

MINUTES OF TOWN COUNCIL MEETING OF JULY 11, 1995

I. CALL TO ORDER AND ROLL CALL - The meeting was called to order by President Smith at 9:30 a.m. on July 11, 1995, in the Town Hall Council Chambers. On roll call the following Elected Officials were found to be in attendance: Mayor Paul R. Ilyinsky, President Lesly S. Smith, President Pro Tem Jack McDonald, Councilmen Samuel McLendon, Leslie Shaw and Allen Wyett. Also in attendance were Town Manager Robert Doney, Assistant Town Manager Peter Elwell, Assistant To The Town Manager Dave Jakubiak, Town Clerk Mary Pollitt, Director of Building and Zoning Robert Moore, Police Chief Joseph Terlizese, Fire Chief Vincent Elmore, Director of Public Works Albert Dusey, Director of Recreation Russell Bitzer, Personnel Director William Crouse, Director of Information Systems Spencer Wilson, Director of Finance Marie Crozier, and Accounting Clerk Lisa Gorman.

II. INVOCATION AND PLEDGE OF ALLEGIANCE - The invocation was given by Mrs. Pollitt, and the Pledge of Allegiance was led by President Smith.

III. PRESENTATIONS

A. Retirement of Lydia Clarry, Administrative Secretary, Police Department, 13 Years and 4 Months

Mayor Ilyinsky presented Mrs. Clarry with a charm in recognition of her services as Administrative Secretary to the Police Chief.

IV. COMMENTS OF THE MAYOR - NONE.

V. APPROVAL OF AGENDA - The following changes were made to the agenda: Items XIV.C.2.Variance No. 27-95 and XIV.C.7. Variance No. 32-95 were deferred to the August 8, 1995, Town Council meeting.

The following items were added:

XI.D.8. Discuss setting a time for a Water Committee meeting in August.

XI.D.9. Discuss setting a Public Works Committee meeting in August.

XI.D.10. Discuss an interlocal agreement for fire emergencies between different municipalities.

XI.D.11. Discuss cost sharing for the seawall repair at 880 South Ocean Boulevard.

Mr. Moore, Director of the Building and Zoning Department, stated that on page 6, Item 14 C.2., Variance 27-95, Palm Beach Development, 1530 South Ocean Blvd., had made a request for an extension until the August meeting; Item 14 C. 7., Variance 32-95, 19 Via Marina had requested a delay until the August meeting.

Mr. McLendon suggested setting a time for the Water Committee Meeting, which would be inserted on page 5, Item XI. D. 8, under committee meetings.

Mr. McDonald suggested the addition of two items to the Agenda; Discussion of Chief Elmore's letter to Chief Mike Dutton regarding the interlocal agreement for fire and emergency medical services which was added as XI. D. 10, and the addition of adding discussion of Mr. Dusey's letter to David Shaw regarding the cost share for seawall replacement.

Mr. Wyett made a motion to approve the Agenda as amended. Seconded by Mr. McLendon.

VI. PUBLIC HEARINGS

A. Further Consideration of Request for Abandonment of a Portion of the Southerly 200 Feet of Middle Road and Re-Dedication of New Cul-De-Sac, by Applicant Stuart Subotnick, as Trustee of the 88 Middle Road, 1994 Land Trust, and Barbara Harmon - Resolution No. 17-95 -

Town Attorney Randolph addressed the Town Council, stating that Resolution 17-95 had been passed at the last Town Council Meeting, but it had been subject to certain conditions which needed to be found acceptable to the requestee. Therefore, the matter had been readvertised, in order to allow discussion of conditions which might be put on the abandonment.

Mr. Paul Prosperi, representing the applicant, addressed the Town Council, stating that the condition would be

acceptable to the applicant.

Mr. Brindell, representing Spencer Partridge, addressed the Town Council stating that his client also found the condition acceptable.

Mr. Shaw made a motion to approve Resolution 17-95. Seconded by Mr. Wyett.

Mr. Randolph read the resolution with the condition:

REVISED CONDITION ON MIDDLE ROAD ABANDONMENT:

OWNER SHALL PROVIDE ADEQUATE ONSITE PARKING FOR ALL RESIDENTS, STAFF, SERVICE PERSONNEL, AND TO THE EXTENT PRACTICABLE, ALL GUESTS. OWNER SHALL NOT SIGNIFICANTLY REDUCE THE ONSITE PARKING CAPACITY OF EITHER PROPERTY FROM THAT AS GENERALLY REPRESENTED BY THE PARKING AREAS AND DRIVEWAYS OF THE COMBINED SITE PLAN FOR 86, 91, AND 88 MIDDLE ROAD, AND 121 EL BRAVO, PRESENTED TO THE TOWN COUNCIL BY OWNERS ON JUNE 13, 1995.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, VACATING AND ABANDONING A PORTION OF THE SOUTHERLY 200 FEET OF THE RIGHT OF WAY OF MIDDLE ROAD, PALM BEACH, FLORIDA, AND DEDICATING A NEW CUL-DE-SAC, HAMMERHEAD, AND UTILITY EASEMENT.

Mrs. Smith asked if there were any comments from the public?

On roll call the motion carried unanimously.

B. Consideration of Updated Historic and Specimen Tree List - Resolution No. 22-95 -

Mr. Albert Dusey, Director of Public Works, addressed the Town Council, stating that Resolution 4-94 had been approved by the Town Council in April of 1994, which had directed the recording of a list of historic and specimen trees on the county records, so that property owners and people purchasing property with these trees on them would be aware of the designations. Today, he was requesting an update of the list as a result of the removal of some of the trees that had been damaged or were otherwise unacceptable. In addition, Mr. Dusey stated that two properties had been subdivided subsequent to the Resolution being recorded, and the trees had been moved to different addresses. Mr. Dusey noted that Resolution 22-95 directed the recording of a new list accurately reflecting the location of historic and specimen trees.

Mr. McLendon made a motion to approve Resolution 22-95. Seconded by Mr. Shaw.

Mr. Randolph read the resolution:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, CONFIRMING THE DESIGNATION OF CERTAIN HISTORIC OR SPECIMEN TREES, EXCLUDING CERTAIN ALREADY DESIGNATED HISTORIC OR SPECIMEN TREES, AND REDEFINING PROPERTY DESCRIPTIONS OF OTHER HISTORIC OR SPECIMEN TREES LOCATED ON PROPERTIES WITHIN THE TOWN OF PALM BEACH; PROVIDING FOR THE RECORDING OF AN AMENDED LIST OF SAID DESIGNATIONS AGAINST THE LAND UPON WHICH THE TREE OR TREES ARE LOCATED, PROVIDING THAT A COPY OF THIS RESOLUTION BE RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

On roll call the motion carried unanimously.

APPROVED AGENDA (ITEMS VII. THROUGH VIII.) - APPROVED.

Mr. Shaw made a motion to approve the Approved Agenda. Seconded by Mr. Wyett.

On roll call the motion carried unanimously.

VII. APPROVAL OF MINUTES OF MAY 8, 9, AND 16, 1995

VIII. LICENSES AND PERMITS

A. Charitable Solicitation Permits

Regular

1. American Cancer Society - Palm Beach Benefit; No. 19-96

MINUTES OF THE TOWN COUNCIL MEETING HELD ON JULY 11, 1995

2. The Society of the Four Arts; No. 62-96
3. The Henry Morrison Flagler Museum; No. 74-96
4. Preservation Foundation of Palm Beach, Inc.; No. 192-96
5. International Game Fish Association, Inc.; 235-96
6. The Ultimate Children's Learning Adventure; No. 382-96

Other - Results Forms Filed Late on Two Occasions

1. American Committee for the Weizmann Institute of Science; No. 151-96
2. Hospice Guild of Palm Beach County; No. 205-96

REGULAR AGENDA

IX. COMMITTEE REPORTS

- A. Report of the Finance and Taxation Committee Meetings of June 7 and 8, 1995

FINANCE & TAXATION COMMITTEE REPORT OF MEETINGS HELD ON

JUNE 7, 1995 AND JUNE 8, 1995

I. **CALL TO ORDER AND ROLL CALL:** The Finance & Taxation Committee meeting was called to order by Chairman Lesly Smith at 10:00 a.m. on June 7, 1995. On roll call, Mrs. Smith, Chairman, and Mr. Jack McDonald, Committee Member, were found to be in attendance. Other Elected Officials attending for all or part of the meeting were Mayor Paul Ilyinsky, Councilmen Samuel McLendon, Leslie Shaw, and Allen Wyett. Also attending were Town Manager Robert Doney, Finance Director Marie Crozier, Assistant Public Works Director Leonard Greene, Recreation Director Russell Bitzer, Police Chief Joseph Terlizese, Major Frank Croft, Information Systems Manager Spencer Wilson, Personnel Director William Crouse, Accountant Debbie Kelly, Account Clerk/Data Processor III Lisa Gorman, Account Clerk/Data Processor I Mary Fae Dinehart, Purchasing Agent Charlie Boggs, Risk Manager Barbara Martinuzzi, Fire-Rescue Chief Ken Elmore, Fire Rescue Department Lt. John DeIorio, Assistant to the Town Manager David Jakubiak, Planning, Zoning and Building Director Robert Moore, Administrative Aide Wendy Zamecnik, and Town Clerk Mary Pollitt. Mr. John McCrackin, Esquire, represented the Town Attorney regarding the Retirement System issues.

- II. **APPROVAL OF AGENDA:** The agenda was approved.

A special presentation from the Government Finance Officers Association was made by Ms. Georgette Klinger from the Palm Beach County Sheriff's Department to Mrs. Marie Crozier, Finance Director, recognizing the Finance Department's receipt of the Distinguished Budget Presentation Award. Ms. Klinger said that fewer than 1% of the eligible counties, cities, and special taxing districts receive this distinction.

Mrs. Smith recognized Mrs. Crozier and her entire staff for their achievements and efforts required for the Town to receive this award.

III. FY96 PROPOSED BUDGETS

A. **OVERVIEW AND COMMENTS BY TOWN MANAGER:** Mr. Doney reported that he believes that each of the Department Heads submitted responsible budgets for FY96 that were supported by technical justification; however, there are some very important policy decisions for the Committee and subsequently the Town Council and these items will be presented in detail during this Committee meeting. He added that this budget proposal does not include "wish list" items, and additional reductions were made after Department Heads met and reviewed their budgets in detail with the Town Manager and Finance Director Crozier.

Mr. Doney advised that Exhibit B provided an overall summary of the FY96 Proposed Budgets, by program, and in addition has a summary of the FY95 Budget and the current year's expenditures. Mr. Doney noted that several major expenditures were not included in Exhibit B in the budget book, because they require separate policy deliberations by the Finance & Taxation Committee with the Staff's recommendations and, eventually, by the Town Council.

Mr. Doney referred to page two of his memorandum dated May 31, 1995, to the Finance & Taxation Committee which reads as follows:

POTENTIAL MAJOR EXPENDITURES FOR THE FY96 PROPOSED GENERAL (OPERATING) FUND BUDGET WHICH ARE NOT INCLUDED AT THIS TIME

~~MINUTES OF THE TOWN COUNCIL MEETING HELD ON JULY 11, 1995~~

<u>Estimated Amount</u>	<u>Item</u>
*1) \$700,000	Proposed Replacement Radio System for Police and Fire-Rescue Departments

*2) \$250,000 to \$350,000 (plus estimated additional \$5,000 to \$10,000 for maintenance)	Mobile Data Terminals System for Police Department
--	--

*Please review Chief Terlizzese's memorandum dated 5/26/95, which is attached with Exhibit Q in the attached Exhibits A through Q for details on Items 1) and 2) in the budget book.

3) \$360,000	Retirement System Changes for Police and Fire-Rescue Employee Members as recommended by the Retirement Board.
--------------	---

4) \$141,000 (for each 1%, including Social Security)	Potential General Pay Increase
---	--------------------------------

Due to limited available information at this time and an ongoing review of this matter by the Personnel Director, I recommend the Mayor and Town Council consider this matter more thoroughly before the September, 1995, public hearings. Additional information will be provided on this issue as it is received from Mr. Crouse.

Mr. Doney presented an overview of the budget book. He reported the total "Preliminary" FY96 Proposed General (Operating) Fund Budget is \$30,558,613, which would be an increase of \$283,671 over the FY95 adopted budget or a .94% increase, without the items "Potential Major Expenditures" as noted in his May 31st memorandum.

Mr. Doney advised that Exhibit C provided the estimated cost to a Town taxpayer, using three different millage rate examples, for each \$100,000 of General Operating Fund expenditures funded by ad valorem taxes. He said the County's estimated taxable value as of June 1, 1995, for the Town of Palm Beach is \$4,354,131,133 or \$114,790,565 (2.17%) higher than the current year's final taxable value.

Mr. Doney presented Exhibit D which showed the estimated reduction in FY95 Operating General Fund ad valorem taxes if services such as sanitary sewer maintenance and treatment, solid waste collection, and yard trash collection were paid by user fees. He noted that the Town has not had user fees for these services since its 1911 Charter; however, if the Town had separate, independent user charge systems, \$4,533,210 or 1.1191 mills could be reduced from the FY95 budget millage of 4.5888 mills for those four service items.

Mr. Doney continued to review each Exhibit in the budget book through Exhibit "Q" which included cost savings programs, County, Federal and State mandates, millage rates by years, revenues, amounts paid by Town taxpayers to various taxing authorities, the capital improvement program, and department summaries. (Please refer to Mr. Doney's memorandum dated May 31, 1995, and the List of Exhibits attached to this report for further details on these exhibits.)

Mr. Doney noted that during the current year's adopted budget, the Town Council authorized funding from the undesignated General Fund balance to cover appropriations for unexpected situations such as Town Hall leaks and the PBIA airport lobbyist costs shared with the City of West Palm Beach.

After discussion, it was requested that all personnel- related costs, including fringe benefits and social security, be identified for the \$141,000 figure salary increase for employees which is the dollar amount of each potential 1% general pay increase.

B. OVERVIEW BY FINANCE DIRECTOR: Mrs. Crozier reported that Moody's Bond Service had confirmed the Town's Aaa rating for the Town's outstanding general obligation bonds, and Palm Beach is the only municipality in the State with this rating. She noted that a Aaa rating typically reduces the Town's future borrowing costs by approximately 10-15% for insurance which would not be required because of this Aaa rating.

Mrs. Crozier stated that the Town's debt service obligation will be reduced by approximately \$430,000 annually beginning in FY96 as a result of the 1975 bond issue which matured and was paid off in June, 1995.

Mrs. Crozier presented the budget standards for FY96 for all departments that affect all programs which are as follows:

1. To accomplish actuarial recommended funding for the Town's retirement system, providing the same benefits as in FY95, contributions are required that represent 2.46% increase in retirement funding over FY95. \$10,746 was

budgeted for each sworn police officer; \$11,537 was budgeted for each certified fire fighter; \$5,298 was budgeted for each lifeguard; \$5,140 was budgeted for each general employee.

2. Group health insurance required contributions of \$1,634 to fund fixed costs and \$6,220 to fund claim costs per participant in the plan to maintain the same funding level as FY95.
3. Social Security was budgeted at 7.65% of payroll throughout all programs which resulted in a funding of 6.20% for the social security portion and 1.45% for the medicare portion.
4. For all programs for FY96, electricity was increased by 3%; no increase for telephones; gas was increased by 5%; postage was increased by 3%; water was increased by 4%.
5. All Departments were advised to review all non-ad valorem revenue sources to determine if existing fees and fines could be increased and if any new revenue sources would be recommended for FY96. As a result, the Building Department recommended that all Occupational License fees be increased by 5% in FY96.

C. INSURANCE PROGRAMS OVERVIEW - PERSONNEL DIRECTOR AND RISK MANAGER: Mr. Crouse advised that the Health Plan for the Town of Palm Beach is made up of a number of insurances and a number of re-insurance protections for the system. He noted that the bulk of the cost in the group plan is medical claims that amount to approximately \$2,000,000 per year. Mr. Crouse noted that the medical insurance has approximately 900 participants including dependents, and approximately 20% of those are retirees; retiree coverage is mandated by State law. He added that the Town has been self insured since 1978, and significant changes have occurred over the years including the increased premium costs and co-payments that have been passed onto the employees as well as longer waiting periods for the inception of insurance coverage. Mr. Crouse said that many program changes have been implemented into the system to attempt to further control the escalating costs of health insurance. He cited the examples of budget costs that increased 5% two years ago; last year the increase was 2%, and no increases are proposed for FY96. Mr. Crouse said the actuarial report gave the Town a clean bill of health, but recommended the Town keep its total health insurance program for FY96 budget at \$3.7 million, and this amount will probably hold for the near future barring any health related catastrophic circumstances. He added that currently \$60,000 per employee per year is the Town's maximum exposure under the health care plan each fiscal year.

Mrs. Barbara Martinuzzi, Risk Manager, presented the Workers' Compensation, Liability and Property aspects of the Self Insurance Fund. She said the fixed insurance costs represent the premiums paid to excess insurance carriers in addition to the workers' compensation assessments paid to the State, and the Town pays approximately \$36,000 yearly to the State to maintain its self insured status. Mrs. Martinuzzi explained that the retention level for property and workers compensation is \$100,000, and the Town is responsible for the first \$100,000 for every claim incurred for those two line items. She advised that the retention level for automobile and general liability is \$200,000. The retention level for Public Officials is \$100,000. Workers' compensation excess coverage is maintained at statutory limits. Mrs. Martinuzzi reported that the Town has, over and above its retentions, \$10 million worth of coverage, and that applies to automobile liability, general liability and public officials. Mrs. Martinuzzi said the Town has approximately \$30 million, after the \$100,000 retention, in property values that covers the Town's buildings, structures, automobiles, equipment, and all of the facilities. She added the Town is totally self insured, no excess coverage, for environmental impairment liability, pollution spills, roadways, seawalls, and bridges.

Mrs. Martinuzzi said she anticipates approximately a 10% increase across the board for fixed premium costs, mostly in the property area; however, increases will also occur in the liability area with increased claims from the Americans With Disabilities Act and the civil rights areas. She added the workers' compensation excess premium costs are related to the Town's claim experience which has fallen within the retention levels for the past two years. Mrs. Martinuzzi identified the liability, property, and workers compensation claims within the past few years that have penetrated the excess coverage. She reported that the loss fund, actuarially determined by the excess carriers, has remained at \$775,000 for the last several years, and she recommended no increases in that fund. She noted that the frequency of claims has decreased from approximately 142 claims per year in 1990 to approximately 42 claims per year in FY94, and 24 claims have been filed for FY95 as of this date.

After discussion, THE COMMITTEE RECOMMENDED THAT THE INCREASE OF THE RETENTION LEVELS AND THE RESERVE LEVELS BE STUDIED AND PRESENTED AT THE JULY 27, 1995, FINANCE & TAXATION COMMITTEE MEETING. Mr. McDonald suggested the information be supplied with retention levels of \$250,000 and \$500,000 on all lines of coverage. Mrs. Martinuzzi recommended that the workers' compensation line is the only one that the retention level should not be raised, because 85% of all claims occur in that area.

The Committee directed that the Finance & Taxation Committee will meet at 10:00 a.m. on Thursday, July 27, 1995.

D. INFORMATION SYSTEMS OVERVIEW: Spencer Wilson, Information Systems Manager, addressed the Committee and gave an overview of the justification process that is used to determine the recommended software and hardware budget items for the Departments. Mr. Wilson described the Information Systems Management Plan which was implemented in 1989 to consolidate all computer related activities in the Town into one centralized plan to allow decisions to be technically and objectively evaluated in order to arrive at the most cost-effective recommendations for current and future needs of the Town. He continued that the plan is updated yearly after meeting with Department Heads and the associated staff. Mr. Wilson noted that the some of the needs of Departments are met by relocating or upgrading existing equipment or purchasing

equipment from underexpended budget funds that are available.

Mr. Wilson reported that \$58,070 is the recommended figure for purchase of hardware, and \$32,465 is the recommended figure for purchase of software for the FY96 budget. Mr. Wilson noted that \$1,500 was proposed for memory upgrades for the Finance Department and \$1,700 was proposed for software; three new PC's were proposed for Fire-Rescue and \$2,500 was proposed for software; three new PC's were proposed for the Police Department and \$4,500 was requested for AS/400 CAD related hardware; two PC's were proposed for the Public Works Department and \$2,000 for software was proposed for the Vehicle Maintenance Division. He said that Recreation, Town Clerk, and the Town Manager had no budgeted items for hardware, but some amounts were budgeted for software.

Mr. Wilson advised he and the respective Town Departmental Staff and Town Manager plan for future upgrades to best anticipate needs of the departments. He requested \$5,000 for additional disk and memory for the Town's backup AS/400 and \$7,000 for a dual tape drive for back up purposes.

After discussion, it is THE RECOMMENDATION OF THE FINANCE & TAXATION COMMITTEE TO APPROVE THE INFORMATION SYSTEMS BUDGET AS PRESENTED.

Mrs. Martinuzzi explained the cost allocation for workers compensation, property, and liability insurance that was distributed among the Departments. She reported that in lieu of assessing the claims and exposure costs across the board by Department, each Department was charged for its actual claims and insurance. She continued that last year, \$4,099 was charged for each employee; however, this year the actual proposed fixed premium and claim costs were allocated to the individual programs within each Department, with the result that the programs that incur the claims are funding the claims.

After discussing the impact of legal fees on the various departmental budgets, the Committee recommended no additional action at this time.

RETIREMENT SYSTEM ISSUES - CHANGES RECOMMENDED BY RETIREMENT BOARD--PRESENTATION BY ACTUARY RON SMITH: Mr. Doney explained that a perception by some members of the Police and Fire-Rescue Departments has existed for many years that monies received from the State according to Chapter 175 and 185, Florida Statutes, were greater than the dollar amount for additional benefits which are provided under the Retirement Plan.

