nervous about what to do about a hurricane. She knew many have weathered previous hurricanes well and feel very stubborn about leaving their homes if there was a hurricane. She suggested they get someone who is trustworthy who could give the proper answers to these questions and then the citizens would know how mandatory it is for them to leave and what preparations they should take. Mayor Marix felt a question and answer session should be had and there should be had and there should be lots of public information available. Mrs. Wiener suggested it be a workshop session and it could make everyone fully available of the complications that have arisen since the previous hurricanes and other factors which now come into play. Mayor Marix felt they needed to pick a date and get publicity out so people are aware of the fact there will be such a meeting. Mr. Heeke believed there were materials available and perhaps some of those people who went through Hugo might be able to be in attendance. Mr. Heeke suggested staff look into a workable time frame in which this can be put together and it should be reasonably soon, so the need for evacuation can be discussed very thoroughly.

E. COPIES OF INFORMATIONAL ITEMS. President Heeke suggested that they all receive packets of material all through the month and especially at meeting gime, and he wondered if one packet could be prepared and left on the desk, and a sheet of paper placed in their bin, indicating the back-up is on the desk. Mrs. Wiener stated she was not in favor of that idea as she liked to take the information home and read it. Mayor Marix felt there was an inordinate amount of paper copied. She recalled there used to be a Reading File which they could peruse and perhaps they could get rid of some of it but the things that need to be studied, perhaps they could have their own copies.

F. EXHIBITS. Mayor Marix stated she knew she has addressed this matter many times, but she wished there would be some way that they could require those making presentations to have exhibits which are clear renderings. She stated a lot of the material presented is unreadable for her and the Council and impossible for the audience to see on the screen. She thought they should make it a strict requirement that material must be produced that can be seen clearly by all. Mr. Heeke asked Mr. Moore to check into whether or not this is a reasonable request and whether there were any due process problems and he should coordinate this with the Town attorney. Mr. Moore stated another problem would be what is minor and what is major as they all have to be treated the same. Mayor Marix felt on the other hand, they could probably get into trouble if the public doesn't have a clear picture on what they are basing their decisions on in these matters.

G. SPECIAL TOWN COUNCIL MEETING: Motion was made by Mr. Weinberg, seconded by Mr. Ilyinsky to set the time for the Special Town Council Meeting to set the tentative millage rate at 9 AM on August 3, 1990. On roll call the motion carried unanimously.

H. COMMITTEE MEETING TIMES: Mr. Weinberg suggested an experiment be tried with meetings and they try breakfast meetings.

XV. ADJOURNMENT. Meeting was adjourned at 6:20 PM. — Adjournment

Grace T. Peters, Town Clerk

MINUTES OF THE TOWN COUNCIL MEETING HELD ON
JULY 10, 1990

I. CALL TO ORDER AND ROLL CALL; The monthly meeting of the Town Council was called to order by President Heeke at 9:30 AM on July 10, 1990 in the Town Council Chambers. On roll call, the following elected officials were found to be in attendance: Mayor Marix, President Heeke, Councilwoman Douthit, Councilwoman Wiener and Councilman Weinberg. (Mr. Ilyinsky was not in attendance.) Also attending for all or portions of the meeting were Town Manager Doney, Town Attorney Randolph, Administrative Assistant to the Town Manager Jakubiak, Town Clerk Peters, Mr. McPhail, Mr. Dusey, Mr. Zimmerman, Chief Frazier, Chief Terlizzese, Mr. Bowser, Mr. Crouse and Mr. Wandell. — Roll Call

II. INVOCATION AND PLEDGE OF ALLEGIANCE: Invocation was given by President Heeke. Pledge of Allegiance was led by the Town Manager. — Invocation

III. APPROVAL OF MINUTES OF MAY 8, AND JUNE 25, 1990. Mrs. Wiener moved the minutes of May 8, 1990 be approved with a correction on page 10, where Mr. Dusey responded to Mr. Heeke in the fifth paragraph and on page 32, the last sentence in the first paragraph should read: "... this was a problem that was not unique to government...". Seconded by Mr. Weinberg. On roll call, the motion carried unanimously. — Appr. of Minutes

Motion was made by Mr. Weinberg to approve the minutes of June 25, 1990. Mr. Heeke turned the chairing of the meeting over to Mrs. Wiener and seconded the motion. On roll call, the motion carried unanimously.

IV. APPROVAL OF AGENDA. On motion of Mrs. Douthit, seconded by Mr. Weinberg, the agenda was approved with Item X B-9, Variance No. 37-90, the Town of Palm Beach, deferred until the August Town Council Meeting. On roll call the motion carried (3-1) with Mrs. Wiener voting against the motion, stating she felt since there was no other police facility in the Town, she didn't think this would set a precedent and she would have liked to see this discussed. — Appr. of Agenda

Mr. Doney reported there was a letter from Mr. Broberg asking for deferral for one month on X B 3, Special Exception No. 6-90. He indicated this matter was deferred from June to July and this is a second request. Mr. Heeke called for public comments and there were none. Mrs. Douthit thought it should be deferred until we have some answers to the questions we have. Mr. Zimmerman suggested they wait until later in the meeting as Mr. Broberg will be here on another matter. Mayor Marix recalled the attorneys who wish to have an item deferred should be here for this part of the meeting when the agenda is approved. Mr. Heeke indicated this will be left on the agenda until we can raise the issue with Mr. Broberg later and we could put further conditions on the deferral. Mrs. Douthit moved the agenda be approved as amended. Seconded by Mr. Wiener. On roll call, the motion carried unanimously.

V. COMMENTS OF THE MAYOR: Mayor Marix asked if there could be another matter discussed under "Any Other Matters" as she has received a request from an organization called "The Silver Platter" which she needed to discuss. Mr. Heeke agreed to hear this under "Any Other Matters". — Comments of the Mayor

Mayor Marix stated how pleased she was with the turnout at the Hurricane Informational meeting and she has written a Letter to the Editor as there were many items which were not brought up at that meeting which she felt the public needed to know about.

Mayor Marix stated she hoped the Council would be in receipt of an update from Chief Elmore on the matter of charging for medical emergency transports. She felt the people were paying for this twice, once through their insurance premiums and secondly, through their taxes and she was hopeful some of these monies could be recouped.

Mayor Marix reported the raccoon problem is back in the north end of Town and Mr. Jakubiak is doing some research on this and will have a report on whether they can be trapped and by whom, as there are now some rabid ones. Mr. Jakubiak indicated he has been in contact with trappers and trying to get their figures as to what they would charge. He stated if one is trapped, it must be put to sleep at the location and they must be disposed of properly according to the State Statutes.

Licenses & Permits

VI. LICENSES AND PERMITS:

A. Charitable Solicitations:

1. Animal Rescue League of the Palm Beaches, Inc., No. 7-91.

2. American Cancer Society - Palm Beach Benefit, No. 19-91.

3. Planned Parenthood of the Palm Beaches, No. 120-91.

4. American Society for Technion, No. 137-91.

5. American Friends of Tel Aviv University, No. 302-91.

6. Humane Society of the United States, Southease Regional Office, No. 303-91.

Mrs. Peters reported staff recommends all of the charitable solicitations for approval. On motion of Mr. Weinberg, seconded by Mrs. Wiener, the charitable solicitations were approved. On roll call, the motion carried unanimously.

