a monthly report. Mr. Doney responded he will ask them to submit a report for each month.

Mrs. Smith asked how it was coming along to which Mr. Doney responded they are very near to the completion of the project and they have had good weather and good sea conditions. He reported there will be an item on the August 10th agenda by DNR, which is now the Department of Environmental Protection, (DEP) who now believe it may not be necessary to have the additional survey lines because of the dredging at the Lake Worth Inlet. He stated he will request a verbal report but it isn't scheduled at this time for the agenda, and it may very well be that the project may be complete by then.

Mr. Elwell reported the May report was received from American Coastal in the middle of June and it was to be a June and July report which was coming out on the first of August, however, he will request the two separate documents.

Adjournment

VI. ADJOURNMENT. Meeting was adjourned at 10:43 AM.

Grace T. Peters
Town Clerk