Mr. Ron Smith, of Gabriel, Roeder, Smith and Company, addressed the Committee and explained that Chapters 175 and 185 of the Florida Statutes set forth certain minimum benefits and retirement eligibility conditions that must be met if the Town is to receive the premium tax rebate from property and casualty insurances within the Town of Palm Beach. He continued that Chapter 175 applied to firefighters and Chapter 185 applied to police officers and while the Chapters are not identical, they are substantially the same in all important areas. He continued that the Town of Palm Beach received premium tax money in the amount of approximately \$375,000 during the last fiscal year, and the amount will probably increase this year because of the higher premiums paid by the residents since Hurricane Andrew.

Mr. Smith reported that a statement in the Chapters allows the monies from the premium tax to be put into the Town's pension fund for the sole and exclusive use of its fire fighters or police officers or the income may be used to provide extra benefits. Mr. Smith identified the problem as no one knows what the "sole and exclusive use of its fire fighters or police officers" means nor the term "extra benefits". He continued the use of the funds has been questioned by many police and fire departments throughout the State, and the only settlements have been achieved by agreements between the parties.

After discussion regarding the pension plans, recruitment, retirement age, costs of retirement plans, Mr. McDonald suggested that Mr. Smith provide analyses if the age for retirement for Police and Fire were raised to 55. THE COMMITTEE RECOMMENDED ACCEPTANCE OF MR. SMITH'S REPORT DATED JUNE 7, 1995, TO FUND CHANGES AND TO INCLUDE ACTIONS FROM THE RETIREMENT BOARD MEETINGS OF APRIL 4 AND MAY 19, 1995. THE COMMITTEE RECOMMENDED THAT NO CHANGES BE MADE THAT WOULD AFFECT THE RECRUITMENT OF FUTURE EMPLOYEES OR THAT WOULD CAUSE PRESENT EMPLOYEES TO LEAVE BECAUSE THE PAYMENT PACKAGE WAS NOT COMPETITIVE.

E. PERSONNEL DEPARTMENT: Mr. Crouse presented an overview for the Personnel Department, noting that the Department handled recruitment (processing 1,196 applications and 50 new hires last year), exams, orientation, 16 major benefit areas, compensation, job descriptions, policies and procedures, employee relations, wellness programs, clinic, medical reviews, immunization programs, retirement plan and training for sexual harassment and drugs. Mr. Crouse requested an estimated \$7,000 be approved for a proposed benefit newsletter and a personalized benefit report for each employee that would be mailed to each Town employee's residence. THE COMMITTEE REQUESTED THAT BEFORE APPROVAL WAS RECOMMENDED, THE FIGURES FOR THE PROPOSED BENEFIT NEWSLETTER FOR EACH EMPLOYEE BE PRESENTED AT THE JULY 27th FINANCE AND TAXATION MEETING.

F. POLICE DEPARTMENT: Chief Terlizzese and Major Croft presented the budget for the Police Department, noting that the crime rate has been reduced for the fourth year by 1% and the clearance rate for serious crimes was 33%, well above the national average. Chief Terlizzese advised that 18 pages in his summary report are the goals and objectives of the Police Department, and everything encapsulated in the Police Department's budget is related to the goals and objectives. The FY96 budget requests no additional monies over the FY95 budget with the exception of the major cost items identified as the

MINUTES OF THE TOWN COUNCIL MEETING HELD ON JULY 11, 1995

proposed radio system for the Police and Fire-Rescue Departments and new uniforms. He reported that the system would allow the Town and other cities to communicate with each other through the trunking system, and 5,000 vehicles could operate on this system. THE COMMITTEE RECOMMENDED APPROVAL OF THE TRUNKING SYSTEM AT A COST OF \$500,000 FOR THE POLICE DEPARTMENT (AND \$200,000 FOR THE FIRE-RESCUE DEPARTMENT AS PART OF THIS SYSTEM WAS APPROVED AT THE MEETING ON JUNE 8, 1995) AND THE APPROVAL OF THE MOBILE DATA TERMINALS SYSTEM.

Mrs. Crozier reported that these projects could be financed for a 5-7 year period. She mentioned that a 5 year period, at 6% interest, would cost the Town \$243,588 per year, with \$168,000 for the interest in the 5 year period. She continued that for a 7 year period, the payments would be \$184,000 per year with \$233,000 applied to the interest over a 7 year period. Mrs. Crozier stated the interest rate may be better than 6%. Mr. Doney noted that the life of the system was estimated to be approximately ten years. THE COMMITTEE RECOMMENDED THE INVESTIGATION OF SEVEN YEAR FINANCING BE AUTHORIZED.

Chief Terlizzese addressed the 363% increase in the line item for uniforms. He explained that part of this request was in the maintenance of the uniforms, the replacement of badges. Chief Terlizzese identified \$10,000 in a donation account that will cover the costs for the badges and rain gear. The \$78,000 remaining that was requested includes \$20,000 for the maintenance and \$58,000 was requested for a change to blue uniforms. He reported that Palm Beach is the only department in the County with brown uniforms, and many of the uniforms are wearing out. THE COMMITTEE RECOMMENDED THE APPROVAL OF FUNDING FOR POLICE DEPARTMENT BLUE UNIFORMS.

The meeting was adjourned at 5:30 p.m.

JUNE 8, 1995

The meeting of the Finance & Taxation Committee was called to order at 10:00 a.m. by Chairperson Lesly Smith. In attendance were Committee Member Jack McDonald and Elected Officials: Mayor Paul Ilyinsky, Councilmen Leslie Shaw, Samuel McLendon, and Allen Wyett. Also attending for all or part of the meeting were: Robert Doney, Town Manager; Al Dusey, Director of Public Works; Leonard Greene, Assistant Director of Public Works; Jim Bowser, Town Engineer; Chief Ken Elmore and Belinda Hardy from the Fire-Rescue Department; Robert Moore, Director, and Wendy Zamecnik from the Planning, Zoning and Building Department; Charlie Boggs, Purchasing Agent; Spencer Wilson, Information Systems Manager; Russ Bitzer, Director, Jim Hay and Rick Dytrych from the Recreation Department; Barbara Martinuzzi, Risk Manager; and Mary Pollitt, Town Clerk.

M. PUBLIC WORKS DEPARTMENT: Mr. Dusey addressed the Committee and reported that over the last ten years, 19 positions have been eliminated in the Public Works Department because of realigning the duties in the Department while continuing to maintain the same level of services. Mr. Dusey requested a \$17,000 increase for FY96 over the \$7.5 million FY95 budget or a 0.2% increase without the \$87,000 insurances cost increase included in that total.

Mr. Dusey identified requested increases are for sanitary sewer treatment charges, refuse disposal program, and the sand transfer plant operations. He noted that day to day operational expenses are proposed to decrease substantially from the previous year.

Mr. Dusey explained the requested software program for the location and identification of truck parts would save time. He noted that the overtime for garbage pick-up on the weekends is increasing; however, revenue is being generated from the additional restaurants that have opened in Palm Beach this year.

Mrs. Smith asked why the figures for the parks, the median and the public works facility are lower and questioned the level of service of those items? Mr. Dusey replied the level of service would not be decreased, and the lower costs are the result of equipment, and water conservation. Mr. Dusey requested the planting schedule for the median return to the summer planting schedule since some of the beds did not look too good.

Mr. Dusey reported that the replacement of dead trees on Worth Avenue will be the responsibility of the Town if the trees were not identified as "bad" trees when the Town assumed the responsibility in October, 1994. He noted that ten trees were in the budget to be replaced on an annual basis on Worth Avenue.

Mr. McDonald asked Mr. Dusey if Mar-a-Lago was converted from residential to commercial in terms of the garbage pick-up? Mr. Dusey replied it would be; however, he would follow-up on that matter. He added that all yard trash pick-up is paid for through the ad valorem tax structure.

After discussing the purchasing of the software program for the vehicle maintenance division, the frequency of trash pick-up, and personnel alignment, IT WAS THE RECOMMENDATION OF THE COMMITTEE TO APPROVE THE PUBLIC WORKS DEPARTMENT BUDGET. Mr. Dusey was asked to identify any other expenditure cuts if possible before September.

1. Marina Fund: Mr. Dusey reported that the Marina Fund is an Enterprise Fund and pays for itself. He said the Town has 77 slips at 3 docks at the Marina, and he proposed to borrow money to replace and expand the Australian dock next year. He recommended the borrowing of money to replace and expand the Peruvian dock the year after. Mr. Dusey noted the docks deteriorate over a period of time, and both docks were constructed at approximately the same time. After discussing the issue of personnel at the docks on Friday nights and the weekends, the individual electrical metering for each slip, and the charges for "extra" electricity, IT WAS THE RECOMMENDATION OF THE COMMITTEE TO APPROVE THE MARINA FUND BUDGET AS PRESENTED.

N. CAPITAL IMPROVEMENT FUND: Mr. Dusey reported the proposed program for FY96 is approximately \$150,000 more than FY95. He explained the program increases approximately 4% per year to keep up with inflation. He continued that the Council normally approves only one year at a time, although the projections are farther out. Mr. Dusey identified the capital improvement items: lighting two tennis courts and the practice wall at the Recreation Center; underground lighting; Town marina improvements; protection of seawalls; and bulkhead repair. Mr. Dusey noted that construction costs have risen dramatically and recent bids have come in high.

Mr. Dusey reported that the Royal Palm Way storm drainage basin located at the end of Seaview Avenue requires several hundred thousands of dollars including a new stormwater pump station. He continued that the Town is working with the State to participate in the project, and they are willing; however, the timing of the State funding is not known at this time. Mr. Dusey noted that the new drainage system for Clarke Avenue has problems because it is not connected to the pumping station and that project needs to be completed in the next two years. He added that the first phase would include the building of a structure to handle all the drainage with sufficient pumps to handle the water from the existing system. The next project phase would be to connect the Seaview manhole to the stormwater pump station which would cost \$140,000. Mr. Dusey said the existing pump station is barely holding together and the expenses are high to keep it going until a new pump station can be constructed. He requested if the Committee would not recommend a new pump station, he requested additional funds, in the amount of several hundred thousand dollars, for the old pump station.

Mr. Dusey reviewed the Source of Fund Summary for the capital projects previously described. He said the loan proceeds were \$1.5 million, the borrowing need for the long term loan for the Marina Fund to pay for the two dock replacements. He added the funds in the capital improvement program had anticipated earnings of \$125,000, and he requested \$1,952,000 from the General Fund to fund the work proposed in FY96.

Mrs. Crozier explained that a policy decision was made many years ago to fund the Capital Improvement Program be funded on a "pay as you go" basis, but if the Committee would like to recommend to the Council to change that policy, financing alternatives could be researched for the various projects. Mrs. Smith requested that Mrs. Crozier investigate the financing of \$6 million for the beach project and with the addition of projects, the need could be for \$8 - \$9 million. Mr. Dusey cautioned that bonding part of the Capital Improvement Plan on a one time basis will make next year's contribution from the General Fund so high that the overall program could be difficult to fund. If the Town Council wishes to move to bonding, it was suggested that all projects be bonded.

Mr. Bitzer addressed the Committee and explained that the lighting of the tennis courts has been included in the Capital Improvement Plan for the last five years. He cited a huge demand for a 4-5 month period, during season, at the 5:00 and 6:00 p.m. hours when the daylight period is shorter. Mr. Bitzer suggested the lighting of the tennis courts was a good business decision since the person supervising the courts in the evening will be paid the same regardless of the number of courts that are used, and the lights should pay for themselves over a five year period.

THE COMMITTEE RECOMMENDED THE APPROVAL OF THE PUBLIC WORKS CAPITAL IMPROVEMENT BUDGET WITH THE EXCEPTION OF THE LIGHTING FOR THE TENNIS COURTS (\$40,000). The Committee suggested that if Mr. Bitzer could support his contention concerning the lighting of the tennis courts, he would have time to present his case during the presentation of the Recreation budget.

Mr. Dusey summarized the information the Committee requested he provide: 1) the responsibility for replacement of the dead palm trees on Worth Avenue; 2) confirm the change to commercial trash pick-up for Mar-a-Lago; 3) charging commercial businesses for yard trash pick-up to be addressed by the Public Works Committee; and 4) bulkhead replacement for the first year and requesting financial participation from the Department of Transportation for the Royal Palm Way stormwater project.

G. FIRE-RESCUE DEPARTMENT: Chief Ken Elmore addressed the Committee with an overview of the Fire Rescue Department, which consists of five programs: administrative program, firefighting program, fire prevention program, Emergency Medical Service program, and a building maintenance program. Chief Elmore stated the FY96 proposed budget has increased approximately \$75,000 over the FY95 approved budget.

Chief Elmore reported that the Administrative Program has been increased by \$65,000 to cover the workers

compensation increase as explained by Mrs. Martinuzzi. He noted that overall, the insurances have increased by \$180,000 for the realignment. He continued that the three computers mentioned by Mr. Wilson are included in that program.

Chief Elmore reported the Fire Fighting program was increased by \$59,000 which included the work uniforms to bring them in line with the fire fighters' standard for non combustible fabric. He noted new equipment costing \$105,000 for the third year payment of a five year plan for the aerial truck purchased two years ago; replacement fire hose; replacement of self contained breathing apparatus; and portable radio costs of \$3,000. Chief Elmore said the \$3,000 would not be needed if the new radio program requested by the Police Department was approved since these older units would not be used (line item 64-03, part of the \$9,000). Mrs. Smith said the assumption was the radios were included with the Police Department budget and the \$3,000 should be removed. Chief Elmore said \$18,000 was proposed for a replacement automobile and \$36,000 for a first year payment (on a five year payment plan) for a replacement special operations truck to handle hazardous materials and various equipment needed for hazardous conditions as mandated by the State or Federal governments.

Chief Elmore reported the EMS program showed a decrease of \$56,000 and covered increases for uniforms, medical supplies, and training as mandated. He added the Building Maintenance program is projected to increase \$22,000 to cover the cost of painting the exterior of the North Fire-Rescue Station.

After discussion, THE COMMITTEE RECOMMENDED THE APPROVAL OF THE FIRE-RESCUE DEPARTMENT BUDGET; ELIMINATING \$3,000 FOR THE RADIOS AND SUGGESTED BORROWING FUNDS FROM ANOTHER DONATIONS ACCOUNT, BEING HELD IN A DESIGNATED RESERVES FOR THE PURCHASE OF A REPLACEMENT MICU UNIT, TO COVER THE PURCHASE OF THE PROPOSED SPECIAL OPERATIONS TRUCK.

Chief Elmore reported that \$150,000-\$200,000 of EMS transport services may be billable, and a report will be submitted to the Town Manager. Mrs. Smith suggested that Mr. Doney and Chief Elmore investigate the possibility of obtaining funds from donated or willed monies for other pieces of equipment to cover the cost of the truck. This may require legal opinions.

H. RECREATION DEPARTMENT: Russ Bitzer, Recreation Director, addressed the Committee noting that the overall budget increases were due to the scheduled replacement of equipment and the increased classes and programs. He added that where increases in expanded program participation occurs, offsetting revenues at 100% or better will be generated. Mr. Bitzer reported that the expenditures for the Recreation Facility Maintenance program is projected to increase by \$4,000; the Tennis program is up by \$12,500; the Adult program is down \$1,000; the Youth program is up by \$5,700; and the Golf program is projected at an increase of \$42,000. Mr. Bitzer projected that all revenue lines would increase in FY96.

After discussion of the proposed lighting of the two tennis courts and the back wall including the potential pay back, the number of hours the courts would be used, and the number of tennis players who would use the courts, THE COMMITTEE RECOMMENDED MR. BITZER RETURN TO THE FINANCE COMMITTEE MEETING SCHEDULED FOR JULY 27, 1995, WITH INFORMATION REGARDING THE REQUEST FOR THE LIGHTING OF THE TENNIS COURTS TO INCLUDE: HOW MANY PEOPLE PLAY LATE, THE NUMBER OF PERMIT HOLDERS ADDED SINCE THE EXISTING LIGHTS WERE INSTALLED (RESIDENTS AND NON-RESIDENTS), CONSIDERATION OF RAISING THE DAILY FEES TO MAKE THE PERMIT ALTERNATIVE MORE ATTRACTIVE, AND REVIEW THE FEE SCHEDULE.

L. PLANNING, ZONING & BUILDING: Robert Moore, Director of Planning, Zoning and Building, addressed the Committee. Mr. Moore reported that his Program 211, Planning & Zoning, is projected to increase 9% or \$38,000 because of the liability assigned from legal fees, and an additional \$30,000 has been earmarked for an evaluation and appraisal report for the mandated State Comprehensive Plan. Mr. Moore noted his Department was up 690% because of the liability claims budgeted dollars for FY96 assigned to his Departmental Programs.

Mr. Moore identified the Permit Issuance program as having proposed increases of \$14,000 plus a \$12,000 reduction in reallocation of insurance. A \$10,000 increase in contractual employees (line 212-31-12) to be used for plan review as determined by need. A \$5,000 construction project is planned to provide an improved reception area desk and storage cabinets. He noted that the Inspection and Compliance program increased by \$6,000. Mr. Moore requested authorization for an additional part-time person for Code Compliance. Mr. Moore said \$13,000 has been allocated for that position.

Mr. Moore noted that the Landmarks Preservation program is proposed to increase by \$21,000 to cover special legal costs and additional monies have been set aside for matching funds from a State of Florida grant for a survey of the "Sea" streets as a potential historic district.

Mr. Moore reported that the proposed FY96 budget totals \$1,305,708 compared to the FY95 budget of \$1,228,084 and the FY95 operating expenses exceed the approved budget by approximately \$92,000 from legal fees, reimbursable consultant fees, and other professional services. Mr. Moore noted the Department had approximately a 30% increase in building permits in FY95 generating a 30% increase in revenue.

Mrs. Smith said the \$66,000 total contractual services expenditures proposed for Landmarks was excessive, and she questioned the amounts for other professional services (account numbers 31-12 and 31-35) when a full time landmark expert

~~MINUTES OF THE TOWN COUNCIL MEETING HELD ON JULY 11, 1995~~

was employed by the Town. She identified approximately \$80,000 in requests for a part time plan review inspector and full time building inspection contractual services. Mr. Moore explained that the increase in permit and inspection activity demands additional personnel. Mrs. Smith questioned the procedure for arriving at William Brisson's fees for consulting. Mr. Moore replied that Mr. Brisson had been retained by the Town since 1974 as a planning and zoning consultant and provided continuity for the Town's zoning issues, and he is an expert witness in the defense of the Town's Zoning Ordinance.

Mr. Moore reported that the Department's budget was not an enterprise fund, but that the Department is 100% self sufficient where revenues approximately equal expenditures.

After discussion concerning hiring professionals who have the same philosophy as the Town government and who wish to accomplish the same goals, increasing occupational license fees, IT WAS THE RECOMMENDATION OF THE COMMITTEE TO TENTATIVELY APPROVE THE PLANNING, ZONING & BUILDING DEPARTMENT'S BUDGET WITH THE STIPULATIONS MR. MOORE INVESTIGATE FEES FOR OTHER SPECIAL SERVICES AND THE FEASIBILITY OF ADDITIONAL GRANT MONIES FOR THE TOWN, AND ALSO SPEAK TO MR. BRISSON TO ASCERTAIN THAT HE REPRESENTS THE TOWN'S VIEW POINT PERTAINING TO ZONING ISSUES AND REVIEW MR. BRISSON'S COSTS.

Mr. McDonald requested Mr. Moore supply a copy of the Florida State Statute related to the establishing of occupational license fees for the July 27th meeting. Mrs. Smith requested Mr. Moore investigate the possibility of applying for additional State grants for FY96; specifically, for the beautification of the Town Hall Square Historic District in conjunction with the planting of the new palm trees planted by the South County Road Association.

I. TOWN CLERK'S OFFICE: Mrs. Pollitt presented her proposed FY96 budget. She noted that \$761 for Lanier maintenance contracts should be added to the budget as those figures were only recently available, and the total budget for the Town Clerk's office would be \$157,435 for FY96. After discussing the costs of copies of taped meetings to the general public, THE COMMITTEE RECOMMENDED THAT THE TOWN CLERK'S OFFICE CHARGE \$10 PER TAPE.

Mrs. Pollitt noted that the FY96 proposed budget reflects a reduction from the approved FY95 budget of \$257,476 because of the personnel changes during FY95.

After discussing the proposed telephone system to be shared with the Finance Department and the assumption of the duties for the Retirement Board by the Personnel Department, it was THE RECOMMENDATION OF THE COMMITTEE TO ACCEPT THE TOWN CLERK'S PROPOSED BUDGET.

J. TOWN MANAGER'S OFFICE:

1. LAW AND POLICY REVIEW, LEGISLATION: Mr. Doney reported the overall proposed FY96 budget has been reduced by 16%, and that will be further reduced by the actions of the Finance and Taxation Committee at this meeting when the annual report budget for FY96 was reduced from \$18,000 to \$12,000. Mr. Doney noted that \$3,000 was budgeted for professional association expenses for the Mayor and Town Council. Mrs. Smith suggested that \$1,500 be allotted for that line item. Mr. Doney said the amount budgeted for the health insurance program was based upon participation from prior Town Council members, and no Town Council members are currently participating in the program. Mrs. Smith suggested that the health plan was financial reimbursement, and no Council Member should participate in it.

2. INTERGOVERNMENTAL RELATIONS: Mr. Doney noted that \$5,000 is budgeted for FY96 Special Legal, and that is a contingency amount based upon each year's annual legislative session for legal services in Tallahassee. Mrs. Smith suggested that amount be changed to \$2,500 (line 31-01). Mr. Doney said line item 40-12 Miscellaneous Travel for Intergovernmental Relations was budgeted for \$3,000 and that would provide travel for any issues in this area authorized by the Town Council. Mrs. Smith suggested that this line item be reduced to \$1,500. Mr. Jakubiak addressed line item 63-91 which included \$25,000 for further compliance with the Americans With Disabilities Act for proposed ramps at the Mid-Town beach and Phipps Ocean Park.