Old Business

VII. OLD BUSINESS:

A. Ordinances - Second Reading

Ord. 11-90

1. Ordinance No. 11-90 - Opting Out of County's Environmentally Sensitive Lands Ordinance. Attorney Randolph read the Ordinance No. 11-90 by title:

AN ORDINANCE OF THETOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, PROVIDING FOR THE PROTECTION OF ENVIRONMENTALLY SENSITIVE LANDS; PROVIDING THAT THE TOWN OF PALM BEACH SHALL OPT OUT OF THE PALM BEACH COUNTY ENVIRONMENTALLY SENSITIVE LANDS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Motion was made by Mrs. Douthit to approve Ord. No. 11-90 on second reading, seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Ord. 13-90

2. Ordinance No. 13-90 - Amendments to Section 2-3 of the Town Code of Ordinances - Expiration Date of Appointive Offices. Mr. Randolph read the Ordinance by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 2 OF THE CODE OF ORDINANCES AT SECTION 2-3 TO PROVIDE THAT THE TERMS OF OFFICE OF ALL APPOINTIVE ADMINISTRATIVE OFFICIALS OF THE TOWN SHALL EXPIRE AT THE TIME OF THE FIRST REGULAR MEETING OF THE COUNCIL IN SEPTEMBER OF EACH YEAR; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

Motion was made by Mrs. Douthit, seconded by Mrs. Wiener to approve Ordinance No. 13-90. Motion carried unanimously on roll call.

Bid Awards

B. Bid Awards:

Sealed Bid 022-89/90

1. Sealed Bid No. 022-89/90 - Fire-Rescue Mobile Intensive Care Units (Two Replacement Vehicles). Mr. Doney reported the low bidderis Southern Ambulance Builders, LaGrange, Georgia for two mobile intensive care units in the amount of $155,490 and Chief Elmore recommends the contract be awarded to this company with which he concurs. Mr. Heeke asked if this would be diesel engines to which Mr. Doney responded affirmatively. Mr. Heeke noted they are more standard in style. Mr. Doney explained these units do meet the Federal specifications. Councilman Weinberg asked if it was necessary to alter the roof of the South Fire Station to accommodate these vehicles? Chief Frazier advised they are hopeful when the vehicles are fully equipped, there will be a one or one and one half inch clearance which means they would not have to alter the building. Councilwoman Wiener recalled last month there was discussion on the fact that the bid had to be rejected since the vehicles would not fit into the facility and authorization was given to change the roof and asked what has happened now in the interim? Chief Frazier advised the maximum height by Federal Law is 110' and the vehicles they are now using are 107" and they are trying to house these vehicles in the building without alterations, however, it will not be known certainly until the unit arrives and it is loaded with their equipment whether they can get the units in the parking area. Mrs. Wiener noted this was not the same company last month that was the low bidder and she asked why they had to go through the performance last month and not have the bid of this firm in front of them at that time? Chief Frazier indicated he was not sure as they have had several discussions with Southern Ambulance who indicated there is a possibility the vehicles will be under the 107" but they still have the ability to produce the vehicle at 110" and it is hoped it will come under the 110". Mrs. Wiener did not understand why they had to go through the exercise at last meeting as she finds that a bit peculiar. Mr. Heeke noted the vehicle is complying with the Federal standards. Chief Frazier responded the chassis will be a standard unit but the custom unit will be installed on the back of the chassis, and the chassis dictates what that height will be and the weight factor and distribution of the equipment on the chassis will give them the height required. He stated these are custom made, and they are going to build 20 of these units and their units are loaded much heavier than the medical units would be and they never had to consider the height previously, but now they have been running them as ambulances and also have some fire-fighting equipment on them, which offers a difference in the weight factor.

Mayor Marix asked if the cabinetry on top of the chassis is built to order, it would seem to her that to economize an inch or so would be possible. Chief Frazier noted they are also concerned with the inside working measurements in order to have more working room for patient care.

Mrs. Douthit moved that Sealed Bid No. 022-89/90 for two Fire Rescue Mobile Intensive Care Units be awarded to Southern Ambulance Builders in the amount of $155,490. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Mayor Marix requested boty citizen associations should be written to let them know this bid has been awarded and the equipment will be on hand by the Season.

C. Other

Supply Feasibility Study

1. Supply Feasibility Study by James M. Montgomery Consulting Engineers, Inc. - Progress Report by Town Staff. Mr. Dusey reported the consultant has been working on this project and has started on the transitional strategies if the Town did decide to leave the West Palm Beach system. He reported the Town accounts for about

one-third of the water used in the West Palm Beach system and to withdraw that amount of revenue could be detrimental to them. He stated part of the study is to look at how we might be able to withdraw from the system, in a phased manner. He indicated the consultant has investigated wells and well siting and the South Florida Water Management District has had difficulty getting their process together to test the well at the Public Works facility. He indicated the consultant was interested in having the information from that particular well because of its' location to the Town. He stated the fact that that particular well has not been tested as yet could impact on the completion date of the study.

Mr. Dusey reported that distribution storage is a major consideration and the consultant has obtained a computer model which tells us how the system will work and what might have to be constructed to get water to our residents, if we were to build those plants. He stated a single site basis, they are considering, because of the demand of water, the Loftin Street site or Lake Drive Park. He stated if there would be only one plant built, that would be the best location.

Mr. Dusey stated storage would have to be in the north, central and southern parts of Town.

He stated a dual site scenario would have two smaller plants, perhaps not equally the same in size, and that would be Phipps Park and Lake Drive Park; or Phipps Park and Loftin Street, with storage again in the north, central and southern parts of Town.

He indicated in this site analysis, the treatment of sea water has been included.

He indicated James Montgomery has scheduled meetings with South Florida Water Management next week and are attempting to also arrange meetings with the Department of Environmental Regulation to initiate the discussions on permitting and what concessions may be forthcoming from those agencies.

Mr. Dusey noted that because of the delay in the computer model for the distribution system, they are behind approximately two weeks, however, they are expecting the study could still be completed by the end of August.

Mayor Marix noted there is a water shortage and could not understand why the Town withdrawing from West Palm Beach will hurt them as she thought they could be only too happy to use the water that the Town was using for their own uses or sell it to someone else. Mr. Dusey reponded the shortage may not continue and the restrictions that are in effect due to the drought and growth and he knows West Palm Beach does continue to grow and right now they have excess treatment capacity in their system because they were anticipating these things happening, but if we were to leave them, they will have more capacity for treatment than they need at the present time.

Mr. Dusey stated West Palm Beach would also lose the Town as a revenue stream.

New B-usiness

VIII. NEW BUSINESS

a. Bid Awards:

Bid Awards

Sealed Bid 024-89/90

1. Sealed Bid No. 024-89/90 - Storm Shutters for North Fire Station - Consideration of Resolution No. 63-90. Mr. Randolph read the Resolution:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING A CONTRACT TO FOLDING SHUTTER CORPORATION FOR THE NORTH FIRE STATION STORM SHUTTERS.

Mr. Weinberg moved that Resolution NO. 63-90 be approved. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Res. 63-90

B. Appointment:

Appointment

Bldg.Board of Adjustments and Appeal

1. Building Board of Adjustments and Appeal - One Three Year Term. Mr. Heeke noted Mr. E. Ben Walton, Jr. is willing to serve again as he is eligible for reappointment. Mrs. Douthit moved that E. Ben Walton, Jr. be reappointed for a three year term to expire July 1993. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

C. Other:

Other

Voting Delegate for Fl. League of Cities Convention

1. Consideration of Voting Delegate for the Florida League of Cities 64th Annual Convention in Orlando - October 11-13, 1990. After discussion, a motion was made by Mr. Weinberg, Councilwoman Hermine Wiener was appointed as the Voting Delegate with Councilman Ilyinsky appointed as the first Alternate and Councilman Weinberg appointed as the second Alternate. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Repleacement of oceanfront seawall

2. Proposed Replacement of Oceanfront Roadway Protective Seawall at 880 South Ocean Blvd. - Authorization for Town Manager to Execute Agreement with Mr. Callahan, Authorization for Funding Same from Capital Improvement Fund and Authorization to Obtain Sealed Bids and Initiate Related Actions. Mr. Heeke noted Mr. Callahan is willing to accept fifty per cent of the cost of repair and asked if there also had to be a special assessment? Mr. Randolph responded it would not be necessary if there is an individual agreement with Mr. Callahan and recommended the Agreement be recorded. Mrs. Wiener recalled no conclusion has been reached on whether or not they should share the expenses on the seawall at a previous meeting and it now looks that we are agreeing to go 50-50 with Mr. Callahan and wondered if this was to be the policy of the Council?

Mrs. Douthit and Mr. Heeke responded thisis on an individual basis. Mayor Marix recalled the whole subject of the overall redoing of the seawall was not being pursued as the Town decided to not proceed and each person who had a problem would bring it to the Town's attention and it would be worked out on an individual basis. Mr. Heeke stated that was to be done on an as-needed basis, and he assumed the engineering staff is convinced this particular seawall repair is necessary.

Mrs. Wiener stated what she was asking, if it is going to be 50-50 with Mr. Callahan, how could we expect anyone to have a higher share and how could anyone expect from us to pay a higher share as she viewed this as setting a precedent of the 50-50 share basis. Mr. Heeke believed there was merit in what Mrs. Wiener stated, however, he does not view this as a policy statement and his vote would be on this particular proposal and if it comes up with another one in the future, they would see what the facts are on that particular case. Mr. Randolph advised the Council is entering into an agreement with an individual in regard to his specific piece of property and from that standpoint, it is arguable that this is not being done for purposes of assessment and not on the basis of any study, but simply an agreement between on individual property owner and the Town. He felt Mrs. Wiener was correct that in the event we did get into an assessment program, they could point to this and indicate this person paid less, but it is like any other thing when it is dealt with on an individual basis, as distinctions could be shown and one being that this was a one-to-one negotiation between the property owner and the Town and not an overall assessment program.

Mayor Marix noted this property has two seawalls. Mr. Dusey stated there is an ornamental wall but that is not a seawall. Mr. Weinberg noted on March 21, when Mr. Dusey made the study, he advised the weighted benefit of the wall and the protection of the roadway was 24% versus 76% benefit to the property of Mr. Callahan and believed the Town Council would support a 50-50 casue and he wondered about the mathematics. Mr. Dusey stated his difficulty was in recommending the Town Council pay for the entire wall and it should be taken into consideration the value of the road to the other residents as those factors must be brought into the picture.

Motion was made by Mrs. Douthit to approve the recommendation as contained in the July 5th memorandum of Mr. Dusey to Mr. Doney in reference to the Town's shared expenditures with Mr. John Callahan and authorize the Town Manager to enter into the necessary negotiations and obtain the sealed bids. Mr. Heeke handed the gavel to Mrs. Wiener to chair the meeting and seconded the motion. On roll call, the motion carried 3-1 with Mr. Weinberg voting against the motion. Mrs. Wiener advised with her affirmative vote on this motion, she makes a commitment to anyone else that this is a definite policy statement and she will not change that stand.

Solid Waste Authority

3. Consideration of Solid Waste Authority (SWA) of Palm Beach County's Determination Not to Credit Town Property Owners for Town's Separate Yard Trash Disposal Program as Same Relates to Mandatory Solid Waste Assessment Program by SWA. Mr. Heeke reported there has been a response from the Solid Waste Authority which did not honor what the Town thought would be the process in the establishment of the assessment for Town of Palm Beach residents.

Mrs. Wiener felt these were people appointed to this board who were not elected to public office and have no accountability and she felt strongly that people should be elected and held accountable for what they do. She felt this was an addition to the ad valorem tax as it is a county service to which Mrs. Douthit agreed. Mr. Heeke wondered if they should write the County Commission and ask them to disband this Authority. Mrs. Douthit felt it was totally unfair that they were being charged the same rate as other single family areas especially since we already have our own pick-up. Mayor Marix agreed but stated she had another problem in that we own the land and we pay for that and perhaps we should find something else to do with that land, as we should be given credit for the stuff they don't have to get rid of it. Mr. Heeke agreed, notong there is a composting area which is used for our vegetation so that doesn't get into the stream of the Solid Waste Authority and were supposed to be granted some type of recognition for that cost savings and the most recent letter informs us we are getting no credit whatsoever. He asked if the Staff and the Town Attorney could look at this and make some recommendations to the Council as there is nothing to be done about this at this point in time other than to note the Council and the Mayor's strong displeasure.

Mr. Dusey advised Riviera Beach has purchased a large chipper and starting chipping their trash adn didn't take it to the land fill and in addition, they entered into Inter-local agreements with several other municipalities to chip their trash and then they re-process it, so they are in a similar situation and feel they are also being double charged. He believed Lake Worth would want to continue using the chipping machine and would want a credit, as well as Lake Park and Mangonia Park, so there are other municipalities that are in the same position as we are and the agrument that the Solid Waste Authority is using that they can't single out just Palm Beach does not hold up as there are others in the same position.

Mr. Heeke announced they would be waiting for the staff recommendations on this on how further to proceed.

Mr. Doney reported there is a July 18 meeting on this subject by the Solid Waste Authority and suggested that one of the elected officials should appear on behalf of the Town to object as the officials that are on this Authority are County Commissioners and municipal elected officials.

Mrs. Wiener moved that Mayor Marix, or in her absence, the President of the Council, Mr. Heeke, or in his absence anyone delegated by either of them attend this meeting to speak on behalf of the Town Council and represent the Town at the July 18, 1990 meeting of the Solid Waste Authority. Seconded by Mr. Weinberg.

Mr. Louis Prior addressed the Council noting that significant time has been taken by the Town Council and the Mayor on this item, which is of great importance and he thought the citizens of the Town owed them a debt of gratitude for the time they have given to these matters.

On roll call, the motion carried unanimously.

Approval of Warrant Lise

IX. APPROVAL OF WARRANT LIST AND FUND EXPENDITURES FOR JUNE, 1990. On motion of Mrs. Douthit, the Warrant List and Fund Expenditure Report for June, 1990 was approved. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

A ten minute break was taken.

Meeting called back to order by President Heeke.

X. DEVELOPMENT REVIEWS:

Major Matters Arch.Comm.

A. Mayor matters previously considered by the Architectural Commission at their meeting of June 27, 1990. On motion of Mrs. Wiener, seconded by Mrs. Douthit, the major matters considered by the Architectural Commission at their meeting of June 27, 1990 were approved. On roll call, the motion carried unanimously.

The major matters were:

B6-90 - Addition and remodeling - Mr. & Mrs. Holden Luntz, 234 Seminole Avenue - Deferred,

B20-90 - Addition and remodeling - 1616 South Ocean Beach, Inc., - removed from the agenda.

B27-90 - Second story addition to residence of John Raimondi, 1420 N. Ocean Blvd. Deferred.

B28-90 - New resident for Wells Road Land Co., 131 Wells Road. Deferred.

B5-90 - Addition to residence of Mr. & Mrs. Alfonso Fanjul, Jr., 1161 N. Lake Way. Deferred.

B40-90 - New residence for Palm Beach Land Investments, Inc., Graham Eckes Plat - Deferred.

B42-90 - New residence for Stuart Scharaga, 310 Wells Road. Approved.

B43-90 - New residence for Mr. & Mrs. Frazier Wellmeier, 206 Queens Lane - Approved conditionally.

B44-90 - Guest House and Pool for Gerard Haryman and Denise Valentini, 137 Dunbar Rd. Deferred.

B45-90 - ADdition and renovation - L & V INvestments, Inc., 112 Woodbridge Road. Deferred.

B4-90 - Landscape Plan for Leonard Sessa, 6 South Lake Trail. Approved conditionally.

B1-90 - Revisions to residence of Mr. Robert Summings, 665 N. County Rd. Approved conditionally.

B7-90 - Landscape Plan for Sloane Construction Co., 166 Everglade Avenue - Approved.

B8-90 - Landscape Plan for Ira Harris, 300 Wells Road - Approved conditionally.

B24-90 - Change to approved project for Stefan Richter, 224 Worth Avenue - conditionally approved.

B28-90A - Revisions to Wells Road Land Co., 133 Wells Road. Approved conditionally.

B48-90 - Store remodeling for Ed Kassatly, 250 Worth AVenue - Approved.