3. TOWN MANAGER'S OFFICE: Mr. Doney reported the overall budget has been reduced by 4%. Mr. Doney noted that Mr. Elwell, Mr. Jakubiak, and he rotate their schedules to attend the International City Manager's Association Conference once every three years. After consideration and review, THE COMMITTEE RECOMMENDED APPROVAL OF THE TOWN MANAGER'S BUDGET WITH THE REDUCTION OF LINE ITEM 40-10 PROFESSIONAL ASSOCIATION EXPENSE FROM \$3,000 TO \$1,500; LINE 48-01 ANNUAL REPORT COSTS FROM \$18,000 TO \$12,000; LINE 40-12 MISCELLANEOUS TRAVEL FOR INTERGOVERNMENTAL RELATIONS FROM \$3,000 TO \$1,500; LINE 31-01 LEGAL FROM \$5,000 TO \$2,500.

After discussion, THE COMMITTEE ALSO RECOMMENDED THAT NO TOWN COUNCIL MEMBER OR MAYOR SHOULD PARTICIPATE IN ANY TOWN HEALTH CARE PLAN IN THE FUTURE.

4. LEGAL COUNSEL: Mr. Doney advised that \$200,000 figure budgeted for FY96 was based on the on-going litigation and an estimate based upon historical expenditures on this line item. After review, THE COMMITTEE

RECOMMENDED THAT THE LINE ITEM 31-01 SPECIAL LEGAL BE REDUCED FROM \$200,000 TO \$175,000.

Mr. Doney noted that the Town had appropriated \$100,000 for the Society of the Four Arts Library FY95. After discussion, THE COMMITTEE RECOMMENDED THAT \$100,000 BE APPROVED FOR THE SOCIETY OF THE FOUR ARTS LIBRARY.

J. 1. OFFICE OF INFORMATION SYSTEMS: Spencer Wilson, Information Systems Manager, reported that his office was reduced from 5 persons to 4 persons and that will be the personnel level for FY96. Mr. Wilson noted that line items 71-01 and 72-01 showed the \$51,228 figure that was the amount for the second year of the purchase of the AS/400 approved by the Town Council last year. He explained that line 46-05 equipment maintenance account has increased by approximately \$4,000 due to the increase in equipment. After review and discussion, THE COMMITTEE RECOMMENDED APPROVAL OF THE OFFICE OF INFORMATION SYSTEMS BUDGET.

K. FINANCE DEPARTMENT: Marie Crozier, Finance Director, and noted that the Finance Department is responsible for the financial administration, budgeting, auditing, purchasing and risk management functions of the Town, and the Department is comprised of 15 employees. She noted that the overall Finance Department budget decreased by \$53,000 or 6% primarily due to the insurance expense reductions based upon experience. Mrs. Crozier addressed the issue of the line item 64-05 telephone hardware, and the existing system is antiquated and is not meeting the Department's needs efficiently. She said the system is inefficient, has no intercom system, and the system for the Town Clerk's office would have to be replaced at the same time the Finance office is replaced. She said the system would cost approximately \$14,000, and she recommended that Finance assume \$5,000 of the cost; the Town Clerk would share \$4,000 of the cost; and the Risk Management and the Parking Fund would each participate to the extent of \$2,500 each. After discussion, IT WAS THE RECOMMENDATION OF THE COMMITTEE THAT THE FINANCE DEPARTMENT'S BUDGET BE APPROVED.

O. OTHER FUNDS

1. Parking Funds: Mrs. Crozier gave an overview of the Parking Fund, and noted the fund's expenditure is projected to decrease by approximately \$43,000 due to the redistribution of the insurances and to calculation of the salaries' line item for FY95. She added that revenues for parking, and they are projected to remain essentially the same. After discussion, THE COMMITTEE RECOMMENDED APPROVAL OF THE PARKING FUND PROPOSED BUDGET FOR FY96.

2. Debt Service Fund: Mrs. Crozier said the Debt Service is expected to decline approximately \$430,000 in expenditures for FY96 due to the 1975 bond that matured and was paid off in June, 1995, and the Debt Service millage rate will be reduced accordingly. THE COMMITTEE RECOMMENDED APPROVAL OF THE DEBT SERVICE FUND AS PROPOSED FOR FY96.

3. The Self Insurance Fund: Mrs. Crozier reported that the Self Insurance Fund is comprised of the Risk Manager and her support staff person. She said this is an Internal Service Fund that is utilized to handle the expenses of the insurance for the Town. Mrs. Crozier reported the fund is expected to decline overall by \$275,000 due to the estimated reduction of premium costs. Mrs. Martinuzzi added that in previous years, an increase in the reserves was budgeted for, but upon actuarial review, she did not think that an increase for additional funds for this insurance was necessary at this time. After discussion, THE COMMITTEE RECOMMENDED APPROVAL OF THE SELF INSURANCE FUND BUDGET AS PROPOSED.

4. Retirement Fund: Mrs. Crozier explained the Retirement System is the fund that accounts for all the costs of the pension benefit payments to all retirees and those amounts that need to be held in reserve to fund future retirees as well. She noted that \$455,000 will be transferred to fund balance because an additional \$400,000 is anticipated to be received for interest earnings from last year, and to balance the Budget, it is shown as a transfer to fund balance. She added that \$4.8 million is anticipated as interest earnings for that Fund, and the total Fund is approximately \$63 million.

After discussion, it was requested that Mrs. Crozier provide the figures for the retirement as a percent of salary, insurance as a percent of salary, and all other as a percent of salary. This information is to be available for the July 27, 1995, Finance & Taxation Committee meeting.

After discussing the preceding items, THE COMMITTEE RECOMMENDED APPROVAL OF THE RETIREMENT FUND PROPOSED BUDGET FOR FY96.

P. REVENUES: Mrs. Crozier identified the projections for non ad valorem revenue for FY96 that are just over \$11 million which is approximately \$424,000 above FY95 non ad valorem revenues. Mrs. Crozier said non ad valorem revenues are up almost \$500,000, and that was attributed to the \$115,000 increase from the gas tax; \$100,000 is anticipated from the water revenues due to the inverted rate structure; building permits are anticipated to increase by \$100,000; and the solid waste revenue is projected to increase \$45,000 due to the increase from restaurants. She stated the posture of the Town has been to project revenues conservatively.

After discussion, it was requested that the Committee review the fees for burglar alarms and charges for false alarm calls and the \$5 charge for lien searches be reviewed.

IV. ANY OTHER MATTERS: There were none.

IV. ADJOURNMENT: The meeting was adjourned at 6:25 p.m.

FINANCE & TAXATION COMMITTEE

Lesly S. Smith, Chairperson

Jack McDonald, Committee Member

Mrs. Smith then gave an overview of the Finance and Taxation Committee Report, and discussion of the recommendations ensued, followed by motions relating to each item.

1. Insurance Programs. The Finance & Taxation Committee recommended that the increase of the retention levels and the reserve levels be studied and presented at the July 27, 1995, Finance & Taxation Committee Meeting.

Mr. Shaw made a motion to APPROVE THIS STUDY FOR PRESENTATION AT THE JULY 27, 1995 FINANCE & TAXATION COMMITTEE MEETING. Seconded by Mr. McDonald.

On roll call the motion carried unanimously.

2. Information Systems. After discussion, the Finance & Taxation Committee recommended approval of the INFORMATION SYSTEMS BUDGET as presented.

Mr. Shaw made a motion to APPROVE THE INFORMATION SYSTEMS BUDGET AS PRESENTED. Seconded by Mr. McDonald.

On roll call the motion carried unanimously.

3. Retirement Board. After discussion, the Finance & Taxation Committee recommended ACCEPTANCE OF THE REPORT OF ACTUARY RON SMITH, DATED JUNE 7, 1995, TO FUND CHANGES AND TO INCLUDE ACTIONS FROM THE RETIREMENT BOARD MEETINGS OF APRIL 4 AND MAY 19, 1995. THE COMMITTEE RECOMMENDED THAT NO CHANGES BE MADE THAT WOULD AFFECT THE RECRUITMENT OF FUTURE EMPLOYEES OR THAT WOULD CAUSE PRESENT EMPLOYEES TO LEAVE BECAUSE THE PAYMENT PACKAGE WAS NOT COMPETITIVE.

Mr. Shaw made a motion to ACCEPT THE REPORT OF ACTUARY RON SMITH. Seconded by Mr. McDonald.

On roll call the motion carried unanimously.

4. Personnel Department. The Finance & Taxation Committee requested that BEFORE APPROVAL WAS RECOMMENDED, THE FIGURES FOR THE PROPOSED BENEFIT NEWSLETTER FOR EACH EMPLOYEE BE PRESENTED AT THE JULY 27th FINANCE & TAXATION MEETING.

Mr. Shaw made a motion to approve the PRESENTATION OF THE FIGURES FOR THE PROPOSED BENEFIT NEWSLETTER FOR EACH EMPLOYEE AT THE JULY 27th FINANCE & TAXATION MEETING. Seconded by Mr. McDonald.

On roll call the motion carried unanimously.

5. & 6. Police Department. The Finance & Taxation Committee recommended APPROVAL OF THE TRUNKING SYSTEM AT A COST OF \$500,000 FOR THE POLICE DEPARTMENT (AND \$200,000 FOR THE FIRE-RESCUE DEPARTMENT AS PART OF THIS SYSTEM WAS APPROVED AT THE MEETING ON JUNE 8, 1995) AND THE APPROVAL OF THE MOBILE DATA TERMINALS SYSTEM. The Finance & Taxation Committee also recommended AUTHORIZING THE INVESTIGATION OF SEVEN YEAR FINANCING REGARDING THESE PROJECTS.

Mr. Shaw made a motion to approve THE TRUNKING SYSTEM AT A COST OF \$500,000 FOR THE POLICE DEPARTMENT (AND \$200,000 FOR THE FIRE-RESCUE DEPARTMENT AS PART OF THIS SYSTEM WAS APPROVED AT THE MEETING ON JUNE 8, 1995) AND THE APPROVAL OF THE MOBILE DATA TERMINALS SYSTEM, and to AUTHORIZE THE INVESTIGATION OF SEVEN YEAR FINANCING REGARDING THESE PROJECTS. Seconded by Mr. McDonald.

On roll call the motion carried unanimously.

7. Police Department. The Finance & Taxation Committee recommended approval of funding for Police

Department Blue Uniforms.

Mr. McDonald made a motion to APPROVE FUNDING FOR POLICE DEPARTMENT BLUE UNIFORMS. Seconded by Mr. Wyett.

On roll call the motion carried unanimously.

8. Public Works Department. The Finance & Taxation Committee recommended approval of the Public Works Department Budget.

Mr. Shaw made a motion to APPROVE THE PUBLIC WORKS DEPARTMENT BUDGET. Seconded by Mr. McDonald.

On roll call the motion carried unanimously.

9. Public Works Department. The Finance & Taxation Committee recommended approval of the Marina Fund Budget as presented.

Mr. Shaw made a motion to APPROVE THE MARINA FUND BUDGET AS PRESENTED. Seconded by Mr. McDonald.

On roll call the motion carried unanimously.

10. Public Works Department. The Finance & Taxation Committee recommended approval of the Public Works Capital Improvement Budget with the exception of the lighting for the tennis courts (\$40,000).

Mr. Shaw made a motion to APPROVE THE PUBLIC WORKS CAPITAL IMPROVEMENT BUDGET WITH THE EXCEPTION OF THE LIGHTING FOR THE TENNIS COURTS (\$40,000). Seconded by Mr. McDonald.

On roll call the motion carried unanimously.

11. Fire-Rescue Department. After discussion, the Finance & Taxation Committee recommended approval of the Fire-Rescue Department Budget' Eliminating \$3,000 for the radios, and suggested borrowing funds from another donations account, being held in a designated reserves for the purchase of a replacement MICU unit, to cover the purchase of the proposed Special Operations Truck. Seconded by Mr. McDonald.

Mr. Shaw made a motion to APPROVE THE FIRE-RESCUE DEPARTMENT BUDGET; ELIMINATING \$3,000 FOR THE RADIOS AND SUGGESTING BORROWING FUNDS FROM ANOTHER DONATIONS ACCOUNT, BEING HELD IN A DESIGNATED RESERVES FOR THE PURCHASE OF A REPLACEMENT MICU UNIT, TO COVER THE PURCHASE OF THE PROPOSED SPECIAL OPERATIONS TRUCK. Seconded by Mr. McDonald.

On roll call the motion carried unanimously.

12. Recreation Department. After discussion, the Finance & Taxation Committee recommended Mr. Bitzer return to the Finance Committee Meeting scheduled for July 27, 1995, with information regarding the request for the lighting of the tennis courts to include: How many people play late, the number of permit holders added since the existing lights were installed (Residents and Non-Residents), consideration of raising the daily fees to make the permit alternative more attractive, and review the fee schedule.

Mr. Shaw made a motion to APPROVE MR. BITZER RETURNING TO THE FINANCE COMMITTEE MEETING SCHEDULED FOR JULY 27, 1995, WITH INFORMATION REGARDING THE REQUEST FOR THE LIGHTING OF THE TENNIS COURTS TO INCLUDE: HOW MANY PEOPLE PLAY LATE, THE NUMBER OF PERMIT HOLDERS ADDED SINCE THE EXISTING LIGHTS WERE INSTALLED (RESIDENTS AND NON-RESIDENTS), CONSIDERATION OF RAISING THE DAILY FEES TO MAKE THE PERMIT ALTERNATIVE MORE ATTRACTIVE, AND REVIEW THE FEE SCHEDULE. Seconded by Mr. McDonald.

On roll call the motion carried unanimously.

13. Planning, Zoning and Building. After discussion, the Finance & Taxation Committee recommended TENTATIVE APPROVAL OF THE PLANNING, ZONING & BUILDING DEPARTMENT BUDGET WITH THE STIPULATIONS MR. MOORE INVESTIGATE FEES FOR OTHER SPECIAL SERVICES AND THE FEASIBILITY OF ADDITIONAL GRANT MONIES FOR THE TOWN, AND ALSO SPEAK TO MR. BRISSON TO ASCERTAIN THAT HE REPRESENTS THE TOWN'S VIEW POINT PERTAINING TO ZONING ISSUES AND REVIEW MR. BRISSON'S COSTS.

Mr. Shaw made a motion to TENTATIVELY APPROVE THE PLANNING, ZONING & BUILDING DEPARTMENT BUDGET WITH THE STIPULATIONS MR. MOORE INVESTIGATE FEES FOR OTHER SPECIAL SERVICES AND THE FEASIBILITY OF ADDITIONAL GRANT MONIES FOR THE TOWN, AND ALSO SPEAK TO MR. BRISSON TO ASCERTAIN THAT HE REPRESENTS THE TOWN'S VIEW POINT PERTAINING TO ZONING ISSUES AND REVIEW MR. BRISSON'S COSTS. Seconded by Mr. McDonald.

~~MINUTES OF THE TOWN COUNCIL MEETING HELD ON JULY 11, 1995~~

On roll call the motion carried unanimously.

14. & 15. Town Clerk's Office. After discussion, the Finance & Taxation Committee recommended acceptance of the Town Clerk's Proposed Budget for FY96, and approval of the charge of \$10 per tape for copies of meetings for the general public.

Mr. Shaw made a motion to ACCEPT THE TOWN CLERK'S PROPOSED BUDGET FOR FY96, AND APPROVE THE CHARGE OF \$10 PER TAPE FOR COPIES OF MEETINGS FOR THE GENERAL PUBLIC. Seconded by Mr. McDonald.

On roll call the motion carried unanimously.

16. & 17. Town Manager's Office. The Finance & Taxation Committee recommended approval of the Town Manager's Budget with the reduction of Line Item 40-10 Professional Association Expense from \$3,000 to \$1,500; Line 48-01 Miscellaneous Travel for Intergovernmental Relations from \$3,000 to \$1,500; Line 31-01 Legal from \$5,000 to \$2,500. The Committee also recommended that no Town Council Member or Mayor should participate in any Town Health Care Plan in the future.

Mr. Shaw made a motion to APPROVE THE TOWN MANAGER'S BUDGET WITH THE REDUCTION OF LINE ITEM 40-10 PROFESSIONAL ASSOCIATION EXPENSE FROM \$3,000 TO \$1,500; LINE 48-01 MISCELLANEOUS TRAVEL FOR INTERGOVERNMENTAL RELATIONS FROM \$3,000 TO \$1,500; LINE 31-01 LEGAL FROM \$5,000 TO \$2,500, AND THAT NO TOWN COUNCIL MEMBER OR MAYOR SHOULD PARTICIPATE IN ANY TOWN HEALTH CARE PLAN IN THE FUTURE. Seconded by Mr. McDonald.

On roll call the motion carried unanimously.

18. & 19. Legal Counsel. The Finance & Taxation Committee recommended that the Line Item 31-01 Special Legal be reduced from \$200,000 to \$175,000. The Committee also recommended that \$100,000 be approved for the Society of the Four Arts Library.

Mr. Shaw made a motion to REDUCE LINE ITEM 31-01 SPECIAL LEGAL FROM \$200,000 to \$175,000, and to APPROVE \$100,000 FOR THE SOCIETY OF THE FOUR ARTS LIBRARY. Seconded by Mr. McDonald.

On roll call the motion carried unanimously.

20. Office of Information Systems. After review and discussion, the Finance & Taxation Committee recommended approval of the Office of Information Systems Budget.

Mr. Shaw made a motion to APPROVE THE BUDGET OF THE OFFICE OF INFORMATION SYSTEMS. Seconded by Mr. Wyett.

On roll call the motion carried unanimously.

21. Finance Department. After discussion, it was the recommendation of the Finance & Taxation Committee that the Finance Department's Budget be approved.

Mr. Wyett made a motion to APPROVE THE BUDGET OF THE FINANCE DEPARTMENT. Seconded by Mr. McLendon.

On roll call the motion carried unanimously.

22. Other Funds. After discussion, the Finance & Taxation Committee recommended approval of the Parking Fund Proposed Budget for FY96.

Mr. Wyett made a motion to APPROVE THE PARKING FUND PROPOSED BUDGET FOR FY96. Seconded by Mr. McLendon.

On roll call the motion carried unanimously.

23. Debt Service Fund. The Finance & Taxation Committee recommended approval of the Debt Service Fund as proposed for FY96.

Mr. Wyett made a motion to APPROVE THE DEBT SERVICE FUND AS PROPOSED FOR FY96. Seconded by Mr. Shaw.

On roll call the motion carried unanimously.

24. Self Insurance Fund. After discussion, the Finance & Taxation Committee recommended approval of the Self Insurance Fund Budget as proposed.

MINUTES OF THE TOWN COUNCIL MEETING HELD ON JULY 11, 1995

Mr. Shaw made a motion to APPROVE THE SELF INSURANCE FUND BUDGET AS PROPOSED. Seconded by Mr. Wyett.

On roll call the motion carried unanimously.

25. Retirement Fund. After discussion, the Finance & Taxation Committee recommended approval of the Retirement Fund Proposed Budget for FY96.

Mr. Shaw made a motion to APPROVE THE RETIREMENT FUND PROPOSED BUDGET FOR FY96. Seconded by Mr. McDonald.

On roll call the motion carried unanimously.

B. Report of the Ordinance, Rules, and Standards Committee Meeting of June 29, 1995 -

REPORT OF THE ORDINANCE, RULES & STANDARDS COMMITTEE MEETING HELD

JUNE 29, 1995

I. CALL TO ORDER AND ROLL CALL: A meeting of the Ordinance, Rules and Standards Committee was called to order by Chairman Jack McDonald at 2:00 p.m. on June 29, 1995, in the Town Hall Council Chambers. On roll call, Chairman McDonald and Committee Member Leslie Shaw were found to be in attendance. In addition, Mayor Paul Ilyinsky and Council President Lesly Smith were in attendance. Also attending the meeting were: Town Manager Robert Doney; Planning, Zoning and Building Director Robert Moore; Recreation Director Russell Bitzer; and Town Clerk Mary Pollitt.

II. APPROVAL OF AGENDA: The agenda was approved as printed.

III. CONSIDERATION OF CONFLICT OF INTEREST ISSUES: As noted in his memoranda dated May 24 and June 7, 1995, Mr. Shaw suggested that a set of written procedures be incorporated into the ordinances pertaining to Town boards or commissions requiring that if a member or alternate declares a conflict of interest, the member or alternate shall leave the Council chamber prior to the item being considered; that a presentation be made by an associate of the member; and only in the event that the member does not have an associate or an undue hardship would be caused for the member, would the member make the presentation. Mr. Shaw requested that the member leave the Chamber while the balance of the Board of Commission is discussing the application and return after the vote. Mr. Shaw stated his recommendation is not to change policy but to affirm what seems to be an unwritten policy and an unwritten manner of conducting business. Mr. Shaw added that conflicts should be declared as soon as possible and stated, if possible, on the application and noted on the agenda.

Mrs. Smith said a procedure could be presented to attempt to alleviate any conflicts of interest problems, but she wanted the record to reflect that the integrity of the residents is not in question nor has this been a problem in the past. Mrs. Smith suggested members with conflicts of interest could be identified on the agenda by using an asterisk by their names for the project(s) in question.

After discussion and comments, THE ORDINANCE, RULES & STANDARDS COMMITTEE RECOMMENDED THE TOWN ATTORNEY AMEND THE ORDINANCE FOR EACH BOARD OR COMMISSION WITH THE FOLLOWING:

1. NOTIFICATION OF CONFLICTS OF INTEREST WILL BE NOTED ON THE APPLICATION FORM AT THE TIME OF THE SUBMISSION OF THE APPLICATION; THESE CONFLICTS WILL BE IDENTIFIED ON THE AGENDA; EXAMPLE: USING AN ASTERISK.
2. THE MEMBER OR ALTERNATE MEMBER WHO HAS A CONFLICT OF INTEREST WOULD NOT PARTICIPATE IN THE DISCUSSION AND WOULD LEAVE THE CHAMBER OR THE DAIS UNTIL THE ITEM IS CONCLUDED.
3. THE MEMBER OR ALTERNATE WOULD PRESENT THE PROJECT TO A TOWN COMMISSION OR BOARD ONLY IN THE CASE OF HARDSHIP DEFINED AS A SOLE PRACTITIONER UNABLE TO REPRESENT A CLIENT THROUGH AN ASSOCIATE MEMBER.