B49-90 - Pool House - Estate of Paul Maddock - 1160 N. Ocean Blvd. - Approved.

B50-90 - Demolition of residence of Ellen Pettie, 235 Chilean Ave. - removed from agenda.

B51-90 - Demolition of residence of Lowry Bell, 120 Jungle Road - Deferred.

B52-90 - Renovation of 301 Worth Avenue - The Francis Brewster Co. Aoproved conditionally.

B53-90 - Remodeling to 901 N. Ocean Blvd. June Martino. Deferred.

B54-90 - Remodeling to 679 Island Drive - Richard Harrington. Approved conditionally.

B55-90 - Renovation to 288 S. County Rd. - Thomas Campaniello. Approved conditionally.

B56-90 - L & S Capecodders, Inc., 412 S. County Rd. Approved.

B57-90 - Gates for 726 Hi Mount Rd. - Mrs. James Wood. Deferred.

B58-90 - Addition to 169 Root Trail. John D. Reed. Approved.

B59-90 - New Residence for Joel Whitney, 127 Ocean View Road. Approved.

B. Variances, Special Exceptions and Site Plan Reviews

OLD BUSINESS: Old Business

1. Variance No. 27-90 - Ann Dillard, 245 Barton Ave. - to allow construction of a garage addition allowing lot coverage of 26.8% in lieu of 25% maximum allowed. R-B District. Deferred from June meeting. Mr. Jerry Sullivan addressed the Council on behalf of Mrs. Dillard, indicating the variance has been reduced to six tenths of one per cent from 1.8% with a redesign and shrinking the length of the garage to 22'. Mrs. Douthit moved for approval of the Variance No. 27-90 with the diminished request. Seconded by Mrs. Wiener. Mr. Zimmerman stated staff had no objection to the request due to the reduction in the size of the addition. On roll call, the motion carried unanimously. Var. 27-90

2. Variance No. 30-90 - William E. Flaherty, 315 Chapel Hill Rd.; to allow construction of four masonry gateposts with lanterns each 8'10" high thereby exceeding the maximum height permitted of 6', under Section 5.36 (b) of the Town Zoning Ordinance. R-A District. Deferred from June meeting. Mr. Gene Beems representing Mr. & Mrs. Flaherty addressed the Council. He was before the Council last month and knew of their concern about hardship and he felt the hardship here was a state of danger or trouble which could be the lack of lighting in this area. Mr. Heeke stated that is not within the definition of hardship as they look at this under zoning matters. Mr. Beem indicated there is a road built here with three homes on it, and it is 500' in length and there is no illumination. He stated the primary concern of his clients is the illumination of thestreet itself and he believed the Town was fortunate enough that the Flahertys are willing to bear this expense. He exhibited photgraphs taken last evening which showed how very dark this street is and he thought there could be some danger if someone went to the end of the street and didn't know it was the end of the street and would hit one of the columns. He felt the lights would give maximum security and would be a minimum hardship. He felt if the lights were allowed to be placed on top of the column, it would define this is the end of the street. He submitted redrawn plans which showed the light fixture is one foot above the fixed column. He noted the second page shows two different designs, with a light on top of the column one foot high and the second scheme is the light mounted on the front surface of the column. Mrs. Wiener recalled the Council did not find the light on the top of the comumn acceptable and asked if he had lowered it? Mr. Beem stated they would prefer to have the light placed on top of the column, but if that is not acceptable, they will go for the lower light. Mr. Weinberg asked what would happen if they dropped the light an additional six or eight inches? Mr. Beem indicated if there was a light on top of the column, there would be illumination on the backside of the column. Mr. Heeke asked if that couldn't be done with ground lighting, which Mr. Beem thought it could, but he would prefer the light on the top of the column. Var. 30-90

Mr. Heeke indicated his question about the hardship has not yet been answered. Mrs. Wiener stated the hardship has to be as to the land. Mrs. Douthit asked if they couldn't place it lower and have a lamp on the front adn the back? Mr. Beem stated it would not give off great illumination as this is soft lighting. Mrs. Douthit felt they could put two on each post. Mr. Heeke felt the purpose could be accomplished without a variance as they could illuminate from the front and distinguish where the posts are.

Mr. Zimmerman stated the gateposts have been redesigned from nine feet to the current seven foot overall and staff has no objection.

Mr. Weinberg felt the lights could be mounted on the front of the gateposts which will allow the possibility of the light being thrown outward and not up into the air and this would not require a variance.

Mrs. Douthit moved the application for Variance No. 30-90 be denied, on the grounds that there are other alternatives. Mr. Heeke handed the gavel to Mrs. Wiener to chair the meeting and seconded the motion. On roll call, the motion carried unanimously for denial.

3. Special Exception No. 6-90 - 337 Worth Associates, 332 Peruvian Ave.; to allow restaurant occupancy of 3,133 square feet gross leasable area thereby exceeding the 2,000 square feet maximum allowed; to allow off-street parking within 500' of the restaurant as permitted by Special Exception per Section 6.20 (d) (1). C-TS District. Deferred from June meeting. Letter dated July 7, 1990 from Peter S. Broberg requesting deferral to August 14, 1990 Town Council meeting. Mr. Heeke noted the request to defer this matter was not approved when the agenda was approved, as this is the second request for a deferral and asked Mr. Broberg why he needed a deferral or could they look forward to this matter being withdrawn? Attorney Broberg indicated he would like to bring this back to the Council as they do not have a tenant and he knows that the Council would like to know who the tenant will be, and although they are in negotiations, they have no signed contract as yet. Mr. Heeke asked if he would like this deferred for sixty days? Mr. Broberg stated if they do not have a tenant within that time, he will withdraw the application. Mr. Zimmerman stated he had no problem with this being deferred to the September Town Council meeting. Spex. Excep. 6-90

On motion of Mrs. Douthit, secondedby Mrs. Wiener, the application for Special Exception No. 6-90 was deferred until the September 11, 1990 Town Council Meeting. On roll call, the motion carried unanimously.

New Business

NEW BUSINESS:

Var. 33-90

4. Variance No. 33-90 - Colony Hotel, Inc., 155 Hammon Ave.; to allow construction of 14' high wall around a commercial air conditioning unit; maximum allowable wall height per Section 5.36 of the Town Code is 6'. R-D(2) District. Attorney William Hyland addressed the Council for the Colony Hotel, requesting the variance to construct a wall fourteen feet high to help with the noise level problem and bring the noise level below what would be permitted by the Town's Code. He indicated they would like to construct the wall in two phases, half the wall around the air conditioning, with this half of the wall being closest to the residents and if that doesn't do the job, they will construct the other half. He stated they have had sound engineers analyze the matter and they believe half of the enclosure will do the job sufficiently and by going to the fourteen feet high, they should no longer have a problem.

Mr. Heeke asked about the vegetation for screening. Mr. Hyland stated their sound engineers did not feel that would do a sufficient job as the air chiller and the other equipment emit a number of different sounds from different sources, with thecompressors emitting one kind and the fans another, and there are different wave lengths and they travel in different directions and create a sound reduction problem which cannot be handled merely by the vegetative screening. He intends to have vegetation pt in front of the wall to limit the visual impact and presented a landscape plan which will call for large trees, plus a hedge to be constructed in front of the wall for the entire length.

Mr. Zimmerman stated this is an unusual request but it is also an unusual problem and the applicant is trying to resolve it as it relates to the adjacent property owners. He stated the staff felt as long as it can be sight screened, they would have no objection to the application as the object is to eliminate the noise.

Mrs. Wiener moved Variance No. 33-90 be approved. Seconded by Mrs. Douthit.