IV. CONSIDERATION OF TOWN ORDINANCES FOR APPLICABLE TOWN COMMISSIONS AND BOARDS REQUIRING MEMBERS AND ALTERNATES TO BE A REGISTERED VOTER IN THE TOWN OF PALM BEACH:

Mr. Shaw said he thought that all the members and alternates who serve on Town commissions and boards should be registered voters in the Town. No action was recommended by the Committee leaving the voters' registration requirement in place for the existing boards and commissions, with the exception of the Shore Protection Board.

VI. ANY OTHER MATTERS: Mr. Shaw requested the list of occupations for Code Enforcement Board members include representation from the public health field.

Mr. Moore said the language used in the Town's Code Enforcement Ordinance was the same as in the State Statute and suggested retaining as much of the State's language as possible. He further explained the public health field as related to Code Enforcement in the Town often refers to matters relating to restaurants or sanitation inspections, and these matters have historically been handled by Palm Beach County Health Department. He commented that an ordinance change may not be necessary, because the Council has the power to appoint someone from that field, if they wished to do so.

Mr. Doney said, based on previous comments by the Town Attorney, the Council could appoint someone to the Code Enforcement Board from a broad range of professions including the public health field. Mr. Doney stated that Mr. Randolph offered to address the issue at the July 11, 1995, Town Council meeting.

After discussion concerning the necessity of amending the Code Enforcement Board Ordinance, IT WAS THE RECOMMENDATION OF THE COMMITTEE TO RECOMMEND TO THE TOWN COUNCIL THAT A NEW CATEGORY BE ESTABLISHED UNDER THE PREFERRED SECTION OF THE CODE ENFORCEMENT ORDINANCE THAT A MEMBER BE SELECTED WITH EXPERIENCE IN THE PUBLIC HEALTH CATEGORY.

Comments from the general public were heard. Mr. Adrian Winterfield, 443 Brazilian Avenue, questioned the compliance of the proposed 5% increase in Occupational License fees to the 1993 State Statute; particularly the \$25 occupational license tax for apartments.

Mr. Moore stated the second reading of the Ordinance relating to the increase in the Occupational License Fees must be heard at the July meeting in order to comply with the 1993 change in the State Law. He said the bills must go out by August 1 to allow the payment of new licenses.

After discussion, the Committee determined the issue would be addressed at the July 11, 1995, Town Council meeting.

Mr. Winterfield addressed the subject of the Community Service Fee that is being charged to developers. He questioned the legality of the Community Service Fee, and stated the fee is not an impact fee because it does not relate to the infrastructure. He maintained this issue should not be handled by the Building Department and that it should be settled as a legal issue.

Mr. Moore explained that Mr. Randolph addressed the issue in a letter dated June 15, 1995, and it will be studied this summer as it relates to other ordinances from other communities who have community service type fees. Mr. Moore said that the issue may be presented to the Council or the ORS Committee, depending on the costs involved for the necessary studies, in the Fall of 1995.

There were no additional other matters.

VII. ADJOURNMENT: The meeting was adjourned at 3:00 p.m.

ORDINANCE, RULES AND STANDARDS
COMMITTEE

Jack McDonald, Chairman

Leslie A. Shaw, Committee Member

Discussion of the Ordinance, Rules and Standards (ORS) Committee ensued. Mr. Randolph inquired whether the

recommendations regarding conflicts of interest at Commission and Board Hearings were to be included in the Ordinance, or would be a matter of policy and direction to Committee and Board members.

Mrs. Smith remarked that she understood that the motion recommended amendment of the Ordinance, and if the Town Council followed the recommendations of the ORS Committee, then the Ordinances would be amended before the first reading.

The ORS Committee recommended that the Ordinance be amended with the 3 following conditions:

1. NOTIFICATION OF CONFLICTS OF INTEREST WILL BE NOTED ON THE APPLICATION FORM AT THE TIME OF THE SUBMISSION OF THE APPLICATION; THESE CONFLICTS WILL BE IDENTIFIED ON THE AGENDA; EXAMPLE: USING AN ASTERISK.
2. THE MEMBER OR ALTERNATE MEMBER WHO HAS A CONFLICT OF INTEREST WOULD NOT PARTICIPATE IN THE DISCUSSION AND WOULD LEAVE THE CHAMBER OR THE DAIS UNTIL THE ITEM IS CONCLUDED.
3. THE MEMBER OR ALTERNATE WOULD PRESENT THE PROJECT TO A TOWN COMMISSION OR BOARD ONLY IN THE CASE OF HARDSHIP DEFINED AS A SOLE PRACTITIONER UNABLE TO REPRESENT A CLIENT THROUGH AN ASSOCIATE MEMBER.

Mr. McLendon made a motion to accept the three conditions amending the Ordinance. Seconded by Mr. Shaw.

On roll call the motion carried unanimously.

Mr. Wyett stated that he had written a letter to Mr. Randolph discussing drafting a Conflict of Interest Ordinance for the Town of Palm Beach.

Mayor Ilyinsky addressed Mr. Wyett's concern, stating that the Town Attorney felt the present Ordinance served the Town well.

Mr. Wyett replied that a conflict on the part of Town Council members was not clarified under the State Statue. and he suggested the the ORS Committee explore this issue.

Mr. McLendon made a motion to send the matter on a Code of Ethics to the ORS Committee for further discussion. Seconded by Mr. Wyett.

On roll call the motion carried 4/1 with Mr. Shaw dissenting.

Mr. McDonald then continued with the ORS recommendations. The ORS Committee had considered whether members of Boards and Commissions, excluding the Shore Protection Board, should be Town voters. The ORS Committee had decided that the existing policy of only Town voters would remain.

Mrs. Smith asked that a tape of the ORS meeting be played, as she did not recall the exclusion of the Shore Protection Board.

After the tape of the ORS Meeting of June 29, 1995 was played, Mrs. Smith asked Mr. McDonald if he heard the Shore Protection Board excluded from that policy decision.

Mr. McDonald replied he saw no ambiguity with the tape and the minutes. Mr. Shaw was specific in the Boards and the Commissions that were to be covered. Mr. McDonald said he corrected the words from "Boards" to "Commissions" and that was his intent.

Mrs. Smith replied that Mr. Shaw mentioned ARCOM, Landmarks, Code Enforcement Board, Golf, and Tennis. If the ones he mentioned would be those, Mr. Shaw left out Zoning, Building Board of Adjustments and Appeals, and the Shore Protection Board. She asked Mr. McDonald if Mr. Shaw did not mention them, were they not covered?

Mr. McDonald responded he did not see an ambiguity, and at the end, Mr. Shaw said that the existing boards where that was the existing policy would remain the same.

Mrs. Smith said Mr. Shaw did not exclude the Shore Protection Board and it was voted in the month before.

Mr. McDonald stated he disagreed with that interpretation.

Mrs. Smith concluded the minutes were not correct because they contained something that was not said. It was implied by Mr. McDonald and Mr. Shaw, but not stated.

Mr. Shaw interjected that the Town has boards that do not have the stipulation for Town resident requirements because

of State requirements.

Mr. McDonald then noted that the final matter considered by the ORS Committee was whether a category should be added to the Code Enforcement Board which would include representation from a member who had a public health background, and recommendation was made to find such a person to serve on that Board.

Mr. Shaw made a motion to approve the new category for the Code Enforcement Board membership. Seconded by Mr. McDonald.

On roll call the motion carried unanimously.

Mr. McDonald made a motion to accept the report of the ORS Committee. Seconded by Mr. Wyett.

On roll call the motion carried unanimously.

X. OLD BUSINESS

A. Ordinances (Second Reading)

1. Ordinance No. 7-95 - Amendment to Schedule of Fees for Occupational Licenses -

Mr. Randolph read Ordinance No. 7-95:

AN ORDINANCE OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 10, LICENSES AND BUSINESS REGULATIONS, BY AMENDING SECTION 10-14 RELATING TO SCHEDULE OF FEES FOR OCCUPATIONAL LICENSES; DELETING SECTIONS 10-17 AND 10-18 RELATING TO REGISTRATION AND REQUIRED INFORMATION; PROVIDING FOR SEVERABILITY, PROVIDING FOR REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH, PROVIDING FOR CODIFICATION, AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Wyett made a motion to approve Ordinance 7-95. Seconded by Mr. Shaw.

On roll call the motion carried unanimously.

B. Other

1. Consideration of Beach Erosion Matters

a. Consideration of the Lake Worth Inlet Sand Transfer Plant - Status Report on Restoration by Palm Beach County -

Mr. Bob Klinger, Palm Beach County Department of Environmental Resources Management addressed the Town Council, giving an update on the Sand Transfer Plant, as Mr. Walesky could not be present today.

Mr. Klinger continued that the engine and transmission would be delivered next week and installed in the housing by the end of the month. After that, the pipe from the engine would be placed at a point outside of the Plant, which would connect with the work of the contractor. The design of the directionally drilled pipe was about 75% complete. A complete set of plans and specifications would be delivered by July 17th. Consideration and approval of bids could be done at the August Town Council Meeting, allowing construction to begin by September 1, with completion by early October.

Mr. McLendon asked why the piping would be going over the south jetty, rather than under?

Mr. Klinger responded that because of wave action on the south side of the jetty and pressure exerted on the discharge point, it was felt that attachment to the jetty cap would be more secure and eliminate any problems. Mr. Klinger added that it was anticipated that the pipe would extend beyond the south jetty approximately 100-200 feet.

Mr. Jim Bowser, Town Engineer, addressed the Town Council, stating that the consultants planned to come out in the water south of the jetty, with a steel sheet pile copper dam planned, that would be over 100' x 20', which was a tremendous, expensive structure. It was felt that shortening the pipe and coming up within the inlet was the least expensive alternative. Mr. Bowser pointed out that all contractors had been pre-qualified, and the schedule had been accelerated with hopes that better working weather would lower prices.

b. Update on Mid-Town Beach Restoration Project Including Use of PEP Reef Units as Groins

Mr. Albert Dusey, Director of Public Works, addressed the Town Council, stating that the consultant had completed

MINUTES OF THE TOWN COUNCIL MEETING HELD ON JULY 11, 1995

the design of both the fill project and the groin field, and a pre-bid meeting had been held with contractors. Mr. Dusey noted that the schedule was as follows:

The fill project would be bid on July 19, with a bid award scheduled for July 25. The contract would be executed on August 4, with the intent to issue Notice to Proceed on August 4, for the contractor to initiate mobilization, and to start derelict structure removal. The actual beach fill would start September 1, with completion anticipated by mid-October. The groin field bid opening would take place on July 19, with an anticipated bid award on August 8, with execution of the contract on September 1, and Notice to Proceed on September 15, with completion in January. The intent was to give the groin field contractor enough time to get units out of the water while the weather was decent. Permitting was going very well, with a turtle relocation program being implemented, allowing the fill project to begin on September 1. Mr. Dusey thanked Peter Elwell, Assistant Town Manager, for his immense effort in getting the turtle relocation started. Mr. Elwell had also obtained a Turtle Monitoring Program Proposal and additional authorization of \$14,000 was being requested for turtle monitoring throughout the course of the project.

The relocation of the reef units had been initiated, and the contractor had already moved some of them. The additional investigation of the borrow site at the inlet shoals indicated that the sand was very fine and may not perform as well as had been hoped. The original testing of that same site had indicated that the sand was very compatible with the sand at mid-town beach. This was an extremely important issue to the Town, and Mr. Dusey recommended an additional expenditure of up to \$5,000 be authorized to do some testing on both the sand taken previously, and the sand recently sampled, to determine whether that borrow site was acceptable.

The last issue discussed was working hours. Dredges always work 7 days a week, 24-hours a day, which helps keep costs down, and Mr. Dusey noted that was in violation of Town Ordinances, however he was recommending that the contractor be allowed to work 7 days a week, 24-hours a day. He also recommended that the Town Council authorize the contractor working on the derelict structure removal to work daylight hours, 7 days a week. Recommendation was also made for the contractor working on the groin structure to work daylight hours, Monday - Saturday, except for holidays, allowing them to take maximum advantage of the weather conditions.

Mr. McLendon inquired about the turtle population in the area of the project.

Mr. Dusey replied that there were two areas; Clarke Avenue had some turtle nesting areas, and there was also a very small sliver of sand on the south end of the project that contained some turtle nests.

Mr. McLendon questioned the reasoning behind the County saying that the unused reef units would be placed for life in the accepted location.

Mr. Dusey replied that the County wanted to build fish habitats that would be permanent.

Mr. McLendon suggested the possibility of using some of the reef units at Phipps Park and the Par III Golf Course area?

Mr. Dusey responded that he felt it would be reasonable to ask the County if some of the units could be retrieved in the future.

Mr. McLendon stated that he would like to see that done.

Mr. Dusey stated that he had indicated that the units may not be the best material to use for groins, and there may be something less expensive that would do the job.

Mr. Wyett inquired about other potential sites being located if the sand was found to be incompatible?

Mr. Dusey replied that consideration of that situation had not yet been done, and alternatives could be explored with the coastal engineer.

Mr. Dusey then went over the recommendations for Town Council approval:

1. Authorization for additional \$14,000 for turtle monitoring.

Mr. Shaw made a motion to APPROVE THE ADDITIONAL \$14,000 FOR TURTLE MONITORING. Seconded by Mr. Wyett.

On roll call the motion carried unanimously.

John Matich, 3475 S. Ocean Blvd., addressed the Town Council, asking what was involved in relocating the turtle nests?

Mr. Dusey replied that it must be done the same morning that the nest was layed, within a certain time frame, but would have to take place every day, marking the areas, requiring special expertise.

2. Authorization of \$5,000 for an independent sand analysis to determine the compatibility of the sand.

Mr. Shaw made a motion to APPROVE THE AUTHORIZATION OF \$5,000 FOR AN INDEPENDENT SAND ANALYSIS. Seconded by Mr. Wyett.

On roll call the motion carried unanimously.

3. Authorization for variances to the Town Code of Ordinances regarding working hours.

- a. Dredge contractor to work 7 days a week, 24 hours a day.

Mr. Shaw made a motion to AUTHORIZE VARIANCE TO THE TOWN CODE OF ORDINANCES FOR WORKING HOURS FOR THE DREDGE CONTRACTOR TO BE INCREASED TO 7 DAYS A WEEK, 24 HOURS A DAY. Seconded by Mr. McDonald.

On roll call the motion carried unanimously.

- b. Daylight hours, 7 days a week, for the derelict structure removal.

Mr. Wyett made a motion to AUTHORIZE VARIANCE TO THE TOWN CODE OF ORDINANCES FOR WORKING HOURS FOR THE DERELICT STRUCTURE REMOVAL TO BE INCREASED TO DAYLIGHT HOURS, 7 DAYS A WEEK. Seconded by Mr. Shaw.

On roll call the motion carried unanimously.

- c. Daylight hours Monday through Saturday, excepting holidays for the groin construction work.

Mr. Wyett made a motion to AUTHORIZE VARIANCE TO THE TOWN CODE OF ORDINANCES FOR WORKING HOURS FOR GROIN CONSTRUCTION TO BE DAYLIGHT HOURS, MONDAY THROUGH SATURDAY, EXCEPTING HOLIDAYS. Seconded by Mr. Shaw.

On roll call the motion carried unanimously.

2. Consideration of Palm Beach International Airport (PBIA) Proposed I-95 Interconnect Project - Status Report -

Mr. Dave Jakubiak, Assistant to the Town Manager, addressed the Town Council, stating that the lobbyists, Sullivan & Cromwell, had indicated that there was nothing further that could be done at this point, and the I-85 Interconnect Project would probably go through.

Mr. Shaw made a motion to terminate the agreement with Sullivan & Cromwell, and to recover any remaining funds. Seconded by Mr. Wyett.

On roll call the motion carried unanimously.

XI. NEW BUSINESS

A. Appointments

1. Building Board of Adjustments and Appeals - Three 3-Year Terms to Expire July 1995

Mr. Robert Moore, Director of the Building and Zoning Department, addressed the Town Council, stating that the Building Board of Adjustments and Appeals did not serve in an advisory position to the Town Council, but was a separate board authorized through the State Legislature as a requirement for adoption of a building code. One adjustment had been made when the board was adopted, saying that whenever possible the members should be Town residents. The Board required the expertise of architects, engineers, and contractors, and it is appealable only to the Circuit Court.

Mr. Shaw made a motion to REAPPOINT JOHN C. CASSIDY, JEFFREY W. SMITH, AND SCOTT SLOANE, AND TO INCLUDE THEIR REGISTERED ADDRESSES ON BOARD LISTS. Seconded by Mr. Wyett.

On roll call the motion carried unanimously.

B. Ordinances (First Reading)

1. Ordinance No. 8-95 - Amendment to Application Fee and Privilege Fee for Abandonment of Rights-of-Ways and Easements -

~~MINUTES OF THE TOWN COUNCIL MEETING HELD ON JULY 11, 1995~~

Mr. John Randolph, Town Attorney, addressed the Town Council, presenting two amendments to the Ordinance relating to abandonments. The first amendment would take into account the actual costs in processing an application; the second to give consideration to using the current market value of a property as opposed to the appraiser's estimate in determining the value.

Mr. Randolph suggested \$1,000.00 as a cost for processing an application, keeping in mind that the Ordinance stated that in the event the application fee did not cover the costs, additional costs would be added to the privilege fee that was imposed.

Regarding the property value, Mr. Randolph suggested that rather than having the current Palm Beach County Property Appraiser records as a value, to base the value on a current independent appraisal of the property.

Mrs. Smith clarified that the privilege fee was to be used for the purpose of reimbursing the Town for costs and expenses incurred when acquiring real property for public use, or making improvements to the public right-of-ways, and that the monies were designated for a specific purpose and did not go into the General Fund.

Mr. Shaw asked who would get the appraiser for property?

Mr. Randolph replied that would be up to the applicant seeking the abandonment.

Mr. Wyett stated that he had a problem with the appraisal approach, as it was well known that it was not difficult to find an appraiser who would give consistent bids according to whether one was buying or selling. In order to avoid any problem, Mr. Wyett suggested that one appraiser supplied by the potential buyer was not a good practice, and also suggested a higher privilege fee, of \$2,000.00.

Mr. McDonald asked how many abandonment requests were made each year?

Mr. Dusey replied that the average was one or two per year.

Mrs. Smith asked Mr. Dusey if he felt that the abandonment requests involved unethical appraisers?

Mr. Dusey replied that appraisals were not done, but County Property Appraiser records were used.

Mrs. Smith asked Mr. Dusey if he felt that the values were so far off that it was necessary to question the appraising?

Mr. Dusey said that he believed Mr. Wyett was right.

Mr. Wyett suggested that the Town select the appraiser, and the buyer would pay for it.

Mr. Shaw made a motion that the Ordinance be AMENDED TO INDICATE THAT THE CURRENT INDEPENDENT APPRAISER BE SELECTED BY THE TOWN AND PAID FOR BY THE APPLICANT. Seconded by Mr. McLendon.

Mrs. Smith asked Mr. Randolph if he could make an inclusion in the Ordinance 8-95?

Mr. Randolph replied that he had made an amendment to read that the value would be established by a current independent appraisal of said property, the appraiser being selected by the Town and paid for by the applicant, reflecting the then market value. With that inclusion, the Ordinance could be put on first reading.

Mr. Shaw asked what amount of staff time was involved in processing applications?

Mr. Dusey replied that when an application was received, it was split up and sent to all departments for review. Mr. Randolph then would do the legal notices and prepare legal descriptions, etc. Mr. Dusey felt that the \$1,000.00 fee was very reasonable and would cover the average application.

Mr. Randolph read Ordinance 8-95:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING ORDINANCE 19-93 RELATING TO THE VACATION AND ABANDONMENT OF RIGHTS OF WAYS AND EASEMENTS WITHIN THE TOWN, SO AS TO INCREASE THE APPLICATION FEE TO COVER ALL COSTS RELATING TO SAME, AND SO AS TO AMEND THE METHOD OF CALCULATING THE PRIVILEGE FEE SO AS TO BASE SAME ON A CURRENT INDEPENDENT APPRAISAL, AS OPPOSED TO A VALUE ESTABLISHED BY PALM BEACH COUNTY PROPERTY APPRAISER RECORDS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Mr. Randolph stated that Ordinance 8-95 had been amended to incorporate the language that the appraiser would be selected by the Town and paid for by the applicant.

On roll call the motion carried unanimously.

Mr. Doney clarified that the town staff would chose the appraiser.

2. Ordinance Amendments to Town Boards and Commissions:

Mrs. Smith pointed out that none of the following Ordinances would be on first reading today, because they had been changed.

Mrs. Smith noted that the Golf Commission met on Fridays and non-attendance notification would be difficult, therefore she suggested changing the notification time limit for the Golf Commission to three working days before the date of the meeting.

- a. Ordinance No. 9-95 - Amendments to Golf Commission Ordinance
- b. Ordinance No. 10-95 - Amendments to Seaview Park Commission Ordinance
- c. Ordinance No. 11-95 - Amendments to Architectural Commission Ordinance
- d. Ordinance No. 12-95 - Amendments to Landmarks Preservation Commission Ordinance
- e. Ordinance No. 13-95 - Amendments to Zoning Commission Ordinance
- f. Ordinance No. 14-95 - Amendments to Code Enforcement Board Ordinance

ALL OF THE ABOVE ORDINANCES WILL BE AMENDED TO INCORPORATE THE CONFLICT OF INTEREST LANGUAGE APPROVED AS PART OF THE ORDINANCE, RULES & STANDARDS COMMITTEE REPORT AT THE JULY 11, 1995, TOWN COUNCIL MEETING. THESE ORDINANCES WILL BE PRESENTED TO THE TOWN COUNCIL AT THE AUGUST 8, 1995, TOWN COUNCIL MEETING FOR THE FIRST READING.

C. Resolutions

1. Resolution No. 21-95 - Authorization of Ex-Parte Communications in Quasi-Judicial Matters Relating to the Town of Palm Beach Council and Its Commissions and Boards -

Mr. Randolph read Resolution 21-95:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING EX-PARTE COMMUNICATIONS IN QUASI-JUDICIAL MATTERS RELATING TO THE TOWN OF PALM BEACH COUNCIL AND ITS COMMISSIONS AND BOARDS, PURSUANT TO HOUSE BILL 5 ATTACHED HERETO; PROVIDING FOR DISCLOSURE REQUIREMENTS; PROVIDING AN EFFECTIVE DATE.

Mr. Randolph stated that certain case law provided that quasi-judicial communications were inappropriate so the Legislature, in response to the requests of several municipalities, passed legislation which would allow ex-parte communications, but at the same time provide disclosure requirements in the event that there were such communications. The law, as passed, provided that if ex-parte communications took place, an Ordinance or Resolution must be adopted providing for disclosure requirements that were described in the Statute.

Mr. Randolph stated that Resolution 21-95 did two things:

1. It allowed ex-parte communications to take place.
2. It provided for disclosure requirements, which were listed under A, B, C, and D.

Mr. Wyett made a motion to APPROVE RESOLUTION 21-95. Seconded by Mr. Shaw.

Mr. Adrian Winterfield, a Town resident, addressed the Town Council, stating that he did not agree with the enactment of the Resolution, and that the legislation contemplated either Resolution or Ordinance. He suggested that this should be an Ordinance because it was not a minor matter of administration. It was not something temporary in nature, and should be in the Code of Ordinances, with specific procedures being established.

On roll call the motion carried unanimously.

2. Resolution No. 23-95 - Urging Palm Beach County Commission to Adopt Tax Exemption Status for Historic Properties -

Mr. Randolph read Resolution 23-95:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA URGING THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY TO ADOPT AN ORDINANCE PROVIDING AN EXEMPTION FROM COUNTY AD VALOREM TAXES FOR THE RESTORATION, RENOVATION, OR REHABILITATION OF HISTORIC PROPERTIES; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

Mr. Wyett made a motion to APPROVE RESOLUTION 23-95. Seconded by Mr. Shaw.

Mr. McLendon asked what percent of the assessed evaluation was involved?

Mr. Moore replied that the Town already had such an Ordinance in place, which was really a deferment of the increase in valuation approved by the assessor's office for the work that has been performed on the landmarked structure. It had nothing to do with its initial valuation, but only the work that had been performed under the terms of the Ordinance. Mr. Moore continued that this Resolution was urging Palm Beach County to adopt a similar tax deferral for their portion of the tax bill, so it would have no effect on the Town's ad valorem taxes whatsoever.

Mrs. Polly Earl, Director of the Preservation Foundation, addressed the Town Council, stating that the Preservation was an advocate of this measure, as it responded to a change in the State Constitution, which allowed for a constitutional amendment approved by a majority of the voters of the State of Florida, allowing municipalities and counties to adopt tax deferment or tax abatement of the increased value resulting from properly certified restoration and rehabilitation of landmarked structures. After ten years, the increase in the tax would be recaptured. The motivating principle in the Legislature putting the amendment on the ballot, and in its passage, was a number of studies done at the State level indicating that proper restoration and rehabilitation of historic structures enhanced the economic base of communities, increasing the overall property tax base, and increasing the economic activity in construction and restoration trades. It was felt that this was overall a revenue enhancing measure. The abatement had been available for about two years and had been passed by Palm Beach, West Palm Beach, Orlando, Coral Gables, Tampa, and was under consideration in other areas of the State. During that time there had been relatively few applications in all of those jurisdictions, because the structures affected had to undergo proper, approved, certified restoration. This was a way of motivating the historic property owner to do it right and to increase values, and it was the only such carrot available for the private home owner.

Mr. McLendon asked Mrs. Earl if she had an idea of the total value of the improvements on landmarked properties in the Town of Palm Beach.

Mrs. Earl responded that she had done it when the Council had considered the abatement, and she had added it up for about six years, but rough calculations had confirmed that if every home owner in Palm Beach having an historic structure applied for it, the average would have been a few hundred dollars per year abatement.

On roll call the motion carried unanimously.

3. Resolution No. 24-95 - Formation of an Ad-Hoc Advisory Shore Protection Board -

Mr. Randolph read Resolution 24-95:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, CREATING AN AD HOC ADVISORY COMMITTEE TO THE TOWN COUNCIL, TO BE KNOWN AS THE SHORE PROTECTION BOARD, ESTABLISHING ITS PURPOSE, PROVIDING FOR ITS MAKEUP, AND ESTABLISHING THE TERM OF ITS EXISTENCE.

Mr. Wyett made a motion to APPROVE RESOLUTION 24-95. Seconded by Mr. McLendon.

Mrs. Smith stated that she objected to Section 2 of the Resolution that any members who were appointed who were non-residents shall not have a vote on the committee.

Mr. McDonald asked for clarification of Section 3, where the appointment dates were discussed.

Mr. Randolph stated that he thought that the November deadline was the direction of the Town Council.

Mr. McDonald suggested that there be a period (.) after the word "board."

Mr. Shaw suggested that a statement be added to the Resolution clarifying the purpose of the Board, and adding to Section 2 the language "all members of the Board will have a background in some aspects relating to the maintenance, protection, and/or preservation of the beaches." Mr. Shaw suggested adding to Section 4 "any non-resident must have an expertise related to the Board's goal."

Mr. Wyett accepted the amendments to the Resolution of the period (.) after the word "board," and the amendment to Section 2 that "all members of the Board will have a background in some aspects relating to the maintenance, protection, and/or preservation of the beaches," and suggested adding "or the seawalls." Mr. Wyett stated that he could not accept the amendment to Section 4 or Section 5.

Mr. McDonald clarified the commencement date in Section 5 to be one year from the date of the appointment.

Mr. Randolph clarified the two changes were at Section 3, to have a period (.) after "board," and at Section 2 to add the language proposed by Mr. Shaw.

On roll call the motion carried 4/1 with Mrs. Smith dissenting, as she stated that she was opposed to non-residents on any Town committee, except where they should be qualified, which was the Code Enforcement Board, and the Building Board of Appeals.

D. Other

1. Consideration of Comcast Cablevision's Proposed Rate Increase to be Effective August 1995 -

Ms. Diane Christie, Director of System Development for Comcast Cable, addressed the Town Council, stating that she wished to clarify the rate adjustment going into effect in August, involved not only increases, but also decreased rates. She continued that they were required by the FCC to recalculate rates on equipment, installation, and update records annually. Based on those figures, the new schedule of rates was obtained. As an example, Ms. Christie referred to the rate decrease in addressable converters by \$.48, where standard converters would increase \$.09, with remote controls decreasing by \$.26. Ms. Christie stated that there were 3,009 residents in the Town with addressable converters, compared to 452 residents with standard converters, and she pointed out that in this instance the majority of the residents would see a decrease versus an increase. There were 3,687 residents with remote controls, who would also see a decrease. The total decrease for residents would be \$2,356.00 on a monthly basis. The installation rates had also changed. The premium services would also be adjusted, with Show Time, Disney and the Movie Channel increasing by \$.50.

Mr. Jakubiak addressed the Town Council, suggesting that the whole picture should be looked at. He noted that at the February Town Council Meeting the Council had asked that Comcast appear whenever there was a rate change. This recent increase was delivered to the Town as an increase of rates, with no request to be put on the Agenda. Mr. Jakubiak had prepared an historical rate analysis, noting an increase in installation charges, with the one decrease in the installation rate for a non pre-wired home. Mr. Jakubiak added that these days there were not many homes that were not pre-wired for cable. Mr. Jakubiak commented that this was the third rate adjustment since November.

Ms. Christie replied to Mr. Jakubiak's remarks, stating that this was a very complicated issue. She pointed out the different tiers; a limited service, which a municipality could regulate; a standard service, regulated by the FCC; and unregulated services. She continued that the FCC allows a cable operator to increase the limited service, which had been done on an annual basis by Comcast, and in November the rates had increased by 15%. That had been based on the Gross National Product Price Index, increasing the rate from \$7.96 to \$8.11. At the end of November, the FCC came out with rules that said that if certain channels were added, certain rate increases could apply. In the past, Ms. Christie, noted, an annual increase could be taken based on converter costs or programming, but now with the new rules it was all separate. Ms. Christie addressed the complaints filed in Tallahassee and Maryland pointed out by Mr. Jakubiak, and noted that the FCC and Comcast settled across the country in that particular case, which had nothing to do with limited services, but with satellite services.

Mr. McDonald commented on the quality of the service provided by Comcast, noting the lack of clear television pictures.

Mr. Wyett reminded Ms. Christie that there was now new competition in the form of a satellite.

Ms. Christy said that she would like to hear from any resident having clarity problems with televisions, because many dollars had been spent to rebuild the system, and she was anxious to retain customers.

Mr. Jakubiak referred to the letter from the Federal Communications Commission, stating that Comcast rates had been found to be unreasonable, obligating them to pay refunds to its CPS subscribers, and that Comcast must obtain the Bureau's approval before it may increase its CPS tier rate. Mr. Jakubiak explained that the CPS tier rate was the programming tier. Mr. Jakubiak continued that this was the first time he had heard Comcast state to the Town Council that a resident, or the Town itself, could protest or file a letter to the FCC regarding the programming service tier. In fact, he said, Mr. Rozek had emphasized to the Town Council that the only obligation to consider was the basic tier rate. Mr. Jakubiak explained that there were many rates under consideration, and that staff believed that Comcast needed to be held accountable for rate increases. He did not believe that FCC had a magic formula that endorsed increasing or decreasing rates every six months, and that installation charges were being increased once again.

Ms. Christie replied that when there was a rate adjustment, as mentioned in the letter referred to by Mr. Jakubiak, they

were required to inform people that they had the right to complain to the FCC if they are unhappy with the rates.

2. Consideration of Proposal by Robert Bosso Realty Services, Inc. Regarding Gray's Mobil Service Station, 340 South County Road -

Ms. Ann Bosso, of Robert Bosso Realty Services, addressed the Town Council, representing Mr. Richard Gray, exhibiting a map of the historic district of Palm Beach, pointing out the Mobil Service Station across the street from Town Hall. She indicated that Mr. Gray must now sell the property, which had been on the market for several years, and was making a proposal to the Town of Palm Beach to purchase the property.

Mrs. Smith stated that there was no question that the Town would like to have the property, however, \$2.4 million dollars was not available to purchase it. She asked if the owner of the mortgage, Mr. Grace, would be willing to waive the early buy-out clause if the Town considered the proposal?

Ms. Bosso replied that would be something between Mr. Gray and Mr. Grace.

Mr. Wyett commented that, at this time, the Town did not have the money to purchase the property, and the offer to re-lease the property was uneconomical. He stated that he would like to have the property for use as a parking lot, but did not think the cost could be justified.

Mr. McLendon asked what the real estate taxes were on the property?

Ms. Bosso replied that amount was approximately \$32,000 per year.

Mr. McDonald asked how many parking spaces the lot would hold?

Ms. Bosso responded that had not been calculated.

Mrs. Smith asked how many square feet were included in the property?

Ms. Bosso replied approximately 18,000 square feet.

Mrs. Smith asked Mr. Moore if he could give an approximation of the parking spaces that could be included?

Mr. Moore stated that would have to be calculated.

Mrs. Smith asked the number of spaces available in the Australian Avenue parking lot?

Mr. Doney replied that there were 62 spaces, with some tandem.

Mr. Wyett made a motion to REJECT THE PROPOSAL MADE BY ROBERT BOSSO REALTY SERVICES, INC. REGARDING GARY'S MOBILE SERVICE STATION. Seconded by Mr. Shaw.

Mayor Ilyinsky commented that Gray's Mobile Service Station was town serving, that most customers live in Palm Beach and that it would be a minor tragedy if there was only one filling station left in Palm Beach. He added that many people would be left without services and he suggested that it be kept as a filling station.

On roll call the motion carried unanimously.

3. Consideration of Lake Trail Vegetation (Area West of Palm Beach Country Club) - Request by Palm Beach Country Club for Removal of Australian Pines and Other Invader Species and Revegetation Program for Same -

Mr. Paul Crawford, of the Palm Beach Country Club, addressed the Town Council, stating that there had been problems and complaints regarding the bike trail for years, and there had been some interest expressed in the removal of trees blocking the road.

Mrs. Smith stated that she understood the concerns, but was not sure why the Town Council should share in the cost of the beautification of private property.

Mr. Crawford replied that the Palm Beach Country Club and the Town shared responsibility on the Lake Trail, and in the past, land had been loaned to the Town for pump and lift stations. Mr. Crawford said that he understood that the Town may want to address the area, and that the Country Club was willing to cooperate.

Mrs. Smith replied that her concern was that the Town had never been approached by any property owner to share in the costs of beautification projects on the bike or walking trails, and that she did not want to set a precedent.

~~MINUTES OF THE TOWN COUNCIL MEETING HELD ON JULY 11, 1994~~

Mr. Dusey addressed the Town Council, regarding the Town's maintenance of the area, stating that the Town cuts the grass between North Lake Way and the bike path, as well as sweeping the path on a regular basis, but that was the extent of maintenance by the Town.

Mr. McDonald suggested that the trees should be taken care of from a liability standpoint, but that it should be done at the expense of the Country Club, and made a motion to approve the beautification project at the cost of the owner. Seconded by Mr. Shaw.

Mrs. Smith recommended that the entire issue be deferred and let the property owner decide whether they would like to present it on the basis of a commitment from the Palm Beach Country Club Board of Directors.

Mr. Wyett remarked that he thought the Country Club owed it to the Town to maintain its property the same way as any other resident, that the Palm Beach Country Club should consider doing the work on its own, and suggested that Mr. Crawford return before the Council when the Board had studied the issue.

Mr. McDonald withdrew his motion. Mr. Shaw withdrew his second.

Mr. Wyett pointed out that all of the condominiums south of Sloane's Curve, who own strips of land along the lake have beautified the property at their own expense. Mrs. Smith added that they had to appear before the Council or ARCOM for approval, and she asked Mr. Moore to clarify.

Mr. Moore replied that they would normally come to ARCOM, as this project would if it went forward. He noted that there was one distinguishing factor concerning the Palm Beach Country Club project, and that was the lift stations and pump stations that were located on the property.

Mr. Crawford noted that there was a lot of Town equipment located on the property of Palm Beach Country Club, and they had never denied the Town access to these areas.

Mrs. Smith stated that a motion to defer would be more appropriate than denying it, as a result of the longstanding relationship between the Country Club and the Town, and for that reason, she passed the gavel and made that motion. Seconded by Mr. Shaw.

On roll call the motion carried unanimously.

Mr. McDonald suggested to the Town Council that in the future, before any items are placed on the Agenda for consideration that it be required that whoever is presenting be in a position to make a decision in order to facilitate resolution.

Mr. Moore inquired the intent of the motion; that it was indeed asking Mr. Crawford to come back when there was someone available to negotiate with the Council, and that Mr. Crawford would let the Town know when he was ready to come back.

4. Consideration of Study on Emergency Medical Transport Potential Charges by the Town's Fire-Rescue Department -

Chief Ken Elmore of the Fire Department addressed the Town Council, stating that an examination of emergency medical transport charges had been suggested to the Town Council by a resident at the May meeting by, and that he had put together a study which he had presented to each Council member.

Mr. McDonald stated that he believed it would be premature to make a decision about the matter, and moved to defer it until the December Town Council Meeting, when there would be more people to respond to the study. Seconded by Mr. Shaw.

Mr. Shaw suggested that before this matter was brought before the Council in the form of a public hearing, that the Citizen's Association, and the Civic Association have some sort of open forum so that residents can listen to a presentation.

Mr. McLendon stated that input of the Civic Association and the South of Sloane's Curve group would result in a much wider scope of presentation.

Mrs. Rose Horowitz, 2295 South Ocean Blvd., addressed the Town Council, stating that there was no need for a public safety meeting, and that deferral to December was satisfactory. She added that people were already prepared to discuss the issue, and a deferral until the winter would be appropriate.

Mr. John Matich, Co-Chairman of the Citizen's Association South of Sloane's Curve, addressed the Town Council, stating that he had received a great number of calls from residents interested in emergency transport charges, and that a study would be done, getting feelings from the community in order to discuss the issue with the Town Council.

On roll call the motion carried unanimously.

MINUTES OF THE TOWN COUNCIL MEETING HELD ON JULY 11, 1995

5. Consideration of Potential Amendments to the Town Code of Ordinances, Section 14-33, Regarding Spearfishing Equipment -

Town Attorney Randolph addressed the Town Council, stating that this matter could be referred to the Ordinance, Rules and Standards (ORS) meeting if the Council so desired.

Mrs. Smith asked Mr. Randolph to give a background on the spearfishing issue.

Mr. Randolph stated that there was a Spearfishing Ordinance, prohibiting the carrying of spearfishing equipment on the beaches in the Town. There had been persons arrested for violating the Ordinance, and the trial court had found them guilty. The matter had then been appealed and went before a three-judge panel, and that appellate panel overruled the trial court, with the Chief Judge writing an opinion indicating that the Ordinance was unconstitutional because it criminalized the carrying of otherwise legal equipment. Another judge had said that the Town ought to have the right to pass an ordinance to prohibit what might be dangerous equipment from the beaches, including glass bottles, which had been the argument made by the Town. Now, the Ordinance had been determined unconstitutional, and if regulation of carrying spearfishing equipment on the beaches was desired, then something would have to be implemented. Mr. Randolph said that if a regulation was needed, then the current Ordinance would have to be amended.

Chief Joseph Terlizze, of the Police Department, addressed the Town Council, stating that a speargun was a deadly weapon in the wrong hands, in the wrong circumstances, and in public places. He recommended considering an ordinance that would hold up to the constitutionality question.

Mr. Randolph agreed that an ordinance could be drafted in a form that would be constitutional.

Mayor Ilyinsky inquired about the specifics of the constitutionality.

Mr. Randolph stated that there was a case relied upon by Judge Rogers, indicating that spearfishing in and of itself was not illegal, and therefore the carrying of spearfishing equipment could not be criminalized. Mr. Randolph explained that he thought the Judge was of the opinion that the Town was attempting to prevent spearfishing in the waters of the Atlantic Ocean by keeping people from carrying the equipment on the beaches, considering that improper, relying on that for his opinion. Mr. Randolph said that the Town argued that they were not intending to prohibit spearfishing, but were trying to protect the public by regulating the carrying of spear guns on the beach. Mr. Randolph stated that he believed an ordinance could be drafted that would clarify the issue for the courts.

Mr. Wyett made a motion to send this matter to the ORS Committee to draft language that would be constitutional, amending Section 14-33 of the Ordinance. Seconded by Mr. McLendon.

Mrs. Smith suggested that the ORS Committee also look into Section 14-34 covering the use of surf boards and skimmers on the public beach, adding jet skis and skidoos into that area of the Ordinance, and requested to amend Mr. Wyett's motion accordingly.

Mr. Wyett accepted that amendment to his motion.

Mr. McDonald suggested that referring the Ordinance to ORS was not appropriate, since it had been declared unconstitutional, and that the Town Attorney should draft an ordinance and present it to the Town Council.

Mr. Wyett withdrew his motion and made a new motion asking Mr. Randolph to draft an ordinance covering Section 14-33 of the Spearfishing Ordinance. Seconded by Mr. McLendon.

On roll call the motion carried unanimously.

6. Consideration of Attendance to the Florida Shore and Beach Preservation Association's 40th Annual Meeting at The Breakers on September 6-8, 1995 -

Mr. McDonald stated that he would like to attend the meeting, and Mayor Ilyinsky, Mr. Wyett and Mr. McLendon also stated that they would like to attend.

7. Consideration of Proposed Letter to U.S. Army Corps of Engineers Providing Official Town Comments on South Florida Water Management District's Proposed Alternatives for Regulation of Water In and From Lake Okeechobee -

Town Manager Doney addressed the Town Council, stating that a notice had been received from the U.S. Corps of Engineers, indicating that the South Florida Water Management had requested consideration of a range of regulation schedule alternatives for Lake Okeechobee in order to optimize the environmental benefits. Mr. Doney continued that Mr. Elwell had prepared a draft letter to indicate that the Town continues to strongly believe that the regulation schedule for maintaining

appropriate water levels in Lake Okeechobee must insure an adequate supply of water to the already developed urban corridor along the southeast coast of Florida.

Assistant Town Manager Elwell addressed the Town Council, stating that the Council had been consistent with their stand regarding this matter.

Mr. Wyett made a motion to approve authorization of a letter to the U.S. Corps of Engineers regarding alternatives for regulation of water in and from Lake Okeechobee. Seconded by Mr. Shaw.

On roll call the motion carried unanimously.

8. Discuss scheduling of Water Committee Meeting -

Mr. McLendon scheduled a Water Committee Meeting for 10:00 A.M. on August 9, 1995.

9. Discuss scheduling of Public Works Committee Meeting -

Mr. Shaw proposed the scheduling of the Public Works Committee meeting on August 9, 1995, at 1:00 P.M. immediately following the Water Committee meeting.

Mr. McDonald proposed having the ORS Committee Meeting on August 9, 1995, at 3:00 P.M., following the Public Works Committee meeting.

Mr. Doney clarified that it would be helpful to know what items the Public Works Committee would consider at the scheduled meeting.

Mr. Shaw stated that the agenda would include discussion on the status of yard trash and garbage collecton, schedules, locations, and equipment.

Mr. Doney asked if the Town Council directed that these items go to Public Works, so that the Council is deciding which items go to the different Committees?

Mrs. Smith stated that trash was something that had been discussed by the Public Works Committee and would be discussed as a follow-up item. She added that the garbage collection issue would also be discussed by the Public Works Committee.

Mr. McDonald stated that the only item that would be discussed at the ORS Committee meeting would be the conflicts of ethics brought up earlier in the meeting by Mr. Wyett.