Mrs. Frances Cavanaugh, a member of the Board of Directors of the Winthrop House at 100 Worth Avenue addressed the Council asking where the original air conditioning was installed before this unit was installed? Mr. Hyland believed it was behind the main hotel building. Mrs. Cavanaugh stated what they have now makes their lives miserable, especially those who have western exposures as it is a very large, very loud unit which is located at the end of the Colony Hotel property and is as close to the Winthrop House as it can get and not only do they hear the loud throbbing and pumping all night but also all day and it is impossible for them to use their terraces since it is extremely noisy. She noted the application states they hope to reduce the noise level, but she doesn't know how that will be possible as it is a constant throbbing reverberation. She stated they have a problem with the Esplanade noises and now they have the air conditioning noise of the Colony and they have many odors and cats and other noises emanating from the western exposure they have on their building and she would very much like to know what materials they propose to use which would diminish the noise sufficiently. She wondered also why it was necessary to install the unit so close to the Winthrop House.

Attorney Hyland stated the Town does have a noise ordinance which prohibits anyone in the Town from operating any kind of machine over a certain noise level and it is their hope by building the wall of 14' they will be able to reduce the noise level to below what the Town allows. He stated they do have a two part plan, with the first part to enclose half of the structure with it being enclosed with the half of it that is closest to the Winthrop House. Mrs. Cavanaugh asked what would it be made of? Mr. Hyland responded it will be made of concrete and the inside of the wall will be vinyl with a buffer material which will act as a baffle to further reduce the noise level. Mrs. Cavanaugh asked if the top would be enclosed or will teh noise just go up? Mr. Hyland responded if it goes up, the noise should not be a bother and dealing with sound is a scientific process and the sound engineers do know how the sound travels and have made their recommendations. He stated if the sound goes anywhere it will go back into their property or straight up in the air. He stated the sound engineer believes that in all likelihood the first phase should do the trick, however, it it does not, they will build the second half. He stated the enclosure is designed that if there is any other sound emitting from the enclosure, it will go back to the Colony Hotel property but as that portion of the property is an open area, they have no problem with that.

Mrs. Cavanaugh stated as far as they are concerned, they have no complaints about the appearance as they cannot see it from their property but they do hear the throbbing, grinding sound that it is a very loud noise and this is merely on top of everything else they have had to endure.

Mr. Heeke believed the air conditioning unit was properly located on the property and the reason the Colony wanted it at this particular spot was because of their further expansion and they have agreed to do it in two stages.

After further discussion, the roll call was taken and the motion carried unanimously.

Var. 34-90

5. Variance No. 34-90 - Robert Deziel, 120 Atlantic Ave.; to allow construction of a pool locating a pool wall 7.5' from the rear property line in lieu of 10' minimum required per Section 6.12 of the Town Zoning Ordinance. R-B District. Mr. Robert Deziel addressed the Council indicating this house fronts on Atlantic Avenue and at the rear of the property line, there is an existing masonry wall which is owned by the adjoining property owner, which is his father. He stated they have a wall which separates the two properties and it is located on his father's property and it is 2 1/2 feet from their common property line. He stated there are two ordinance applicable to this situation, one being the Ordinance which addressed underground utility lines and there is a requirement that all utility lines are placed underground. He stated his property was developed under a new Plat in 1984 and as part of the requirement of the platting, the owners of the property were required to dedicate in the front of the property an easement and it is ten foot and on it, sits an electric transformer. He stated the second ordinance is the garden wall setback requirement, Section 5.36 (d) and the provision of this Ordinance was adopted within the last ten years and the applicable effect of the Ordinance is to require a property owner to place a wall at its rear property line two and one half feet away from its property line. He is burdened in the rear of his property by a Town Ordinance which requires him to leave space for public utility easements, however he has bought this property which already had dedicated a ten foot public utility easement in the front adn he thought he was being sandwiched by these two ordinances and requested the variance be granted.

Mr. Zimmerman advised it was the developer's choice at the time the property was developed to install the electric service in the front of the property. He stated the Ordinance relative to property walls on property lines has been in effect for a long time and one cannot construct a wall on an easement in the rear of the property for existing or for future utilities. Mr. Deziel clarifiedit is not an easement as the front part of the property has the easement and the back part of the property is encumbered by an Ordinance. Mr. Zimmerman stated staff has trouble with this as they are dealing with new construction and they felt that is the lack of foresight in the planning of the project. He stated there could be a swimming pool constructed on the site but not the size desired. Mrs. Douthit stated she was confused because the applicant wants to use property that belongs to his father and that may be alright now but if the property should change hands, then there would be a problem.

Mayor Marix believed he is looking to not have two walls which would create a little alley in the back of the property and asked if there was a gas line located in the rear? Mr. Deziel responded there is a gas line but it does not fall within the five feet and there will be no utilities through that area. He indicated it was his understanding from his immediate neighbor that they could erect a fence between the two walls so no-one will access that portion of the property.

Mrs. Wiener indicated she did not find the swimming pool to be excessively wide and closer than five feet to the house would create an accident problem and she did not view this as an unusual or peculiar request and she moved that Variance No. 34-90 be approved. Seconded by Mr. Weinberg.

Mr. Heeke felt if there was a fence blocking off the alleyway, the applicant does not own the property beyond his existing property line. He stated he has listened to the staff comments and noted this is new construction and the pool could be constructed without the need of a variance. Mrs. Wiener felt the problem would be the same no matter where the pool is placed as the width of the backyard will not change. Mr. Heeke felt the house was put in a wrong position when it was originally constructed to accommodate a pool in this location. Mrs. Douthit felt there are alternate ways to handle this. Mayor Marix believed the easement in the rear is kind of a nonexistent easement, so what they are talking about is the pool is 7 1/2' instead of 10 feet from the proeprty line and it is 10 feet from the wall. Mayor Marix asked if he coud buy some land from his father and wondered if he held title to the two and one half feet, would it make a non-conforming lot out of the father's property? Mr. Zimmerman responded affirmatively.

Mr. Deziel stated he could buy the footage from hs father and the situation of it making it a non-conforming lot can be remedied. Mr. Heeke felt he should work it out with his father, as it may be land that might otherwise be used and would have a more consistent land use down the road. Mr. Deziel felt that was one of the cruxes of the whole issue. He stated it works out to seventy feet and he would arrange to make the swap and since he only needs it along the pool, they could swap the seventy square feet, however, he doesn't want to cause any problems for himself or future purchasers down the road and if he could do that and his father would not be in violation of lot ocverage ratio, that could be the solution to the problem.

Mr. Zimmerman indicated he was opposed to the land swap as it will create tremendous headaches for the property owners now and in the future. He stated with regards to transferring two and one half feet of property from one lot to another will create non-conformities on the property to the south, and suggested the Council simply act on the variance without the land swap.

On roll call, the motion carried with Mrs. Wiener and Mr. Weinberg voting for the approval, Mrs. Douthit and Mr. Heeke voting against the approval and the Mayor breaking the tie vote by voting affirmatively. (3-2)

Mrs. Douthit and Mr. Heeke stated they voted against the motion due to the fact there were alternatives that could be taken in placement of the pool. Mayor Marix indicated she was voting for the approval since the utilities are located in the front of the property and they have granted variances of this type in the past.

6. Variance No. 35-90 - Judith Miller, 1057 S. Ocean Blvd.; to allow construction of an addition to a cabana permitting 26.68% lot coverage in lieu of 25% maximum allowed. R-A District. Attorney Peter Broberg addressed the Council on behalf of Mrs. Miller indicating this request was before the Council and granted over a year ago, and unfortunately the work was not completed so the request is before the Council once again. Mrs. Wiener recalled she was opposed to this when it was before the Council previously and it was a 3-2 vote. Var. 35-90

Mr. Broberg indicated the landscaping on this property exceeds the requirement by 12.3%. He stated the footprint of the house is 25% and the requested addition is 359.2' which would increase the footprint by 1.68%. He stated the addition will require some of the green space to be removed, however, the kicker isthere will be 193 square feet of green space replaced. He stated his client is frail and this is an exercise room for her use. Mayor Marix wondered why Mrs. Miller did not install this room within the required time as it has been two years since it was heard and whe hasn't done it as yet. Mr. Broberg stated he doesn't know why it has not been before this time. Mrs. Wiener stated she sees no hardship.