10. Discuss an Interlocal Agreement For Fire Emergency Cooperation Between Different Municipalities -

Mr. McDonald stated that Chief Elmore had indicated that cooperation had accelerated between municipalities in the last few years, and asked how much time was being spent helping Lake Worth respond to emergencies.

Chief Elmore addressed the Town Council, stating that this was simply a policy change that dealt with sending one transport unit to Lake Worth to stand by. Any emergencies that they would have would be responded to, however, Chief Elmore did not want to continue to send a transport unit to one of their fire stations just to stand by when all of their units are out, when there is the ability for response from the South Fire Station. Concerning a resolution to the problem, Chief Elmore stated that he believed Chief Dutton had made some resolution to it, with mutual aid agreements with West Palm Beach and Palm Beach County, rotating between the municipalities.

Mr. McDonald suggested that Chief Elmore keep the Town Council apprised of the situation, and give quarterly reports as to the incidence of occurrence of responding to emergencies in Lake Worth.

Mrs. Smith asked Chief Elmore if he would come back before the Town Council in three months to let them know how the agreement was working?

Chief Elmore agreed to do that.

Mr. Wyett asked how often the other municipaliaties had responded reciprocally?

Chief Elmore said that for the last decade it had been three or four times per year, and everytime there has been a major fire West Palm Beach and Lake Worth had both filled in and had never denied to fill in. Chief Elmore added that in the last couple of years the number of medical responses in the City of Lake Worth had increased tremendously.

MINUTES OF THE TOWN COUNCIL MEETING HELD ON JULY 11, 1995

Mr. Wyett asked if that decreased the ability to respond to Town needs?

Chief Elmore responded that risk has increased, and that was why he had made the policy change.

11. Discuss Cost Sharing for the Seawall Repair at 880 South Ocean Boulevard -

Mr. McDonald stated that in response to Mr. Dusey's letter of June 23, he would like to know why the Town did not collect Mr. Callahan's share of the expense?

Mr. Dusey stated that a formal agreement had never been entered into with Mr. Callahan, and when the time came to proceed with the project he decided not to, and also decided not to reimburse the Town for half the cost of the design fees.

Mr. McDonald inquired why \$7,500 of expenses was incurred without entering into an agreement?

Mr. Dusey replied that the Town Council had agreed to share the costs on a 50/50 basis, and it was not put into a written form.

Mr. McDonald stated that procedure from this point forward would be to only consider written agreements.

Mr. Dusey stated that staff had contacted Mr. Callahan's attorney on a number of occasions unsuccessfully.

Mr. Wyett asked Mr. Dusey if the costs would be recoverable should Mr. Callahan ever come back and decide to proceed with the project?

Mr. Dusey answered affirmatively, and in the future formal agreements would be required.

Mrs. Smith stated that from now on written agreements would be entered into with any property owner before any work would be done on their behalf.

Mr. Doney commented that perhaps a lien against the property owner could be considered.

Mr. Randolph stated that he had not had an opportunity to examine this issue, but he had thought there had been representations orally, and that oral agreements could be binding. He said he would look into this matter.

Mr. McDonald suggested Mr. Randolph look into all such instances relating to the Town.

XII. APPROVAL OF WARRANT REGISTERS AND FUNDS EXPENDITURES REPORT FOR JUNE 1995 -

Motion made by Mr. Shaw to approve the warrant registers and funds expenditures report for June, 1995. The motion was seconded by Mr. Wyett. On roll call, the motion carried unanimously.

XIII. COMMUNICATIONS FROM CITIZENS - 3-MINUTE LIMIT PLEASE

Mr. Adrian Winterfield, 443 Brazilian Avenue, addressed the Town Council, and commented that if the response of the Council is the same to verbal interventions as it is to facsimiles then no difference between the two exists. On the contrary, the delivering of the message in public is an outlet for the individual.

Mr. Winterfield called the Council's attention to the Occupational License question of the \$25 flat fee. He thought, that this item would be on the agenda. He said this item has a sordid history recalled by Mr. Randolph's June 20th letter which provided an incorrect impression. Mr. Winterfield said he assumed Mr. Randolph was becoming involved with the question for the first time. He said that Mr. Randolph was present at the equity study commission, not mentioned in his letter, and questioned whether or not Mr. Randolph took it upon himself to review the information and pass it on to Council. In any event, Mr. Winterfield suggested that policy is the sole domain of Council, and it receives assistance in preparation and advice, but it is for the Council to decide. Mr. Winterfield suggested if the Town is not disposed to look into the matter further, that it consider requesting an attorney general's opinion. He said he was referring to the 1993 establishment of a \$25 fee for all apartment units without reference to their size or, more importantly, to the number of rooms. He said prior to 1993, the fee was \$6 for an efficiency, \$8 for one bedroom, \$10 for two bedrooms, and \$12 for three bedrooms. He questioned that interpretation was not intended by those who drafted it. Mr. Winterfield, after speaking to Tallahassee several times, said no one had told him he was wrong.

Mr. Charles Hickman, 242 List Road, addressed the Council. Mr. Hickman said he was following up on a budget related question referring to a request in this year's budget for an increase in the computation rate for pensions for the Police Department from 2.5% per year to 3.0% per year. Mr. Hickman asked what justification was given by staff for the request? He asked if the Town was having a problem recruiting or retaining police officers that would warrant providing an increase which is significantly different from the 2.5% norm which is applicable in the uniform services and most other departments

MINUTES OF THE TOWN COUNCIL MEETING HELD ON JULY 11, 1995

for retirement computation.

Mrs. Smith replied this meeting was not the place to address that particular issue since the Chief was not present. She requested that Mr. Hickman attend the Finance & Taxation Committee meeting scheduled for July 27.

Mr. Doney added that Mr. Crouse was in attendance earlier in the meeting. Additionally, the Town actuary, Ron Smith, attended the Finance & Taxation Committee meeting held on June 7 and 8. Mr. Doney noted this issue has been under consideration for approximately two years. He explained the State of Florida, through the Division of Retirement, has a 3.0% average final compensation multiplier, and the Town's largest competitor, as far as attracting and retaining employees from the local area, is the Sheriff's office which is a member of the State's pension system. Additionally, the Sheriff's office does not have the employees paying into Social Security so the net take home attraction competitive package does present a concern to the Town. Mr. Doney noted some other municipalities have the 3.0% multiplier.

Mr. Hickman asked if the Town had evidence of a retention problem?

Mr. Doney responded affirmatively, and this is a current issue with both the current Fire-Rescue and Police forces.

Mrs. Smith added that Mr. Hickman may wish to attend the Retirement Board meeting scheduled for August 18 at 9:00 a.m.

Mrs. Hermine Wiener, 324 Garden Avenue, addressed the Town Council. Mrs. Wiener noted that for some years, the Town of Palm Beach enjoyed July 4th celebrations headed by the Chamber of Commerce with cooperation from some other groups and businesses. She said at one point, the cost was prohibitive and the Council received a request for \$1,000 to fund the event at the Recreation Center.

Mrs. Wiener noted every town in the area had its own 4th of July celebration. She expressed disappointment that the Town of Palm Beach no longer has a celebration; especially, when \$5,000 was sent to the City of West Palm Beach to make their event financially palatable. She said the obligation should be to the Town's own citizens to provide for them a 4th of July celebration. She recommended that the Finance & Taxation Committee should look at this and include it in the budget as a line item.

After a brief recess, Mrs. Smith reconvened the meeting and stated she wished to clarify the issues that would be considered by the Public Works Committee at their meeting on August 9 that was previously scheduled at this meeting.

Mrs. Smith said she heard the Committee would be looking into the three day yard trash pick up.

Mr. Shaw responded that the Committee planned to look at the recycling and scheduling for the entire garbage pick up program including when recycling and garbage are being done. He continued that the yard trash schedule would be looked at including the placement of the yard trash schedule within the guidelines of the existing Town ordinances. Mr. Shaw added that the Committee would consider the enforcement before any changes are considered as to how the Town should proceed.

Mrs. Smith said she understood about the yard trash pick up, but she thought Mr. Shaw was considering changing the daily pick up schedule from four to five days and changing the number of days the recycling materials are picked up. She thought that this subject should be heard in the winter when the greatest number of Town residents are here. Mrs. Smith requested the Public Works Committee consider the question of Town pick up for residences at a later time, because the projects the Public Works Department faces this summer i.e., the beach, the groins and the sand issues, do not allow time for staff to prepare a report on the garbage pick up for the entire Town to be ready for the August meeting. She said a report on yard trash could be ready, but the issue of garbage pick up is a very complicated thing and required a very big survey for the entire Town. Mrs. Smith said that a project this large could not be prepared without having to abandon some other work that is being done during the summer months. She requested that Mr. Shaw not look into the issue of garbage pick up. Mrs. Smith apologized for not having addressed the subject earlier in the meeting when the Public Works Committee meeting was set for August 9.

Mr. Shaw reported that he had talked to Mr. Dusey who had indicated he had some preliminary information. Mr. Shaw said based on that statement, he thought the Committee would go ahead and look into the issue. Mr. Shaw continued that the Public Works Department had the figures for the capital budget regarding the equipment and knew what the use of that equipment was. He continued the Public Works Department sees the shift that is happening, and it is a scheduling issue more than anything else. Mr. Shaw mentioned the amount of recycling materials has increased.

Mrs. Smith said she understood that; however, the garbage pick up issue is a complicated one as far as the residents of the Town are concerned, and it should be addressed during the winter months. She noted that the emergency medical services will be discussed during the winter months when the residents are present to hear about it and to provide input. Mrs. Smith said that August is not the time of the year when the Public Works Committee would have the most input from the public. Mrs. Smith requested that Mr. Shaw schedule that issue for another meeting unless the Town Council directed otherwise. She added that the issue is a very long process, and the Public Works Committee's meeting is scheduled for 1:00 p.m. on August 9, followed by an Ordinance, Rules & Standards Committee meeting at 3:00 p.m. Mrs. Smith said she thought the one issue of garbage pick up would take at least two to three hours for discussion.

MINUTES OF THE TOWN COUNCIL MEETING HELD ON JULY 11, 1995

Mr. McLendon stated his main objective for the Public Works Committee meeting was to address the trash situation--its enforcement or lack thereof, as the case may be. He would like to discuss improvements needed for a horrendous situation--yard trash. He added that he has a keen interest in the garbage collection procedure; however, he did not think it mattered if that were discussed in August, September, or whenever. He said he would like to start zeroing in on the issue starting with a study that was made some time ago. Mr. McLendon said he would not like to defer the issue just because residents were not here in August; however, if Mr. Dusey said he could not have the information for the August 9 Public Works Committee meeting, that would be one thing. Mr. McLendon said he would like to have some information on the garbage pick up issue even if it was not acted on.

Mrs. Smith replied that she did not think that Mr. Dusey or any member of the staff would ever tell the Mayor or a Town Council member that they could not do something. Mrs. Smith thought it is more reasonable, considering the work that is going into the other special projects, to consider the yard trash issue at the August 9 Public Works Committee meeting and to consider the issue of garbage pick up perhaps at a meeting in September.

Mr. McLendon replied he had no problem with that. He added that the issue of the yard trash collection will probably use the allocated time at the August 9 meeting.

XIV. DEVELOPMENT REVIEWS

A. Major Matters Previously Considered by the Architectural Commission at Its Meeting of June 28, 1995 - Minutes Available in Town Manager's Office

B15-95 Demolition of existing residence and construction of new duplex by Janina Radtke at 239 Australian Avenue - deferred.

B43-95 Demolition of existing buildings and construction of single family residence by Mr. and Mrs. Paul Pellitieri at 180 Atlantic - Deferred.

B44-95 Remodel of residence at 127 Ocean View Road by Palm Beach Development Group Limited III, Inc. - Deferred.

B45-95 Construct new residence at 1260 South Ocean Boulevard by Thierry W. Despont - Approved with conditions.

B46-95 New facade on store front at 244 Worth Avenue by Palm V Associates - Approved.

B47-95 Demolition of existing residence at 600 Island Drive by E.M.C. Mortgage Corporation - Approved.

B48-95 Construction of new residence at 208 Via Tortuga by Addison Development Corporation - Approved.

B49-95 Addition to a residence at 1404 North Lake Way by Dr. Robert Lorello - Approved.

B50-95 Renovations to a residence at 830 South Ocean Boulevard by David Kamenstein - Approved.

B65-93 Revisions to previously approved residence at 230 Clarke Avenue by Dr. and Mrs. Stone - Deferred.

B33-95 Addition to a residence at 209 Wells Road by Gregory Holloway - Deferred.

B35-95 Addition to a residence at 246 Esplanade Way by Henry D'Abo - Deferred.

B38-95 Construct new residence at 240 Bahama Lane by Bruce and Susan McAllister - Approved.

C03-95 Gates at 735 North Lake Way by Elizabeth Raese - Removed from the agenda.

C04-95 Construct residence and demolition of existing residence at 1350 North Ocean Boulevard by Ray and Sharon Flow - Approved.

C05-95 Construct townhouses at 230-232 Brazilian Avenue by Longwolf J.V., Dr. Michael Longo and Raymond Wolf - Deferred.

C26-95 Construct residence at 614 Tarpon Way by David, Robert, Richard & Francis Frisbee - Approved.

B30-95 Addition to residence at 143 Casa Bendita by Mr. and Mrs. Eliot Gordon - Approved conditionally.

B33-94 Modify front entry doors for previously approved project at 146 Via del Lago by Mr. and Mrs. Ted Fogg - Approved.

Motion made by Mr. Wyett to accept the Major Matters from the Architectural Commission meeting of June 28, 1995. The motion was seconded by Mr. Shaw.

Mrs. Smith mentioned that while reading the Architectural Commission minutes, there were several items for

~~MINUTES OF THE TOWN COUNCIL MEETING HELD ON JULY 11, 1995~~

demolition which were approved, B47-95 and C04-95, and no conditions were put upon them for sodding and irrigation. She asked Mr. Moore if those conditions were no longer addressed by the Architectural Commission?

Mr. Moore responded that he would look into the matter, and he did not know the answer to that; however, it is an automatic condition and would not be waived.

On roll call, the motion carried unanimously.

B. Time Extension Request

1. Consideration of Request for One-Year Time Extension by Mr. Thomas X. Parker, 215 Jamaica Lane - Variance No. 28-94; to build a one-story extension to the existing two-story structure with a 25' front setback in lieu of the required 30' setback. R-B District

Mrs. Smith mentioned that the Town Council plans to approve these requested one year extensions as a blanket unless a Town Council member questioned an item and removed it from the blanket approval. Mrs. Smith thought that extensions could be approved automatically.

Motion made by Mr. Wyett to approve the one year extension for Variance Number 28-94. The motion was seconded by Mr. McLendon. On roll call, the motion carried unanimously.

C. Variances, Special Exceptions, and Site Plan Reviews

Old Business

1. Variance No. 25-95 - Frederick J. Keitel III and Diane de La Begassiere Keitel, 1494 North Lake Way; to allow construction of residence on a lot 100' wide in lieu of 125' required. R-A District - Letter dated June 2, 1995, from Mr. Dean Vegosen requesting Deferral to July meeting. (Deferred from June 13, 1995 Meeting)

All members of the audience who would participate in the proceedings for the variances and special exceptions were sworn in by Mrs. Pollitt.

Dean Vegosen, Attorney, representing Mr. and Mrs. Keitel, addressed the Town Council. Mr. Vegosen stated that the lot at 1494 North Lake Way is 100 feet wide, not 125 feet wide as prescribed by the Town's ordinance. Mr. Vegosen said the existing residence on the lot was built in 1955 and remodeling of the residence, assessed at \$31,752 by the Property Tax Appraiser, is not practical. He stated that to deny the applicants' variance would be to deny them the right to utilize their property in a way that is compatible to the neighborhood. He requested the Town Council grant the variance and stated no additional requests for setbacks or other reasons would be sought.

Mr. Moore commented that the staff had requested that Mr. Vegosen address the reasonableness of the use of the existing property. He said the existing residence is non-conforming, and the new structure to be constructed would have to conform with the existing lot, yard and bulk regulations of the Town with the exception of this variance for 25 feet for the lot.

Mrs. Smith asked Mr. Vegosen if his clients would conform to the side yard setbacks for the new residence?

Mr. Vegosen replied affirmatively.

Motion made by Mr. Wyett to approve Variance Number 25-95 based on the hardship that the existing residence could not be renovated to be compatible with the neighborhood, and to deny this variance would deny the applicants the reasonable use of their property because of the inequity of the residence compared to the value of the land. The motion was seconded by Mr. McLendon. On roll call, the motion carried unanimously.

New Business

2. Variance No. 27-95 - Palm Beach Development, 1530 South Ocean Boulevard; to allow construction of a single family residence on a 15,750 sq.ft. lot measuring 112.5' x 140', in lieu of a minimum 20,000 sq.ft., 125' x 150' lot required. R-A District. (Rehearing Pursuant to Court Mandate; Adler vs. Town) - Letter dated 7/3/95, from Mr. James R. Brindell requesting Deferral to August Meeting

This item was deferred to the August 8, 1995, Town Council meeting at the request of the applicant.

MINUTES OF THE TOWN COUNCIL MEETING HELD ON JULY 11, 1995

3. Variance No. 28-95 - Mr. & Mrs. Lewis Rudin, 7 La Costa Way; to allow installation of two driveway gates in the front yard, setback 6' from the pavement, in lieu of 15' required per Section 5.36(b) of the Town Code. R-B District

Robert Deziel, Attorney, represented Mr. and Mrs. Lewis and addressed the Mayor and Town Council. Mr. Deziel presented a drawing showing the details and location of the proposed gates. Mr. Deziel reported that the residence is currently under construction, and the variance request is to allow setbacks from the pavement of six feet in lieu of the fifteen feet required by the Code. He stated the reason for the request is for privacy and security purposes.

Mr. Deziel said the applicants are aware that variances associated with new construction are not popular; however, the hardships and the reasons for approval exist and are more than valid. Mr. Deziel stated the existing hardships are the extremely irregularly shaped lot and the existence of three roads around the lot on the north, the south and the west. Mr. Deziel added that two landscape easements exist--one on the north and one on the west.

Mr. Deziel said North Lake Way is a well travelled road that produces a lot of noise. South Woods Road is not as well travelled but does provide a certain level of noise pollution. La Costa Way is not travelled heavily at all. Mr. Deziel said the architect's direction, prior to commencement of construction, was to create some privacy, minimize the traffic impact and face the garage off the street. He said the resulting design is an interior courtyard and a residence that sits on the perimeter setbacks. Additionally, the design requires a crescent driveway; otherwise, the traffic coordination would have been difficult because of the limited setback for the garage. Mr. Deziel summarized the hardship exists because of the three streets, the shape of the lot, and the two landscape easements.

Mr. Deziel continued that granting the variance would not cause any harm to the public because La Costa Way is a dead end street with currently only three residences located on it and the potential of only one more to be constructed.

Mr. Deziel stated the task when the new subdivision was created was to attempt to create an outdoor setting that would not be subject to the noise levels that almost all of the property owners who live on the well travelled north and south streets have experienced.

Mr. Deziel said Mr. Moore had informed him that it was not a good idea to seek a variance on new construction; however, this was an extremely difficult lot on which to design a residence and if the lot could be "squared off", plenty of room would exist to locate the gates further back. Mr. Deziel explained the location of the proposed gates on the site plan drawing which also showed some of the proposed landscaping. Mr. Deziel noted that the proposed gates would be sliding gates. He added the configuration of the driveway was the only possible one to keep the garage doors from facing the La Costa Way. He described the procedure that was required to arrive at the footprint of the residence under construction.

Mr. Moore commented the staff reviewed the application for the variance, and it is rare that the Building Department would recommend approval for a residence that is already under construction. He continued the hardship, as indicated by Mr. Deziel, is the three streets that surround the property. Mr. Moore added that the Building Department does not see any hardship for the placement of the proposed gates.

Mr. Shaw said he does not see any hardship, and the design of the house now forces the variance request. Mr. Shaw said the eastern drive, as shown on the site plan, abuts the point where the road splits. He understood that at that particular point, a central island exists, and that could lead to potential problems with traffic coming across and blocking the road. Mr. Shaw continued that the entrance to the east, because of the fact that there is parking on the street and the lot is deeper at that point, could be pushed back. He said he was opposed to the installation of the gates on the west side of the property as shown on the western portion of the property.

Mr. McLendon stated, after reviewing the site plan, that plenty of room existed for providing a greater setback than was done, and much of the space had been used for decorations or other purposes.

Mr. Wyett said he was having trouble determining the hardship.

Mr. Deziel noted that the location of the island on La Costa Way was to the south and to the west of the property. He added that only three residences exist on La Costa Way. Mr. Deziel repeated the hardship is the configuration of the lot. He offered to talk about a solution that would mitigate the level of variance the Council would be willing to consider.

Mr. McLendon asked if the gate was an after thought or did the architect anticipate the 15 foot shortage? He said the project does not appear to have had good planning.

Mr. Deziel replied the architect lived in Canada, and he (Mr. Deziel) had not participated in the original presentation to the Architectural Commission.

Jim Bowser, Town Engineer, addressed the Town Council. He said he assumed that the driveways are outside of the limited access easement that is platted on the property. Mr. Deziel replied affirmatively.

Mr. Bowser said a five foot utility easement did exist behind the curbing, and one foot of curbing existed to the right-of-way line before the five feet of utility easement. He noted that the trees shown on the site plan drawing would not be permitted in the easement. He added the wall, as shown on the drawing, would have to be moved back.

Mr. Bowser reported that Public Works maintained the Code should be adhered to, and the gates should be located fifteen feet off the road to allow the cars to be pulled off the road way.

Mr. Deziel replied that the access easements were part of the design problem for the project, prohibiting driveway curb cuts on North Lake Way and South Woods Road.

Mr. Moore concurred that Mr. Deziel's statement was correct, and the subdivision approval stipulated there would be no curb cuts on South Woods Road or North Lake Way, and the access would be from the cul-de-sac street.