Mrs. Douthit moved to reapprove Variance NO. 35-90, on the grounds that it cannot be seen from the roadway and the green space that is being removed should be replaced by the removal of walks. Seconded by Mr. Weinberg. On roll call, the motion failed to carry with Mr. Weinberg, Mrs. Wiener and Mr. Heeke voting against the motion.

7. Variance No. 36-90 - Worth Avenue, INc., 460 Worth Ave.; to allow construction of a second story addition to a two-story residence with a front yard setback of 24; in lieu of 30' required; a building height plane of 18' in lieu of the required 16'; a rear yard setback of 6.5' in lieu of 10'; and, further, to allow the reconstruction of more than 50% of the floor area of a non-conforming building, as defined in Section 8.23(a) of the Zoning Ordinance. R-B District. Var. 36-90

Mr. Jeffrey Smith of the Smith Architectural Group addressed the Council representing Mr. Ralf Gschwend noting these properties at the end of Worth Avenue are very unique and do not lend themselves easily to a strict interpretation of the Zoning Code and he believes he has requested the minimum variances to provide the reasonable use of the property. He stated they wished to add a second floor addition adn because of the curve of Worth Avenue, this will project into the front yard setback. He stated the second request is a bulkhead setback from the lakefront and this will be 18 square feet to install an open air loggia. He stated the reason for this is to have the house sit square on the site and the sharp angle of the bulkhead from the lake. He noted there is an area which now sits in the setback area, which they will be removing. He stated the area in grey shows the building footprint, so they will be decreasing the lot coverage by five per cent.

Mr. Zimmerman stated this is an unusual piece of property and there is nothing on the property that complies with the zoning code as it exists today. He stated what is being proposed is a reduction in the non-conformity, however they are creating two minor non-conformities with the new construction and he believes the reduction in the lot coverage far outweighs anything the Town might give up in the way of setbacks and he has no objection to the proposal. Mr. Heeke felt the irregular shape of the property would lend itself to the hardship. Mr. Weinberg felt anything that would change the circumstances there would be a welcome improvement and he wished to move Variance No. 36-90 be approved. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

8. Flood Insurance Variance No. 5-90 - Worth Avenue, Inc., 460 Worth Avenue permission to renovate dwelling including raising some floor areas form 3.9' to 5.5' but less than 7.5' as required. R-B District. Mr. Zimmerman advised staff has no objection to this and would recommend approval with the hold-harmless agreement being executed. Mrs. Wiener moved the Flood Insurance Variance No. 5-90 be approved with the condition that the Hold Harmless agreement be executed. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously. Var. 5-90

9. Variance NO. 37-90 - Town of Palm Beach Police Station, 345 S. County Rd.; to allow installation of a six foot rooftop dish antenna for reception of National Law Enforcement Training Network signal, a variance from Seciton 5.51 (f) of the Town Zoning Ordinance. C-TS District. Deferred to the August meeting. Var. 37-90

10. Special Exception No. 7-90 - Chanel, 245 and 247 Worth Ave.; to allow Chanel to expand into Spec.Excep. 7-90

adjoining 245 Worth Ave., creating an occupancy of 2700 sq ft, thereby exceeding the 2000 sq ft maximum allowed. C-WA District. Jane Holzer addressed the Council, as the owner of the property indicating the variance has been reduced to 594.25'. Charles Phillips, Senior Vice-President of Chanel addressed the Council advising the firm is 61% Town-serving and they wish to expand this store to satify their clients who are good customers both in Palm Beach and in other cities. Mr. Heeke asked if there was any way the Town could receive verification of the figures with reaards to the Town-serving statement? Mr. Phillips stated they have it with them.

Ingre Bowdre addressed the Council on behalf of Chanel, indicating the mailing list they use which contains all of their customers show that 61% are from the Town of Palm Beach. Mr. Zimmerman stated they have not looked at every name on the list provided, but he believed it had 1400 names, and 61% of those names are people from the Town of Palm Beach and they further say they have not calculated the number of people who frequent their stores from the local hotels, who are also Town persons and they could increase the percentage above the 61% and staff has no objection to the application. Mayor Marix noted they started out in a smaller shop and made their proof of Town serving and now they are back for more space and she believed that was what the Ordinance was all about. Mrs. Wiener agreed and moved that Special Exception No. 7-90 be granted. Seconded by Mrs. Douthit. Mr. Zimmerman requested that a condition be placed on the motion that they provide an annual statement of their continuing Town-saving nature to which the maker and seconder agreed. On roll call, the motion carried unanimously.

Spec.Excep. 8-90

11. Special Exception No. 8-90 - with Variances - Albert Beriro, 20 Middle Rd.; to allow construction of a paddle ball court adjacent to the west site wall pursuant to Section 6.15 of the Town Zoning Ordinance. Variances requested are to allow the court to be located three feet from the west property line in lieu of 30' as required, and to allow a wall and fence height of 13' in lieu of the allowable 4'. R-B District. Steve Trisize with Design Associates addressed the Council indicating the reason for the request is the new paddle ball court will utilize the portion of the existing site wall currently located adjacent to South County Road. He knows the adjacent neighbors have sent in letters of protest and he thought there was misconception about how the game is played as it is played with a tennis ball. He stated it is played on concrete block walls and they do not resound when a ball is hit against them. He stated the owner does not want lighting and they have no intention of playing the game at night and the south portions of the court will have walls two or three meters high and the total height would be approximately 13.2'. He stated this is similar to the request granted earlier today, it is his contention the walls will contain the noise and send it upward and will protect the property owner to the south and north and the sound will head back to the owner's residence or across County Road to the Everglades Golf Course.

He commented there is a 15' high hedge on the south property line and along South County Road, the existing sidewalk, the existing hedge and the decorative site wall all will be retained and there will be additional screening added. He thought the nature of that portion of South County Road should also be considered as there are five tennis courts located in the area and he exhibited photgraphs showing tennis courts with hedges and walls and without, which set precedents for the granting of this Special Exception with variance.

Mr. Zimmerman indicated the ordinance requires paddle ball courts to be considered as Special Exception uses on the property and staff has no problem with that, however, the second part of the application is the variance request which is the setback from County Road to the face of the west side of the Court and that is approximately three feet, and staff believes this court could be located onto a different portion of the property and comply with all of the requirements. He knows that a portion of the property is a lovely garden but if they could use that area they could probably install this without a variance. Mr. Trezise stated they wish to preserve this garden area and maintain the cabana. Mr. Heeke asked what the hardship was on the setback variance? Mr. Trezise responded it is the existing location of the cabana and an attempt to be considerate to the neighbors to the north and south by locating the court away from their residences.

Mr. Heeke reported there were three letters of objection. Mr. Trezise responded the letters have a basic misunderstanding of how the game is played as it uses a standard tennis ball and they were of the understanding it was a hard ball. Mr. Heeke noted the letter from Mr. & Mrs. Sudbrink does not mention the type of ball. Mrs. Wiener stated there is one letter that does, but the other two have a valid point as they are three feet off the edge of the property and people do shout back and forth to each otehr and the letters indicate this is a quiet neighborhood and in the heat of the game, it will get noisy. Mr. Trezise pointed out it is a neighborhood with humerous tennis courts within a five block period. Mrs. Wiener stated it is not in their back yard and if something is a few feet off of South County Road, it is not nearly as bad as a few feet off a neighbor's property. Mr. Trezise stated that is why he has tried to locate it as close to County Road as possible. Mrs. Wiener asked how far they would be away from the north and south neighbors? Mr. Trezise responded it is about 16'. He stated on the south side, there is quite a large hedge and an awning carport and the neighbor's garage. He stated on the north there is substantial vegetation and a one story section followed by a two story section. He wished to have the best location and they will reorient it, if possible, but he felt that would be more of a noise problem to the neighbor to the south. Mr. Heeke noted there is no hardship and he could not vote for it to which Mrs. Douthit and Mrs. Wiener agreed. Mr. Trezise stated the only other place to put the court would be in the open portion of the yard as the existing cabana and pool makes another section unsuitable. He stated to place it there would allow the open portion to be within the 15' setback of the south neighbor. Mrs. Douthit suggested it be moved eastward. Mr. Trezise stated he would be agreeable to move it somewhat back from County Road but he thought it was a better concept to put it as far away from the neighbors as possible. Mr. Heeke stated if they can place it anywhere on the property and not have the need of a variance, they should do so. Mr. Trezise asked if it were pushed back towards the east, it would require less of a variance and they would be willing to put in additional landscaping. Mr. Heeke stated he still sees no hardship. Mr. Trezise stated to locate it within the setbacks would be more of a hardship for the adjoining neighbors and cause more conflict. Mr. Heeke stated they have the right to do that and then the Council will act on the Special Exception.