Responding to questions from Mrs. Smith, Mr. Deziel replied the residence under construction contained 13,000 square feet.

Mrs. Smith asked if some of that 13,000 square feet could not be sacrificed for the distance for the gates. She said it was hard to find a hardship in an acre of land, and the wall will have to be relocated according to Mr. Bowser.

Mr. Deziel offered to locate the gates 9 1/2 feet off the road, reducing the variance request to 5 1/2 feet.

Mrs. Smith asked Mr. Bowser how that would affect the location of the wall as it related to the easement?

Mr. Bowser replied that to have landscaping in front of the wall, the plantings will have to be at least 6 1/2 feet behind the curb plus another two feet to allow the centering of a tree in a two foot planting. He said the wall would have to be at least eight feet from the curb if they wanted to plant a row of trees in front of the wall and not planted in the utility easement.

Mrs. Smith asked if the area in front of the entrance could not be eliminated to allow for the wall to be moved back?

Mr. Deziel responded that moving back that particular area would not affect the variance request, because the curb cuts did not align with that section.

Mr. Wyett said he was more concerned with the ingress gate to allow service trucks to enter completely off the road. He suggested an attempt be made to locate the gate fifteen feet or more back on the right hand side. Mr. Wyett added he was not concerned with vehicles leaving the property, because that does not really create a traffic problem.

Motion made by Mr. Shaw to approve a 9 1/2 foot variance for the left side and no variance on the right side. He said the reason for the variance request was for a minimal variance without disrupting the roadway. The motion died for lack of a second.

Mrs. Smith questioned the reason for a hardship.

Mr. Shaw replied that the hardship is the fact that a building is under construction.

Mr. Wyett interjected that the hardship was self imposed. He suggested that Mr. Deziel restudy the site plan utilizing the suggestions of the Town Council and determine a hardship that could be presented to the Council. Mr. Wyett reiterated Mrs. Smith's earlier comment that there is no hardship when an acre of land is involved.

Motion made by Mr. Wyett to defer the project for further study. The motion was seconded by Mr. Shaw.

Mr. Moore noted that the land contains 36,000 square feet, just short of an acre. Mr. Moore asked if the deferral would be to a date certain?

Mr. Wyett responded negatively.

Mr. Moore stated the applicant would have to reapply at least 30 days in advance of any meeting it would be heard at to allow for the advertising.

Mr. Deziel requested the item be deferred to the August 8, 1995, Town Council meeting. Mr. Wyett agreed to that.

On roll call, the motion carried unanimously.

4. Variance No. 29-95 - Sandra M. Laird, 319 Brazilian Avenue; to allow construction of a two-story garage/guest house providing a 7' side yard setback in lieu of 10' required, and providing a 10' rear yard set back in lieu of 15' required. R-C District

Mr. Robert Deziel, representing Ms. Laird, addressed the Town Council. He stated the subject property was a single family, two story, landmarked residence that has no garage or out buildings. He continued the house sits on a lot 50 feet wide and 185 feet deep, and the variance request is to allow an out building to be built on the northwest corner of the property with a ten foot rear setback in lieu of the fifteen feet required and a seven foot side yard setback in lieu of the ten feet required.

Mr. Deziel stated the reason for the variance is to allow the construction of staff quarters and garage. He said the side yard variance is needed to allow about twenty feet of turn around space which is minimal.

MINUTES OF THE TOWN COUNCIL MEETING HELD ON JULY 11, 1995

Mr. Deziel said the rear variance is needed to allow the existing pool deck to remain undisturbed, and the rear setback is in place to buffer the property from the neighboring commercial buildings on Royal Palm Way. He stated the commercial buildings will not be adversely affected by the proximity of the proposed structure. Mr. Deziel said the hardships were the narrow lot, the commercial property to the rear and the existing landmarked pool deck. He said one of the alternatives, if the variance was denied, would be to enclose an existing porte cochere as a garage on a landmarked structure.

Mr. Moore concurred with Mr. Deziel's description of the property. He said the staff's comments included agreement with the hardship for the 50 foot lot. He added the proposed structure could be built within the guidelines of the Code; however, vehicles would have to make a double turn while backing out to come out of the garage.

Mr. Deziel corrected the record to include the notation that the quarters above the garage would be used for staff quarters not guest quarters.

Motion made by Mr. Wyett to approve the project. The motion was seconded by Mr. McLendon. Mr. Wyett stated the hardship for granting the motion was the 50 foot lot, the property's right to have a garage, and the inability to use that garage unless it was constructed in the setbacks.

Mr. Shaw noted that when this project was previously presented, the setbacks of the garage were less than proposed at this time without a problem in making the turn. He questioned that the loggia could be relocated closer to the pool, eliminating the 5 foot setback on the north side of the property, and positioning of the garage to eliminate the need for a variance.

Mr. Deziel noted that he previously owned the residence and had submitted the last proposal. He said the current applicant has a different site plan, and one of the reasons he withdrew his application, was that his site plan was not well thought out. Mr. Deziel requested this proposal be considered separately from the one he submitted two years ago.

Mr. Deziel compared the rear fifteen yard setback of the R-C district to the requirement for the R-B district which is ten feet. He noted that this property backs up to a commercial building.

Mrs. Smith asked if the variance could not be reduced on the west side?

Mr. Moore stated that 9 x 18 ft. was a minimum requirement for a parking space.

Mrs. Smith asked Mr. Deziel if his client would accept a 2 ft. reduction on the west side?

Mr. Deziel responded that he was sure his client would accept that, however, he considered the requests minimal as they were.

Mrs. Smith stated that the building could almost be done to Code, and she was trying to reduce the variance on the west side, because the one to the north was really to the commercial property. She suggested reducing the variance on the west side by 2 ft., if the client found it acceptable.

Mr. Wyett made a motion to accept Variance 29-95, as the Smith architectural group was well known for its modifications of historical buildings and could be relied upon, with the hardship being the 50 ft. lot; the tightness of the garage for turning around; the property right to have a two-car garage; also it would be an advantage to the Comprehensive Plan. Seconded by Mr. McLendon.

Mr. Adrian Winterfield addressed the Town Council, stating that this was an example of using Landmark designation relative to portions which may be technically landmarked, but are not essential. Mr. Winterfield continued that it was also a very interesting example of piecemeal presentations, as there had been a variance for the house, the pool, and then the accessory structure.

On roll call the motion was denied with a vote of 2/3, with Mrs. Smith, Mr. McDonald, and Mr. Shaw dissenting.

Mr. Deziel asked if the application could be reconsidered with a 2 ft. setback on the west side of the property?

Mr. McDonald made a motion to reconsider the application. Seconded by Mr. McDonald.

The motion carried 4/1, with Mr. Shaw dissenting.

Discussion took place on the reconsideration of the application. Mr. Deziel stated that on the west side he would propose an 8 ft. setback, as well as consideration of a 5 ft. variance on the north side of the property, as he did not believe it would be offensive to any public policy.

Mr. Wyett made a motion to grant Variance 29-95 with an 8.5 ft. setback (a 1.5 ft. variance) on the west side with 5 ft. on the north side, and a 10 ft. rear setback (a 5 ft. variance), based on the hardships stated in the previous motion. Seconded by Mr. McLendon.

On roll call the motion carried unanimously.

5. Variance No. 30-95 - James Ashley, 232 Phipps Plaza; to allow construction of an addition expanding the lot coverage nonconformity from 42.2% to 43.3% in lieu of 35% maximum allowed. R-C District -

Mr. James Ashley, architect, addressed the Town Council, stating that what was being asked for (he referred to exhibited pictures) was a small addition of a 10' x 10' porch, with the elimination of a sliding glass door and replacement of a French door with a roof. Mr. Ashley called attention to the fact that the property was unique, and suggested that the square footage of the park be considered as part of the property.

Mr. Moore pointed out that the addition would be used both as an entrance and dining area.

Mr. Wyett asked Mr. Ashley if he would be amenable to putting a deed restriction in that would require the porch to remain open, so that it would not be enclosed in the future?

Mr. McDonald asked Mr. Ashley to review the hardship.

Mr. Ashley replied that the hardship consisted of the uniqueness of the property, where the road is reversed with the front yard, with a park between the two roundabout roads. The road is right against the houses all the way around Phipps Plaza. The house itself was approximately forty years old.

Mr. Moore commented that Phipps Plaza was an historic district and was an old section of the Town with mixed use, with re-zoning in 1980 to residential alone, with the commercial being grandfathered. Mr. Moore added that none of the properties were conforming properties, and the fact that the property was 40% lot coverage now was not unusual. Mr. Moore continued that some misunderstanding had taken place regarding the specifics of the area in the application, however, the hardship was that the property was developed and in an area where a request of a minimum variance of 1% was being sought, and there was no objection from the Building Department.

Mrs. Smith asked if the applicant would be before the Council today if he had decided to use only an awning over the area?

Mr. Moore replied that an awning would count as lot coverage in the front or side yard.

Mr. Paul Prosperi addressed the Town Council, stating that he used to live and work in Phipps Plaza and was very familiar with this particular house, which was reputed to be a Mizner house that had been re-designed over the years. The house had been in terrible disrepair until about two years ago. As part of the renovation of the house, some space adjacent to the kitchen was taken and turned into a two-car garage, relieving some of the parking problem. In addition, the house bordered the commercial district, which meant that the owner of the house must rely on the front yard for any privacy. Mr. Prosperi considered these things as hardships, since the house was adjoined by multi-story commercial buildings.

Mrs. Smith clarified that the owner would agree that the area would never be enclosed and that it would only have a roof on it.

Mr. Ashley agreed with that.

Mr. Wyett made a motion to accept Variance 30-95, with the provision that a deed restriction be incorporated where the covered area would always remain open, and that the hardship consisted in the nature of the location and restrictions in the size of the lot. Seconded by Mr. McLendon.

On roll call the motion carried 3/2 with Mr. McDonald and Mr. Shaw dissenting.

6. Variance No. 31-95 - James Harpel, 180 Barton Avenue; to allow construction of 12' high wall at County and Barton in lieu of 6' maximum allowed per Section 5.36(a) of the Town Code. R-B District -

Attorney Paul Prosperi, representing the applicant, James Harpel, addressed the Town Council, exhibiting a site map showing the property. Mr. Prosperi also presented photographs showing the perimeters of the property. He continued that the property was part of the Julius Fache estate, which had been subdivided, and it had an interesting history. The house had been built in the 1970s and the lot was in separate ownership, and had later been acquired by the owner of the house at 180 Barton Road. The lot was then landscaped as a garden. However, the house was severely impacted by noise, and attached to the Variance Application was an acoustical engineer's study showing the decibel level inside the property exceeding the Town, County, and State codes, making the garden virtually unusable. A variance was being requested to build a wall around the garden. Mr. Prosperi presented photographs showing the high hedge now existing around the property, with the proposed wall being built inside the hedge. Acoustical engineering requirements would dictate the design and height of the wall. A second acoustical engineering report was passed out to the Town Council, with Engineer Levy being present to answer any questions.

Mr. Prosperi exhibited a site plan of the property, indicating the dimensions of the proposed wall, and areas where

MINUTES OF THE TOWN COUNCIL MEETING HELD ON JULY 11, 1995

sound measurements were taken. Mr. Prosperi then named the hardships associated with the property:

1. The location of the property on South County Road between two very heavily trafficked bridges.
2. The property was also on a corner, with a stop light. The engineering studies would show that the greatest part of the noise generation was the tire noise as cars stopped or accelerated, along with engine noise.
3. Bethesda Church was located across the street, generating extraordinary traffic.
4. The noise levels exceeding all codes.

Mr. Moore addressed the Town Council, stating that Mr. Prosperi was indeed presenting an unusual case to the staff and Town Council today, and that if Mr. Levy was going to testify as an acoustical engineer the Town did not have the ability to interpret the study. For that reason, staff did not feel comfortable and asked that the Town Council consider deferring this matter until the Town could obtain its own acoustical engineer to review all reports and advise of their relevancy and accuracy. Also, Mr. Moore requested that the costs incurred by the Town for hiring such an expert be taken care of by the applicant.

Mr. Randolph stated that he believed that the applicant was attempting to show justification for the granting of the variance, and that there was no need for an expert to rebut testimony regarding the acoustical engineering. Mr. Randolph stated that the problem would be greater in a special exception, rather than a variance.

Mr. Moore repeated that the staff did not have an acoustical engineering expert and would not be able to advise Council regarding that portion of the application. He knew of no hardship criteria under the variance section of the ordinance that addressed noise level as a reason for granting a variance for a wall that would be twice the permitted size.

Mrs. Smith stated that in this new era hardships could be created by noise levels, and this had been heard in the discussions earlier in the meeting, and that each expert may have an opinion as to the height of the wall. Mrs. Smith stated that if this variance and a noise hardship was granted, it would set a new precedent for other properties in Town.

Mr. McDonald asked for clarification from Mr. Randolph as to expert testimony regarding variances?

Mr. Randolph replied that if a special exception were granted for outdoor dining, for example, and the ordinance required proof that excessive noise would not be created as a result, someone could come in with a noise expert who said there would not be excessive noise. The Town would then be in a difficult position if it took the position that there was excessive noise, and there was no staff expert to rebut the noise expert. Mr. Randolph said that in that case, he would recommend expert advise, so that the two could be compared, because in a special exception the burden is shifted to the Council to show why something should not be granted. In this case, however, Mr. Randolph stated that this piece of evidence was only being given as one piece of evidence amongst several criteria that needed to be met in order to grant an variance, and if the Council did not agree that the criteria had been met it could then decide on the basis of hardships being addressed.

Mr. McDonald asked how old the housing on the property was?

Mr. Prosperi stated that he believed it was built in 1976.

Mr. McDonald asked if that was subsequent to Bethesda Church?

Mr. Prosperi responded affirmatively.

Mayor Ilyinsky commented that if the noise affected this piece of property, it would be true of many properties in the Town.

Mr. Levy, the noise engineer, responded that would not be the case, since this property included a pool deck that was higher than the street level, making the case for a higher wall. He added that a wall would have to be built in accordance with the elevation of the house; with a 12-foot wall being within the height of the existing hedges.

Mr. McLendon asked if the lot line separating the house and the garden ran north/south, or east/west?

Mr. Prosperi replied that the lots, as they were platted, ran east/west, but the lot as it was subdivided ran north/south.

Mr. Wyett stated that he sympathized with anyone living on South County Road, or any of the Town's busier streets, however, a 12 foot wall would leave the Town open to highway barrier type of walls going up.

Mr. Prosperi responded that the elevation of the property was a problem, with the street being at about 6 ft., and the property about 3-4 ft. higher than the street as one moves towards the house. The problem created was that a higher wall must be constructed in order to block sound. Mr. Prosperi suggested that all of the physical characteristics of the property make it a unique property, and that setting any precedent would be rather remote.

Mrs. Smith said that she would like to see a report done by a noise expert hired by the Town, who would come back

to the Town Council with the report.

Mr. Shaw mentioned that the sound study noted that a large portion of the noise came from the bus stop, and suggested relocation of that bus stop as a remedy to eliminate some of the noise.

Mr. Levy said in that case a smaller wall would definitely work, and that he would have to study the exact height specifications.

Mr. Shaw stated that one of his concerns was the possible damage that could be incurred by a hurricane, as the proposed wall was substantial.

Mr. Moore asked Mr. Bowser what the availability of a noise analysis would be?

Mr. Jim Bowser, Town Engineer, addressed the Town Council, stating that the Town would be best served if an expert was hired, and that he would look into the hiring of someone who could conduct a study.

Mr. Wyett asked Mr. Prosperi if his clients had ever considered depressing the land and dropping the level of the pool, creating a berm.

Mr. Prosperi replied that the problem was also at the house level, so the garden, pool and house would have to be destroyed.

Mr. Prosperi stated that it was not fair to say that people living on busy streets were not entitled to the peaceable use of their homes, and there was a problem needing a solution, with noise impacting the use of Mr. Harpel's home,

Mrs. Smith replied that was what the Town Council was attempting to do, reach a solution to the problem to help the applicant, and that the discussion involved whether or not another noise expert should be utilized by the Town to analyze whether or not a 12 ft. wall was necessary, and whether a hardship was constituted under the variance process.

Mr. Randolph stated that there was a principle of logic involved in the situation in that the hiring of an expert assumes that a person has the right to be protected from road noise, and therefore would be entitled to a variance. He continued that several criteria under the standards needed to be addressed, and that if a noise expert was hired to look at other properties in the Town to determine if this particular property was unique, perhaps that would be beneficial.

Mr. Moore stated that staff members were not experts in this matter and Mr. Prosperi had declared the noise as a hardship, and staff was not capable of addressing the question without the assistance of a noise engineer. Mr. Moore continued that he believed that Mr. Randolph was correct in stating that the issue actually before the Council was whether there was a hardship under the terms of the Ordinance. If a hardship was found under the terms of the Ordinance, then the engineering would be irrelevant, however, if further information beyond the Ordinance was required, then expert opinion would be needed.

Mayor Ilyinsky commented that one of the things Palm Beach was proud of was the free flow of air and light between houses, with continuous monitoring of the blocking of light and air by buildings, but that the Council would be opening a Pandora's box by approving this variance request.

Mr. Shaw made a motion to defer Variance 31-95 for two months in order for the applicant to determine what the effects of a lower wall would be, and the possibility of the bus stop being moved. Seconded by Mr. McLendon.

On roll call the motion carried 3/2, with Mr. McDonald and Mr. Wyett dissenting.

7. Variance No. 32-95 - Mrs. Sally Ross Soter, 198 Via Marina; to allow construction of a third floor addition on a three-story residence; said addition would be located above a below-grade first story, and a raised ground floor level, thereby adding onto a "third" story and expanding a nonconformity. Additionally, to allow building height to be measured from the grade, not from the crown of the road as required, an average difference of 6.5 feet. R-B District. - Letter dated 7/6/95, from Mr. Eugene Pandula requesting Deferral to August Meeting - DEFERRED TO THE AUGUST 8, 1995, TOWN COUNCIL MEETING.
8. Variance No. 33-95 - Kenneth Newberger, 320 Polmer Park; to allow construction of a two-story addition providing a 10' side yard setback in lieu of 15' required, and to allow lot coverage of 30.85% in lieu of allowed 30%. R-B District -

Mr. Robert Bell, the architect for Mr. Newberger, addressed the Town Council, passing out construction plans to the Council, stating that the following were reasons for the granting of the variance:

1. The addition would provide needed additional bedroom and bath areas for live-in help.

MINUTES OF THE TOWN COUNCIL MEETING HELD ON JULY 11, 1995

2. The variance requested was the minimum required.
3. The existing setback nonconformity would not be increased.
4. The street elevation would remain as exists.
5. The adjacent residence is located some distance away on more than one lot. The immediately adjacent lot is unbuildable for new single family residence construction. The distance between the proposed addition and existing residence to the west was approximately 155 ft.

Mr. Bell said that further items were listed on the justification statement.

Mr. Bell continued that currently there was a residence with three bedrooms; two downstairs and one upstairs over the garage for staff use. He explained that the Newbergers, in their current situation, felt that live-in staff must be employed who would occupy the second floor bedroom area. There would be a problem, however, when family members visited, and the intent was to convert the sitting area of the second floor staff suite to an additional fourth bedroom, creating an additional bath and closet area to the south of it. The first floor would then include an exercise area needed by Mr. Newberger.

Mr. Moore stated that the house had been built in the mid-sixties, with a 10 ft. side yard being the proper setback at that time, as well as 35% lot coverage at that time. Mr. Moore added that this was a fill in variance and the staff had no objections.

Mr. Wyett made a motion to accept on the basis that Variance 33-95 was a minimum variance and should be approved. Seconded by Mr. McLendon.

On roll call the motion carried unanimously.

9. Variance No. 34-95 - Lowry M. Bell, Jr., 700 South County Road; to allow construction of a single family dwelling using Banyan Road as the front entrance pursuant to Section 5.34(a) of the Town Code. R-A District -

Mr. Lowry M. Bell, Jr., 241 Banyan Road, addressed the Town Council, stating that the property directly across the street along Banyan Road had been divided into three buildable lots, zoned RA, which meant that there could be almost five lots, however it had been reduced to three. The purpose of asking for the entrance to be on Banyan Road was because of the danger in driving out to South County Road. Mr. Bell stressed that the hardship was the difficulty of exiting on South County Road.

Mr. Moore stated that this was a very unusual variance request, and that when this property was initially subdivided, creating three lots, irregular lot lines were drawn, with two addresses on Banyan and one on South County. This had been done in order to comply with the Subdivision Ordinance. Mr. Moore continued that Variance 34-95 was a technical variance, in that the house was oriented to have its front door on Banyan, however, that would create a third lot on Banyan, which would have required a subdivision under the Town's Ordinance. Had the house been oriented on South County Road, Mr. Bell would not have had to appear today. Mr. Moore noted that Mr. Bell could re-design the house, putting another entrance on the South County Road side, however, he did not wish to do that and was therefore before the Council today requesting a variance.

Mrs. Smith asked Mr. Bell if it would be a problem for him to create another entrance, making a South County entrance?

Mr. Bell replied that would not be a problem, however, he believed the salability of it would be much better on Banyan Road because of the exiting problems.

Mrs. Smith noted that Mr. Bell had agreed to the existing condition in order to avoid going through the site plan review process for a subdivision.

Mr. Bell responded that he was not sure that was exactly correct; that he understood the subdivision process, however, he did not understand that the address would be South County Road.

Mr. Moore replied that there was a record of three addresses, and what those were, because this had been somewhat controversial in the initial application for the division.

Mr. Wyett stated that the Town of Palm Beach was better off having entrances and exits on Banyan, than having another curb cut on County Road. He added that, concerning the variance request, he was not clear if all entrances would be on Banyan, or if there would still be one on County Road.

Mr. Bell replied that the main entrance was on Banyan Road, with an existing old service road entrance off of County Road. He added that all of the entrances of properties on Banyan Road were on Banyan, and he had not understood what had been meant by the 700 South County Road address in this regard.

MINUTES OF THE TOWN COUNCIL MEETING HELD ON JULY 11, 1995

Mr. Shaw asked if a variance would be required if all that was done was to make the orientation as Banyan, but the property remain as a South County address?

Mr. Bell replied that he was not sure, and that had been suggested by Mr. Moore as one relief.

Mr. Moore stated that the orientation of at least one major entrance was the street side. The Zoning Ordinance required that the orientation of the house be such that it would be on the side where the street was.

Mr. Wyett made a motion to approve Variance 34-95, noting that the hardship was the dangerous traffic nature of South County Road, as well as the salability of the house.

The motion died for lack of a second.

Mr. McDonald made a motion to deny Variance 34-95 on the basis that there was no hardship, and there was a reasonable use of the property without a variance. Seconded by Mr. Shaw.

On roll call the motion carried 4/1 with Mr. Wyett dissenting.

10. Amended Special Exception No. 12-95 with Variance - The Paramount, 139 North County Road; to allow 20 outdoor restaurant seats pursuant to Section 6.61 of the Town Zoning Code, and to grant a parking variance of 10 spaces required for this proposed 52 seat restaurant. C-TS District -

Mr. Garrison Lickle addressed the Town Council, stating that over the past month they had worked with Town staff with regard to the Variance request. The present application contained two requests; one for Special Exception for outdoor seating; the second for a parking Variance. Seven additional parking spaces had been located, and the applicant was willing to proceed on the basis that those seven spaces would be assigned to the restaurant, allowing immediately for 48 seats in the restaurant. Mr. Lickle asked for staff comments.

Mr. Moore stated that Mr. Lickle was correct, and that extensive discussions had taken place during the last week concerning parking and due to a reconfiguration of the original parking area, as well as re-acquisition of some parking spaces leased to Sun and Surf, the variance with a reduction in seating would no longer be necessary. Therefore, a Special Exception for outdoor seating was the only remaining part of the application.

Mr. Lickle pointed out the area of the proposed outdoor seating on a diagram of the property. He explained that the applicant/tenant was named Caffè Spagnuolo, a high end Italian Cafe, with espresso, light meals, cakes, and breads.

Mr. Shaw asked if the tenant would agree to garbage storage on site after 6 P.M.?

Mr. Lickle said that would be agreeable.

Mr. Lickle said that this Special Exception request would not increase the allowable seating, but would take 20 of the seats outside to create the ambiance desired. It would not increase litter, odor impacts, or noise on the neighborhood. The area associated with the outdoor portion did not count towards any maximum square footage associated with CTS, and the applicant agreed that the Special Exception could be renewed annually.

Mr. Shaw asked how parking would be allocated, and if valet parking would be utilized.

Mr. Lickle replied that if so directed, they were prepared to do that, and that the restaurant parking spaces would be marked specifically.

Mr. Wyett asked how many parking spots were allocated to the restaurant?

Mr. Lickle responded that 9 had been grandfathered, and 7 additional parking spots had been found, for a total of 16.

Mr. Wyett asked if a liquor license was involved?

Mr. Lickle responded affirmatively, and that this was a restaurant, with the sale of liquor being merely associated with the use of the restaurant.

Mr. McDonald asked Mr. Moore if the application met the criteria for the Special Exception?

Mr. Moore replied that Mr. Lickle must go over several issues, such as the Town serving status. Mr. Lickle had a site plan review and Public Works had some comments.

Mr. Bowser, Town Engineer, addressed the Town Council, stating that Mr. Dusey had provided the Public Works Department comments. The garbage storage and collection areas were not a problem, however, he would like it to be required that the building be added to the recycling program, and that a grease trap be added to the kitchen.

MINUTES OF THE TOWN COUNCIL MEETING HELD ON JULY 11, 1995

Mr. Wyett asked if there had been any objections to the project?

Mr. Moore replied that there had been several letters of objection.

Mr. McDonald commented that he understood that if the applicant had met the criteria for a Special Exception than it must be granted.

Mr. Randolph stated that it must be determined that the applicant had met the criteria, and that the applicant must do more than address the criteria, but must prove that he had met them.

Mrs. Smith stated that if the Special Exception was granted, the dumpsters would have to be moved further to the west.

Mr. Moore stated that there were several criteria stated in the Ordinance, and that Mr. Lickle had not addressed them all.

Mr. Lickle stated that under Section 6.61 the criteria for Special Exception outdoor seating was listed: the request for Special Exception for outside seating will not create noise, litter, or odor impacts upon neighboring properties, especially nearby residences; the outdoor tables are oriented onto the street or onto the interior courtyard, and there are no residential properties in close proximity to the proposed restaurant; that the request will not increase the present allowable seating capacity, and that the area associated with the outdoor portion of the restaurant does not count towards any maximum square footage limitations associated with CTS; and that the applicant agrees that the Special Exception may be reviewed annually.

Mr. Moore stated that Mr. Lickle was correct, and those are the special criteria for outdoor seating.

Mr. McLendon commented that he had not seen any indication of a kitchen.

Mr. Lickle replied that everything would be done with microwave and heat ovens, with minimal preparation of food. Fresh baked bread would come in daily, pastries would be cooked elsewhere, and pasta dishes would be heated on site. He continued that the issue of a grease trap had been reviewed with Palm Beach County authorities who had indicated that it was not needed because of the type of preparation being used.

Mr. Shaw asked if there were any plans to have music?

Mr. Lickle responded that background music would be used.

Mr. Shaw asked if the bar area was met to be an eating bar or a drinking bar?

Mr. Lickle responded that it would be primarily an eating bar. Mr. Lickle added that he had been assured that this was not intended to be a bar, but a restaurant that serves liquor associated with the restaurant usage.

Mrs. Smith asked what the proposed hours of the restaurant were?

Mr. Lickle replied that the hours would be from 7:00 A.M. to 12:00 P.M., during the season, and from 7:00 A.M. to 10:00 P.M. off season, seven days a week.

Mr. Randolph stated that he believed that any Special Exception within the Town should have the criteria related to Special Exceptions in general applied to it. Section 6.40 related to Special Exception uses, and 6.61 talked about miscellaneous uses, speaking to the fact that an outdoor dining area may be permitted as a Special Exception subject to it meeting the criteria that were read earlier by Mr. Lickle. Mr. Randolph stated that all criteria should be applied when a Special Exception was granted.

Mr. Lickle addressed the Special Exception criteria, stating that the Special Exception was set forth in the Schedule of Use Regulations. He continued that Town staff had reviewed the issue of fire and safety regarding public health safety welfare and morals and had signed off on that. Regarding the use not causing substantial injury to the value of other property in the neighborhood, Mr. Lickle stated that he could only think that it would be enhanced, and there was a letter on file signed by most of the tenants of the Paramount, begging to have the restaurant there to help the area. The use would be compatible with adjoining development and intended purpose of the district. The use would comply with other yard, open space, and special requirements set out in the Schedule of District Regulations, and the use would comply with all elements of the Comprehensive Plan.

Mr. Lickle stated that on the plan before the Town Council, there would be only 48 seats inside, and the applicant clearly understood the number of seats allowable. As seats were moved outside, the number of inside seats would be reduced.

Mr. Shaw made a motion to approve Special Exception 12-95, with the following conditions:

- 1) APPLICANT MUST COMPLY WITH SECTIONS 6.40 AND 6.61 OF THE CODE
- 2) THE SEVEN PARKING SPACES FOR THE RESTAURANT MUST BE IDENTIFIED

~~MINUTES OF THE TOWN COUNCIL MEETING HELD ON JULY 11, 1995~~

- 3) THE GARBAGE MUST BE RETAINED ON THE SITE AFTER 6:00 P.M.
- 4) THE DUMPSTER(S) MUST BE MOVED TO THE CENTER OF THE PROPERTY
- 5) NO MUSIC AFTER 10:00 P.M.
- 6) VALET PARKING WILL BE OFFERED ON THE LOT ONLY (SUBJECT TO ANY CHANGES IN THE TOWN'S VALET PARKING REQUIREMENTS)
- 7) THE FOUR TABLES SHOWN ON THE SITE PLAN LOCATED ON THE STREET (FRONT) MUST BE MOVED INTO THE COURTYARD
- 8) THE RESTAURANT MUST BE A PARTICIPANT IN THE TOWN'S RECYCLING PROGRAM
- 9) NO OUTDOOR SEATING CAN PROTRUDE PAST THE BUILDING LINE ONTO THE FRONT SIDEWALK

Mr. Bowser reiterated that the Public Works Department requested a grease trap, and that the restaurant participate in the Town's Recycling Program, and that the Public Works Department would work with the applicant.

The motion was seconded by Mr. McDonald.

Mrs. Pollitt read a letter signed by eleven tenants of the Paramount, calling themselves the Paramount Tenants, and it was addressed to Paramount Partners, 139 North County Road, Suite 9, Palm Beach, Fl., Re: New Cafe:

Gentlemen:

This letter is being drafted in order to advise you of our sincere hope that the Town Council of Palm Beach approves the requested parking variance for Caffee Spagnuolo.

The Paramount is a beautiful, historic landmark building that needs to be brought back to life! A successful indoor/outdoor cafe would help to accomplish this by bringing customers to the Paramount Center on a daily basis.

Would you convey our wishes to the Town Council to please support this beautiful building and our local businesses in The Paramount by granting the variance for Caffee Spagnuolo.

Sincerely,
The Tenants of the
Paramount

On roll call the motion carried 4/1 with Mr. Wyett dissenting.

11. Special Exception No. 14-95 - Saks Men Store, Esplanade, 150 Worth Avenue; to allow applicant to add an additional 1,215 sq.ft. to the previously approved 6,579 sq.ft. C-WA District -

Mr. Jim Brindell, on behalf of Saks Men Store, addressed the Town Council, stating that he had given Mrs. Pollitt, the Town Clerk, the original of an Affidavit to be part of the record, prepared by Kimberly Anderson, a professional planner, which addressed all of the Special Exception criteria in the affirmative in support of this application.

Mr. Brindell stated that additional space was needed to provide more lines of clothing, and for more space for customers. A Town Serving Affidavit had been provided.

Mr. McLendon made a motion to approve Special Exception 14-95. Seconded by Mr. Wyett.

On roll call the motion carried unanimously.

D. Other

1. Consideration of Request by Mr. Peter S. Broberg, for Peruvian Avenue Corporation, 240 Chilean Avenue, for Clarification of a Condition of Approval for Special Exception No. 25-93, as it relates to requirements for water retention and drainage of the new portion of the parking lot. R-C District

Peter Broberg, Attorney for the applicant, addressed the Council. Mr. Broberg explained the applicant received

MINUTES OF THE TOWN COUNCIL MEETING HELD ON JULY 11, 1995

approval for a special exception in 1993 regarding lots 7 and 8 on Chilian Avenue which is presently a grassy area that is being turned into a parking area for the Peruvian Avenue Corporation which owns the parking lots. He continued that the special exception was granted with a list of nine provisos, one of which was number 7 in a letter authored by Dave Zimmerman:

"Construction of the new parking area must comply with water retention and drainage requirements."

Mr. Broberg reported that statement resulted in an interpretation problem between Mr. Bowser, the Town Engineer, and representatives of the Peruvian Avenue Corporation who have been attempting to work out the problem. He continued that, specifically, Mr. Bowser and his department required that the whole parking lot on the north side of Peruvian Avenue and the south side of Chilian Avenue be brought up to the Town's standard of a one inch water retention. Mr. Broberg stated the Peruvian Avenue Corporation interpreted the statement to mean only the new area, the lots 7 and 8, which are presently in the grassy state, be constructed with the water retention in that area.

Mr. Broberg said that the two parties had many discussions concerning the issue, and Mr. Bowser said that a 1/2 inch retention would be acceptable as a compromise on the entire property, but the applicant thought that any retention on the existing parking spaces is financially a burden, specifically, because the Corporation does not make any money on the parking lot, and it is provided as a parking area for the employees of the shops and also for the patrons of the shop.

Mr. Broberg requested the Town Council to interpret this special exception or to re-work the special exception to require that only lots 7 and 8 comply with the Town's water retention requirement.

Mrs. Smith asked that Mr. Moore provide an interpretation of the intent of the Council approval in 1993. She said she was a member on the Council and remembered the approval of the special exception.

Mr. Moore said that for many years this property had a house with a garage apartment in the rear that was demolished. He said that twice before, the Peruvian Avenue Corporation requested permission to use this property for parking, and they were turned down.

Mr. Moore continued that this particular case with the conditions limited the number of parking spaces and many conditions that related to the buffering and landscaping and also operation of the lot south of Peruvian Avenue imposed. He continued that the history of the property was correctly described by Mr. Broberg, and Mr. Zimmerman in his understanding of what took place at the Town Council did record and did send a letter to the effect that this property was to be the only property upgraded.

Mr. Moore said that Mr. Bowser's position was, as actually recorded on his "staff comments", that the whole parking lot, including all of the existing paved area, be brought up. Mr. Moore added that the Town, with the concurrence of the staff, has always required the merchants from the Worth Avenue area to provide parking for their employees. He said that the Worth Avenue merchants have stated that compliance with Mr. Bowser's request will be extremely costly and no parking will be provided. The Town will lose out on the opportunity to have employee parking, all day, in this particular lot if they have to comply with Mr. Bowser's request.

Mrs. Smith asked Mr. Bowser if he attended the Town Council meeting where this special exception was approved? Mr. Bowser responded affirmatively. Mrs. Smith asked Mr. Bowser if he spoke to the Council at that time expressing his concerns?

Mr. Bowser responded he did not believe he did. He noted that Mrs. Wiener commented, "...that the drainage requested by the Town Engineer will be provided up to Code". He continued with that comment and his comments on the development review sheet which clearly stated that, "all parking lot areas are to be brought up to drainage code", he did not believe there was any reason to make further comments.

Mr. Bowser stated the requirement that was made of this property owner is the same requirement that is requested for all property owners in the Town, and that is to meet the Town's drainage code requirements, Section 11.5. Mr. Bowser said that with respect to existing parking lots, they are some of the worst polluters of the receiving waters. He reported that the Town is close to receiving a permit under the National Pollutant Discharge Elimination System which will require periodic monitoring of the Town's stormwater outfalls. He said if these outfalls are found to be in noncompliance with the EPA standards, the Town will have to place on its collection systems "best management practices" to clean up the water before it empties into the Intracoastal Waterway.

Mr. Bowser said that the opportunity to eliminate pollution is best served by each individual property owner, and the Town has for many years required any property, greater than a half acre, to provide water quality retention on site. He noted that the large parking lots will not change unless they apply for special exceptions, variances, etc., and no opportunity will exist to provide this water quality retention. The Town may have to address this issue in the future on a system wide basis.

Mrs. Smith asked if Mr. Bowser would go in and tell some of the owners of older properties where they do not have proper water retention that they have to bring it up to Code or they would be closed down?

Mr. Bowser responded negatively. The codes provide for reconstruction or substantial redevelopment of properties. He said that his department requests when special exceptions and variances are applied for that these properties be brought

up to the current codes.

Mrs. Smith clarified that if the property does not come before the Council for a special exception or variance would they be sought out? Mr. Bowser responded negatively.

Mr. Moore stated the problem lies with the interpretation by the Building Department that the property being requested for use as a parking lot was the property in question; however, Mr. Bowser had intended the entire area, which is a substantial area in relation to the small area that is being added, be upgraded.

Mrs. Smith asked Mr. Broberg to estimate the cost of up grading the old part of the parking lot.

Mr. Broberg replied the cost would be approximately \$25,000.

Mr. Wyett asked Mr. Bowser to clarify the expense the Town may incur if they fail to satisfy the EPA regulations for water retention?

Mr. Bowser responded he would not say that because this one property is not brought up to Code that it will cause the Town to have to do something additional. He explained that the effect is cumulative. He mentioned that compromise was offered to Mr. Broberg of 1/2 inch, realizing that retention of the first inch is the heaviest of the pollutants. He said he had attempted to work with Mr. Broberg to achieve some level of retention, but this was not acceptable to the applicants. He suggested that compromise could cut the \$25,000 in half.

Mr. Broberg said that the company who was hired to do the work said that the same trenches would have to be dug, the same amount of work would have to be done, and the reduction would only be approximately \$2,000.

Mr. Bowser said, as a professional engineer, he would disagree. He offered to review the costs with the applicants' engineers.

Responding to questions from Mr. Wyett, Mr. Broberg said that the new parking spaces would be used for employees of the merchants on Worth Avenue, and these merchants had lost many spaces when Pan's Garden, across the street, was put in.

Mrs. Smith suggested that the applicant could reiterate the other conditions that were part of the approval, and it came to the Council to find supplemental parking for the employees. She noted no traffic flows in and out on this lot since the employees park in the lot for the entire time they work in the establishments. Mrs. Smith requested that Mr. Broberg read the other conditions.

Mr. Broberg read the conditions:

1. Parking will not be permitted in the 25 foot front yard; this area to be landscaped.
2. A landscape buffer, 14 feet in width, is required on the east side of the property. Said buffer to have trees as required by the Architectural Commission.
3. A wall 7 feet in height is required along the east property line.
4. Parking on the lot is for employees only, all day parkers, with vehicles identified by sticker.
5. Use of audible paging system by parking lot attendants must cease.
6. No Sunday or evening parking will be allowed in this employee parking area.
7. Construction of the new parking area must comply with the water retention and drainage requirements.
8. Landscape plan is subject to Architectural Commission approval.
9. If any conditions contained in the approval are violated, the special exception will be returned to the Town Council for consideration.

Mr. Wyett asked for clarification if these conditions applied to the entire lot or to the new section. Mr. Broberg responded they apply to the new section, lots 7 and 8.

Mrs. Smith explained this was for the new section; however, the new section is connected to the other section and to allow for the employee parking, those very strict conditions were imposed by the Council at that time.

Mr. Shaw asked Mr. Broberg if he would be agreeable to do the north half of the entire property? After reviewing the site plan, Mr. Shaw asked if he would divide it in two and agree to do the left half and maintain the retention, and if the Town's engineers are agreeable that 1/2 inch saves a few dollars would that be an acceptable compromise?

MINUTES OF THE TOWN COUNCIL MEETING HELD ON JULY 11, 1995

Mr. Broberg responded that he did not have the authority to compromise on that at this time.

Mr. Wyett noted that approaching the lot from Worth Avenue provides an unattractive view. He said he would like to see the applicant install some landscaping at the entrance on Peruvian.

Mr. McLendon said he would like to see the parking constructed, and it was unfortunate that the letter containing all of the conditions was not copied to Mr. Bowser. He said the letter clearly stated to him that the requirement related to the new parking area. He agreed 100% with Mr. Bowser that there would be a substantial reduction in the amount of drainage costs using 1/2 inch as opposed to 1 inch. He said there may a potential danger of putting the Town over the edge if an EPA monitoring system would be in place. Mr. McLendon said he wanted the parking enough to recommend approval.

Mrs. Smith asked Mr. McLendon if that were a motion?

Mr. McLendon replied that was a motion to approve.

Mrs. Smith asked for a second to the motion.

Mr. Shaw said he was not seconding the motion because he would like to see if the applicant would agree to do half of it, rather than doing none of it.

Mr. Wyett said he would like to defer. Mr. Shaw agreed with Mr. Wyett. Mr. Shaw suggested Mr. Broberg return to the August Town Council meeting and possibly get half of it done.

Mr. Broberg said the applicant does not wish to do any of it except for the grassy area that they thought they were going to do in the first place. He stated that by doing the grassy area on lots 7 and 8, the applicant was not adding anything but meeting the requirements of the Town.

Mrs. Smith asked Mr. Broberg if the Council determined the entire parking lot should meet flood requirements, would the applicant continue with the project to provide the parking spaces on the east side?

Mr. Broberg replied he was told the area would remain a grassy area if that were the case or build a building.

Mrs. Smith said a motion had been made by Mr. McLendon. Mrs. Smith asked Mr. McLendon if any conditions were attached to his motion?

Mr. McLendon replied he would like to have some but did not state them.

Mr. Randolph said that Mr. Broberg was at the meeting for a clarification of what was approved previously rather than approving something new. Mr. Randolph said the motion would be to clarify the original motion to make the drainage apply only to the new area for which they applied.

Mrs. Smith concurred with Mr. Randolph and said this was not an issue to approve a new plan.

Mrs. Smith passed the gavel and seconded the motion made by Mr. McLendon.

Mayor Ilyinsky said, as a member of the Council that approved the special exception, he remembered that the approval was for the new part of the parking lot. He added that it was not his philosophy to disagree with department heads and thought that Mr. Bowser's concerns were correct. Mayor Ilyinsky agreed with Mr. McLendon and if the Town could find parking and get it for nothing, the Town should pursue that.

Mrs. Smith recalled that the Council did spend about 1 1/2 hours on this project when it was presented in 1993 and put on the conditions for the sake of the parking which was felt to be the most important issue. She asked if Mr. Broberg would agree to landscape the lot?

Mr. Shaw asked if the applicant could provide some landscaping on Peruvian Avenue?

Mr. Broberg replied he thought the applicant would be amenable to the landscaping.

Mr. Wyett suggested the applicant remove a few feet of asphalt and provide some soil.

Mrs. Smith requested the roll be called. On roll call, the motion carried unanimously.

2. Consideration of Request for Authorization for Mayor to Execute Contract for Partial Funding of the Town's Evaluation and Appraisal Report (EAR) Under the Local Government Evaluation and Appraisal Report Assistance Program of the Florida Department of Community Affairs - Comprehensive Plan Update -

Mr. McLendon made a motion to approve authorizing the Mayor to execute the Contract for Partial Funding of the

~~MINUTES OF THE TOWN COUNCIL MEETING HELD ON JULY 11, 1995~~

Town's Evaluation and Appraisal Report. Seconded by Mr. Wyett.

On roll call the motion carried unanimously.

XV. ANY OTHER MATTERS - NONE.

XVI. ADJOURNMENT -

The meeting was adjourned at 8:10 P.M.

Mary A. Pollitt
Town Clerk