Mr. Trezise pointed out there are many precedents set in the area with tennis courts right along South County Road, and even some along the oceanfront. Mrs. Wiener responded these were built under different ordinances and Councils do tighten up their ordinances when they notice there are problems with them.

Mrs. Douthit moved that Special Exception 8-90 with variances be denied on the grounds there are other possibilities which could remove the necessity for the variance. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously for denial.

Var. 6-90

12. Flood Insurance Variance No. 6-90 - Ruth McCullough Morrow, 593 Island Drive, permission to retain the existing finished floor elevation of 7.1 in a house being remodeled instead of the 7.5 foot elevation required by the Federal Flood Insurance Program. R-B District. Lindley Hoffman, Architect addressed the Council for Mrs. Morrow indicating everything she is doing in the remodeling of the home is within the existing footprint of the house, but she would like not to have raised all the bathroom and kitchen fixtures to accommodate the 7.5'. Mrs. Douthit asked if it was more than fifty per cent of the total square footage? Mr. Zimmerman stated it is in excess in dollar value. He stated the request is necessary because the house is less than six inches lower than it should be. Motion was made by Mrs. Wiener to approve the Flood Insurance Variance No. 6-90 with the condition that the Hold Harmless Agreement be executed. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Var. 7-90

13. Flood Insurance Variance No. 7-90 John and Joyce Alban, 422 Australian Ave.; permission to convert a two-family dwelling to a single family dwelling and allow the finish floor elevation to remain at elevation 5.2 feet

in lieu of elevation 7.5 feet as required. R-C District. Michael Secor, General Contractor for the Albans addressed the Council advising they are converting this from a two family residence to a single family and they are at odds with the regulations on the elevation. Mr. Zimmerman stated staff has no objection as this is a small addition and if they will provide the Hold Harmless Agreement, he would recommend approval. Mrs. Douthit moved the application for Flood Insurance Variance No. 7-90 be approved with the condition the Hold Harmless agreement be executed. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

XI. COMMUNICATIONS FROM CITIZENS: Mr. Heeke called for communications from citizens and there were none. Communications from Citizens

XII. ANY OTHER MATTERS:

A. Mayor Marix reported she was in receipt of a request to take part in the 1990-91 Silver Platter Awards, which is an annual culinary award program and they select award winning hotels or restaurants and they have scheduled a black tie gala on De. 7, 1990 and asked her to be on their Board of Governors. She stated any funds raised at this event will be donated to a charitable organization to benefit the homeless and the hungry. Mayor Marix indicated they are calling her constantly and she has advised them through the Manager's office, that they needed to have a charitable solicitation permit and they advised they were not aware of the Ordinance and it was requested they contact the Town Clerk's Office, which she doesn't believe they have done as yet. Mr. Heeke suggested perhaps we could contact the other cities in which they have held these awards and see what the nature of the event was. Mrs. Wiener felt it was a commercial venture. Mayor Marix stated she will decline their invitation. Mr. Heeke suggested perhaps the letter should also state the Town of Palm Beach does not enforse any particular charity or private ventures of this type. Mrs. Wiener suggested she might also want to say that she has many commitments on her time for local organizations. Silver Platter Awards

B. SILVERSTEIN VS. TOWN OF PALM BEACH. Mr. Doney stated he has a letter from Mr. LeRoux from Mr. Randolph's office on the Trust parcel as it pertains to the Silverstein parcel to the north. He stated the matter is scheduled to go to trial next week. Mr. Heeke believed the Town attorney suggested the matter is still in litigation and this would not enhance the disposition of that litigation and we should do nothing on this at this particular time. Silverstein vs. Town of Palm Beach

C. FINANCE & TAXATION COMMITTEE MEETING ON JULY 13, 1990. Mr. Doney indicated they will be submitting summary reports on the current and proposed budget and the Mayor had some additional items she wanted to address at this meeting and he wanted to be prepared staffwise. Mr. Heeke stated he believed there were to be summaries. Mr. Doney indicated he also has some survey information regarding the pension issues and general pay increase issues, although it is early in the budget cycle for the Town and other taxing authorities to be addressing the general pay increase. Finance & Tax. Comm. Mtg.

Mayor Marix stated she has not added anything else to the agenda, but she recalled at the first budget hearing she requested information as to what would be the least detimental items each department could eliminate in order to bring the budget down to what it is this year, and what the ramifications would be. She recalled the upcoming meeting was called basically after discussion was had on what the results would be on the surveys and on what had transpired at the other budget hearings, so they could wrap up what will be requested. She felt there was nothing added adn she didn't want this to be forgotten when the budget is again discussed.

Mrs. Wiener hoped that this would not take up a lot of staff time. Mayor Marix commented she had made this request months ago and she wants to know what the least deterimental thing would be to cut back on the proposed budget, such as not to buy a piece of equipment. Mr. Heeke advised this is not a new agenda item. Mayor Marix stated it was really to bring the budget back to where it is this year and the departments who went up four per cent we would be looking at them to advise us what they could do with the least detrimental effect to cut back their budget by reducing it that four per cent. She felt they owed it to the citizens as elected officials and to be able to know what kind of cuts there could be and what the ramifications would be. Mr. Doney asked if she wanted this information on a program-by-program basis? Mayor Marix felt each department head should know what can be cut as she requested this at the very beginning of the budget process, and again at the middle and they should have some ideas of where they could cut two or three per cent. She recalled that Ben Oehlert used to ask for ten per cent.

Mrs. Wiener asked how much of the ten per cent that Ben Oehlert asked for, did he ever get? Mayor Marix stated sometimes he got it all and sometimes it was less. Mrs. Wiener knew they were facing certain increases that they have no control over, she didn't see how this would be possible. Mayor Marix knew there were fixed expenses, such as insurance, but she believed there should be some way these items should be discussed, which will have a minor effect on the services rendered and she deeply believed there are ways to do this but if no-one else thinks there are ways, she would be happy with that decision. Mrs. Wiener indicated she was not disagreeing there is nothing that can be decreased but when one thinks in terms of thestaff hours it would take and it will come out to minimal increases, she feels it is just an exercise rather than anything else. Mr. Doney understood what the Mayor was saying and it is not to say that they could not make further reductions, but the Town Council should be willing to consider what consequences there may be which will affect the level of service or the department's operation. Mayor Marix believed they were asked previously to do this and probably most have done it, so there shouldn't be any additional staff time necessary. Mr. Doney recalled they were asked to do this previously and the initial instruction was to come in under the four per cent, and some departments have come in under that. Mrs. Wiener thought this was just a passing comment and it was not ordered by the Committee. Mr. Heeke believed the Mayor's comments are that they may have these things readily available to which Mayor Marix agreed. Mr. Doney stated they can go through it on a line item basis. Mayor Marix responded there is no reason to go through it line item by line item basis, providing the department heads have done what was suggested previously as they have been working with the budget for months now and they have gone it through line by line and should have made notes as to the kind of things that are not high priority matters. She felt if they had not done that, there would be no time between now and the meeting later in the week, but she will be disappointed that a perfectly sensible request would have been totally ignored.

D. SPECIAL TOWN COUNCIL MEETING ON AUGUST 3, 1990. Mr. Doney reminded the Mayor and Town Council about the special Town Council Meeting to set the tentative millage on August 3, 1990 at 9 AM. Spec. Town Council Mtg.

E. RICHARD FORD VS. TOWN OF PALM BEACH. Mr. Randolph explained he has received a letter from Mr. Ford's attorney, Frank Kreidler which was received at 5 PM last evening adn attached to the letter are six pages of affidavits relating to attorney's fees expended by the plaintiff. He summarized the letter is a request for $5000 for the plaintiff for nominal damages to be paid to him directly and the costs in the amount of $1,444.50 be paid and further that the attorney's fees be paid in the amount of $47,085. He stated the affidavits apparently reflect the time expended. He reported since the case was taken on a contingency basis of an enhancement figure of 100%, which is how they reached the request for $47,085. they feel if they had to go back to court to request the attorneys fees, they will ask for an enhancement figure of 200%, which comes to $70,627.50. He reported it is difficult for him to make any recommendations on this since he just received the communication last evening but the letter indicates the offer is open for fifteen days and then will be withdrawn. He reocmmended that there is no action necessary to be taken today and within fifteen days, after everyone has had an opportunity to digest the contents of the letter, if the Council decides to accept the offer or make a counter-offer, a Special Town Council meeting can be held to Ford vs. Town of PB make that decision. He stated if the Council chooses not to respond or accept the offer, the offer will be, according to the plaintiffs, pulled from the table. Mr. Heeke felt any discussion on the Council's part would be speculative at this time and he suggested they wait until they can have the benefit of the Town Attorney's opinion, after he has an opportunity to digest this.

Mrs. Wiener felt they basically are saying in this letter what they want and if we give it to them, they will go away and if we don't they'll go back to court and she didn't believe that part of this will change. Mrs. Douthit stated they will be looking for more. Mayor Marix agreed with Mr. Heeke and Mr. Randolph as she has had time to read the letter and the attachments, and she didn't believe a decision can be made at this time.

Mr. Heeke pointed out there is still no written opinion from the Federal Court on this case as yet. Mayor Marix stated she felt they should leave their options open at this time.

Mrs. Wiener believed another option available would be to advise them of the Council's feeling and have them come back with something else. Mrs. Douthit stated she would not want to make any decision at the moment as she hasn't had an opportunity to read the letter as yet.

Mr. Weinberg felt they needed to have the Town attorney's advice on this and he wanted to wait until that was available. Mrs. Wiener felt the figure of $47,000 for their fees was an outragious figure. Mr. Randolph advised this has been passed on to the Mayor and Council as a settlement offer, and if it is not accepted within the fifteen days, it will be withdrawn.

Adjournment

XIII. ADJOURNMENT. There being no other matters to come before the Mayor and Town Council, the meeting was adjourned at 1:30 PM.

Grace T. Peters, Town Clerk

TC Mtg. 7-20-90

MINUTES OF THE SPECIAL TOWN COUNCIL MEETING
HELD ON JULY 20, 1990

Roll Call

I. CALL TO ORDER AND ROLL CALL. President Heeke called the Special Town Council Meeting to order on July 20, 1990 at 3:30 PM in the Town Hall Council Chambers. On roll call, the following elected officials were found to be in attendance: Mayor Marix, President Heeke, President Pro Tem Heeke, Councilwoman Douthit, Councilman Weinberg. (Councilwoman Wiener was not in attendance). Also attending were Town Manager Doney, Town Attorney Randolph, Chief of Police Terlizzese, Town Clerk Peters, Building Official Moore and Mr. Jakubiak.

Invocation

II. INVOCATION ADN PLEDGE OF ALLEGIANCE: Invocation was given by Mrs. Peters. Pledge of allegiance was led by President Pro Tem Ilyinsky.

Appr. of Agenda

III. APPROVAL OF AGENDA: Motion was made by Mrs. Douthit to approve the agenda. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Ford vs. PB

IV. CONSIDERATION AND DISCUSSION OF PROPOSED SETTLEMENT OF CASE OF RICHARD FORD AND THE FRATERNAL WHITE KNIGHTS OF THE KU KLUX KLAN VS. TOWN OF PALM BEACH AND JOSEPH TERLIZZESE (CASE NO. 90-8267). Attorney Randolph gave his comments on the settlement proposal he recommends for the Town Council's consideration. He noted the se-tlement figure requested was for a total of $53,599.50, which included attorneys' fees in the amount of $47,085.00, damanges in the amount of $5,000 and costs in the amount of $1,514.50. He stated he has been negotiating with the plaintiff's attorneys and they are agreeable to settle all issues pending in this case, including, but not limited to, all claims for damages, compensatory and punitive, against the Town and the Chief, the claims relating to the Town's Ordinance, and the matter of attorneys' fees and costs, by accepting the total sum of $27,501.50 with this figure primarily composed of the attorneys' fees that constitute an amount reflecting the hours actually spent in this case to date, without an additional enhancement, which the Federal Courts normally do allow in cases of civil rights cases. He stated he knows they could choose to appeal the decision from Judge Roettger but the likelihood of the Town prevailing on an appeal is questionable. He indicated in return for the $27,501.50, the Plaintiffs will dismiss their lawsuit against the Town and Chief Terlizzese with the case not dismissed, however, until after the parade event on July 28, in orderto ensure the Plaintiffs they are able to go forward with their parade and that it not be cancelled for unforeseen circumstances. He recommended no monies be expended until the case is dismissed and simultaneously with the dismissal of the case, the Town will receive a general release from the Plaintiffs releasing the Town, its agents, employees and representatives and Chief Terlizzese from any and all claims against them by the Plaintiffs.

Motion was made by Mr. Ilyinsky, seconded by Mr. Weinberg that the negotiated settlement figure of $27,501.50 be approved. On roll call, the motion carried unanimously.

Mr. Weinberg stated he was in favor of the settlement but he does vote affirmatively with great regret. Mrs. Douthit stated she also voted for it very regretfully and Mr. Heeke echoed their sentiments.

V. ANY OTHER MATTERS. There were no other matters to come before the Council.

Adjournment

VI. ADJOURNMENT. Mrs. Douthit moved for adjournment. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously. Meeting was adjourned at 3:45 PM.

Grace T. Peters, Town Clerk

TC Min. 8-3-90

TOWN COUNCIL MINUTES OF SPECIAL TOWN COUNCIL MEETING
HELD ON AUGUST 3, 1990

Roll Call

I. CALL TO ORDER AND ROLL CALL: The Special Town Council meeting was called to order by President Pro Tem Heeke at 9:07AM on August 3, 1990 in the Town Hall Council Chambers. On roll call, the following elected officials were found to be in attendance: Mayor Marix, President Heeke, President Pro Tem Ilyinsky, Councilwoman Douthit, Councilman Ilyinsky. (Councilman Weinberg arrived a few minutes later. Councilwoman Wiener was absent.)

Invocation

II INVOCATION AND PLEDGE OF ALLEGIANCE: Invocation was given by President Heeke. Pledge of Allegiance was let by President Pro Tem Ilyinsky.

Appr. of Agenda

III. APPROVAL OF AGENDA: On motion of Mrs. Douthit, seconded by Mr. Ilyinsky, the agenda was approved as printed. On roll call, the motion carried.

IV. FY91 PROPOSED BUDGETS:

FY91 Proposed Budgets

A. 1990-91 FISCAL YEAR "TENTATIVE" MILLAGE RATE AND BUDGET FOR GENERAL FUND AND PROPOSED BUDGETS FOR OTHER FUND GROUPS. Before conclusion of meeting in accordance with Section 200.065(2)(b), Florida Statutes, the Town Council shall announce and advise on the following: