

* TC July 9

mid-town
erosion
control
measures

Mayor Marix referred to the exhibit shown to them this morning by Mr. Rauch and asked if the beach was the same there? Mr. Lickle stated it was 100 feet to the water's edge, so what they are talking about is the design of the beach after it meets the water and how that differs in storm protection. Mr. Dusey asked if Mr. Campbell could comment on whether the beach was the same on the proposal? Mr. Campbell responded he has not evaluated that proposal. Mr. Campbell responded he has not evaluated that proposal which was submitted this morning. He advised it was important to understand that when a beach restoration is installed, it restores the dry beach and has a toe that goes considerably off-shore and shallows the water in that area. He felt one other way of making the projects compatible would be to place the off-shore units on top of the fill at the proper depth and the proper distance off-shore and not using them as a perch but as originally intended, which was to create an off-shore breakwater effect. He stated in the analysis that the University of Florida would be undertaking, they could take a look at that as well, possibly not moving them into deeper water but placing them at the proper location after the fill is in. Mayor Marix stated that would be if they ever got the monies. Mr. Campbell recalled one of the problems with regards to the Federal monies this year was that the GD, had not been totally reviewed by the Corps and we were not in the Corps' budget, so they had to get into the budget outside of that process. He believed the timing that they currently are going through that the Corps would have approved the document by the time they take up their issues of proposing budgets and they will be in the next budgeting cycle and get into the next process.

Attorney Jay Jurgens advised the Mayor and Council that there has been a lot of good dialogue this morning, but since his practice is limited to environmental permitting, he wished to caution them to not merge the permits, as he could foresee problems with the different agencies. He stated there is no reason why they can't move parallel with the two different projects, secure permits on both and build them in a timely fashion. He believed the way the DER permits are currently structured, they would jeopardize both of the permits if they merged the DNR Permit at this time. He felt it took a lot of work and effort to get the DER Permits in hand and they very well could be jeopardized and would have to start over. He believed there was no reason why if the Council was going to move forward with the sand project and then compliment it with a reef that the current application pending before DNR could be modified with whatever changes the studies would indicate to make it necessary for them to make the projects complimentary. He felt they may have to modify the sand permit slightly but more than likely that project is designed the way it should be and it would simply be a matter of modifying the Reef permit, as the additional studies should indicate and then they could go back to the DER and seek a modification of the existing permit, which hopefully they would treat as a modification.

Mayor Marix asked if it would serve any purpose for Mr. Ryder to go back to Tallahassee, before a decision is made on this matter, and tell them what has gone on here this morning? Mr. Heeke believed they could appreciate the DER problem that we don't want to start from round zero and the whole object of this exercise is to get a beach. He stated they are getting ensnared as each bureaucracy has different tests and requirements and he is sure Mr. Ryder can sense the Council's extreme frustration and they are trying to chart a course which will not jeopardize either approach, and so they would be in a position to move forward financially, depending on the Federal funding. He stated they have no problem with what kind of a program it will be, and whether it is a marriage of the two or one or the other, but he felt they needed to be in a position to make a decision to move forward.

Mayor Marix pointed out the more they wait, the more inflation will eat them up and also there always is the impending storm.

Mr. Weinberg stated they evidently must have the compatibility feasibility study as the reef and the restoration have to be able to work together. Mrs. Douthit thought they elected to proceed with that. Mr. Heeke advised they needed a motion. Mr. Weinberg moved that a compatibility study be made and no action be taken until that study is completed and then it be studied by the Town Council. Mrs. Douthit stated she would second it with the condition that Mr. Campbell's computer program with all its information could hopefully be provided to the University in an effort to save time and money. Mr. Heeke asked if the Council wished to have an estimate of what this study will cost? Mr. Weinberg amended his motion to state that after an acceptable estimate is received, a compatible study be made and no action to be taken until the study is completed and submitted to the Council.

Mayor Marix asked if Mr. Ryder would be good enough to find out what they should be doing as well.

Mrs. Douthit as the seconder accepted the amended motion. On roll call, the motion carried unanimously.

Mr. Heeke commented that they would all be looking to Mr. Ryder's office for their recommendations as they are exhausted with regards to ideas. Mr. Ryder stated his office is also. Mr. Heeke stated Mr. Ryder's department could serve a very important function in this by making suggestions bearing in mind, the other considerations which are looming out there with regards to the Corps and the DER. Mr. Heeke thanked Mr. Ryder for focusing on this today.

Adjourn-
ment

VI. ADJOURNMENT. There being no further business, the meeting was adjourned at 12:22 PM.

Grace T. Peters
Town Clerk

TOWN COUNCIL MINUTES OF
MEETING HELD ON JULY 9, 1991

Roll
Call

I. CALL TO ORDER AND ROLL CALL: The Town Council meeting of the Town of Palm Beach was called to order by President Heeke at 9:30 AM on July 9, 1991 in the Town Hall Council Chambers. On roll call, the following were found to be in attendance: Mayor Marix, President Heeke, President Pro Tem Weinberg, Councilman Ilyinsky, Councilwomen Douthit and Wiener. Also attending for all or portions of the meeting were: Mr. Doney, Attorney Monaghan, Mrs. Peters, Mr. Dusey, Mr. Elwell, Mr. Jakubiak, Mr. Moore, Mr. Frank, Mr. Zimmerman, Chief Terlizzese, Chief Elmore and Mr. Dytrych.

Invocation

II. INVOCATION AND PLEDGE OF ALLEGIANCE: Invocation was given by Father Warren and Pledge of Allegiance was let by President Pro Tem Weinberg.

III. APPROVAL OF MINUTES - None.

IV. APPROVAL OF AGENDA: Motion was made by Mr. Ilyinsky, seconded by Mrs. Wiener to approve the agenda with the following changes: withdrawn was Item XIII. B.2 - Variance No. 36-91, Wynne S. Ballinger and postponed to the August 13th Town Council Minutes was Item XIII. B.2, Variance No. 38-91 - Donald Trump. On roll call, the motion carried unanimously.

Pre-
sentation

V. PRESENTATION: Mayor Marix recognized Sgt. William L. Cypher of the Police Department with a plaque for his 24 years 2 months of service.

Comments
of Mayor

VI. COMMENTS OF THE MAYOR: "As we gather for this July meeting, we are in the middle of summer.... hot weather, not much traffic, many people on vacation; even Mar-a-Lago has been deferred from this meeting.

Not much would seem to be of disaster proportions to the Town; no earthquakes, hurricanes, riots, or floods. However, we are today facing items, which can forever change the Palm Beach as we know it...the Palm Beach, that each and every Elected Official has assured the voters they will try to maintain, and the Palm Beach with the quality of life that we were elected to protect.

Comments of
Mayor

1. The onslaught from the Port of Palm Beach, with their midsummer announcement of details of the plan to expand. The effect on all surrounding communities cannot be understated...whether it is the air we breathe (all the black soot-like material that comes from their stacks, which used to be blamed on FP&L), the disaster areas from the ecological point of view include among many items the sea grasses, the small tropical fish found near the inlet area, almost certainly the manatees... and what about the recreational values found in small boating, sailing, or snorkeling? How about the even more debris being thrown overboard?

If this project is not stopped, it will be a devastation to the area.

2. The requests for waivers to our zoning in progress...we knew we had a problem, and we correctly asked our Zoning Commission to look into it, so that the right steps could be taken. In order to do so, -there is a zoning in progress status. At this meeting alone, we are being asked to give waivers to two different properties. This, in my opinion, will completely undercut any work that the Zoning Commission could do. The houses will be on the way by the time that they meet. Let us not forget that the reason that they only meet in the fall, is because so few people are here in the summer to give input. The residents trusted us that zoning was in progress when they left...we cannot let them down.
3. The tours of up to some 40 people on Worth Avenue, if allowed to one group will have to be allowed to any group, so we could end up with groups all day every day. Worth Avenue is one of our greatest assets, we must not let it be ruined as have been many other lovely shopping streets. No question business on the Avenue in the summer is not good, but so many other factors cause it. The rents are very high, which reflect on the prices... this is partly caused by the tax structure. I have heard many complaints that much of the merchandise is not suitable for many of our residents...they cannot all wear the mini mini skirts which are often shown, etc., but the largest problem can well be that more and more summer type shoppers are being taxed out of Town. They are moving in great numbers to the mainland, their taxes have risen to impossible amounts, and the reason constantly given is that they newly built million and more houses nearby have affected their values. One sees more and more of these multi-million dollar houses going up, but one does not see many open in the summer. Owners of that type of home normally do not stay here all year. As the taxes go up, the houses are sold, torn down, and replaced by more million dollar homes. We are almost heading for the days I remember when the Avenue was closed in the summer, and the street lights taken down. Few stayed here in the days gone by, because except in the mid-Town section, there were no small homes, like were built in the 50s and 60s.

It is the tax issue that should be attacked through legal and legislative action if a solution is to be found, not degrading Worth Avenue through tour groups. In Palm Beach instead of Saturday night specials, we have something even more devastating, our summertime specials.

We can dream about the future (or nightmare about the future, a better word).

A congested port driving away those who wish to enjoy the area.

An ocean front mansion (mostly closed in the summer)

Many a home for sale, at a loss to pay taxes. Tour groups pushing their way down the narrow pavements of Worth Avenue driving away the very business we are striving to encourage.

Is this waht we were elected to allow? Of course not, so let us work together and help hard to keep Palm Beach the "Jewel of the Gold Coast".

Mrs. Wiener stated she felt if they are so set on "days of yore" to the point where they will be spending time, money, energy, effort, hysteria, etc. on keeping 30 or 40 people from walking down Worth Avenue and she didn't believe that was why they were elected and she had a problem with it. She thought very often they are in a position and what they read in the paper about the Town and the attitude people have are perhaps correct when they go after a few people who want to wander the streets of Palm Beach. She didn't believe this was going to involve hundreds of people but a small group who want to wander the streets of the Town. She thought they should realize they are a major tourist attraction and whether it be in the Dock area, the mansion district, or whatever, they can't have it two ways and when pressure is over-exerted in an area, it is her feeling there will be very little happening, but if they talk it up and go in this direction, that may be the cause for inundating Worth Avenue.

Mr. Heeke thought the function of the elected officials was to protect the residents and people who work in the Town and asked that this matter be brought up later in the meeting under "Any Other Matters."

VII. PUBLIC HEARING:

Landmark Designation:

A. Landmark Designation for 25 Middle Road - Consideration of Resolution No. 28-91. Deferred from June meeting. Mrs. Peters advised proof of publication was on file. Mrs. Peters gave the oath to those who would be speaking on this particular matter. Mr. Frank advised staff has found this property meets the following criteria for designation, in accordance with Section 16.38, meeting Criterion C, that it embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction, or use of indigenous materials or craftsmanship. Mr. Paul Martins, consultant to the Landmarks Preservation Commission, addressed the Mayor and Council, exhibiting slides of the property, indicating this property is also known as Quinta Marina, designed by Haold H. Martin in 1924 for Mr. & Mrs. Lorenzo E. Woodhouse and is one of the oldest houses on Middle Road. He noted the design is a reflection of the popularity of the Mediterranean Revival style in the twenties. He commented that this estate is well hidden from Middle Road as large trees and diversity of vegetation cominate the site and the property is also separated from Middle Road by a five foot high stucco wall, with a prominent entry gate in the center. He advised the main block of the house is two stories tall with a projecting center section flanked by subordinate sections and the west elevation is impressively arranged with an impressive arched entryway in the center, and is flanked by pairs of Byzantine columns with Corinthian capitals and within each set of columns is a concave niche, which holds a potted plant or could hold statuary. He reported the window opening are refined with modest rectilinear openings fronted by iron grilles and both attic vents are embellished in a decorative quatrafoil pattern and a barrel clay tile on a moderately pitched roof line. He exhibited photographs of the inner courtyard with a series of repetitive arches. He reported an article was written by the architect, Howard Mayor who states this property is one of the finest examples of symmetrical Spanish composition in the Town of Palm

Public
Hearing

Res.28-91

Beach. He stated this property is worthy of the Town's Council consideration of landmarking.

Mrs. Douthit moved the Designation Report be made a part of the record. Seconded. On roll call, the motion carried unanimously.

Res. 28-91 Mr. Paul Mason, owner of the property, addressed the Council, noting this house was built by his wife's grand parents sixtyseven years ago and he is in favor of landmarking. He reported the home has been continuously occupied by four generations of his family to date, however, he requested the designation of his property as a landmark not be approved. He stated his two reasons are one, a general one, which applies to the landmarking of any private home and the other is specific to 25 Middle Road. He recalled when each of the elected officials were seeking election to their office, they stated many times that they would make every effort to preserve the character and quality of life in this Town, and in large part, that is why he voted for each of them. He is in favor of the aims of the Landmark Commission, but his argument is in the implementation of those aims. He presented an argument to the Commission that a designation of a private residence as a landmark significantly reduces the value and marketability of the property although several Commissioners maintain that this is not so. He did attend the meeting held by the Preservation Foundation at the Four Arts in May at which time there were five speakers and a moderator and each one devoted a significant portion of their remarks to this problem. He noted the head of a Worth Avenue Brokerage firm stated that when he was driving prospective buyers around the Town, pointing out properties that were for sale, a typical response to being informed that a particular home was landmarked was a complete loss of interest immediately by the buyer. He has had the opportunity since that time to interview twenty real estate brokers and with only one exception, they are all of the opinion that landmarking does substantially reduce the market value of residential property and this is not only due to the elimination of the speculator who would want to demolish the existing structure, but applies equally to the buyer who wishes to restore the preserve the existing architecture.

Mr. Mason recalled several years ago a nonresident property appraiser prepared a report for the Landmark Commission and despite that, it is evident that the vast majority opinion of those who are charged with finding buyers for the residents, is that a severe financial hardship must be endured by homeowners by those properties which are designated as landmarks by the Town. He did not think the problem was with landmarking per se, but with the implementation of policy, and it is largely a public relations problem as most of the brokers and real estate attorneys are not familiar with the details of what landmarking actually means to the property owner who is considering plans for restoration, renovation or modification to make the property compatible with current life styles. He felt a comprehensive pamphlet distributed to attorneys, brokers and interested homeowners could change the public perception and possibly make landmarking something to be desired and sought after, rather than resisted and avoided at all costs. He requested respectfully that his home not be designated as a landmark at this time.

He had a second and unrelated part of his presentation and that is he questioned the appropriateness of declaring his property a landmark, as when the original decision was made, it was believed that Marion Sims Wyeth was the architect and the preliminary designation listed him as the architect. He pointed out that this was not the case and gave the name of the architect who actually did the design, but never set foot in the State of Florida nor is he the architect of any other town residences. He pointed out the facade of his house is not visible from the street, as there is a high wall and heavy foliage and the photographs and slides presented demonstrate this. He stated there is a second high wall between the driveway and the majority of the house, property and gardens and that wall in some places is as high as twenty feet. He stated all but one of the members of the Landmark Commission who voted for the designation had never seen the house and were relying on the historical bibliography of questionable veracity. He felt it was not appropriate that a residence be declared a Town landmark on this type of evidence. He felt the very most that could be designated as a landmark would be the facade facing the street and even that would require a stretch of credibility. He again requested the Council not landmark his home.

Mr. Frank responded with regards to the architect named, it was discovered to be in error and they have corrected the designation report. He pointed out this wrong information was contained in a resource book, and in addition the only other comment he would like to make is the fact that the estate is well-hidden does not become part of the criteria for landmarking and if the property is not landmarked, the high wall and the shrubbery could be removed without approval of any commission. He disagreed with Mr. Mason as to the diminution in value and the real estate community has never produced a document which substantiates that fact, but on the contrary, the appraisal and real estate firms they have used indicate property values increase when they are landmarked in the Town of Palm Beach.

Mrs. Jane Volk, Chairman of the Landmarks Commission, addressed the Council, noting that it may be that Mr. Martin coming from California did not have an architect's license to practice in the State of Florida, and it was not unusual for someone to have an architect from one state move together with another architect who was properly licensed, and she knew that Mr. Wyeth did that often as he did work with Joseph Urban on Mar-a-Lago, so that is a possibility.

Mrs. Volk felt the information with regards to real estate is something the Landmark Commission has to deal with all of the time, and it does keep landmarking from being a picnic. She believed this is misinformation in the worse possible way and if people took the time to care about the Town and the reason why people settle here, is because it looks the way it looks. She recalled a survey was done in March, 1990 by Mr. Edward W. Mitchell, a real estate broker and a recognized real estate appraiser and she read from his letter, in which he speaks about real estate from 1984 to 1990, and in reviewing 36 sales of the landmarked properties, there was no indicated diminution in value from their sale prior to designation, nor was there any indication that their increment of increase in market value, after designation, was reduced or was less than that which occurred for similar undesignated properties. She stated he concluded in his letter that landmarking does not detrimentally effect its fair market value and sentiments to the opposite confuse and are detrimental to all our interests. She wished to point out the other untrue thing that is said about the Landmark Commission is that they do not allow changes, which is an absurdity, as changes are allowed all of the time as they realize houses do age and they change but what they are trying to make people understand in the stewardship of a beautiful house is what they are changing, should be changed with sensitivity and they do try to help them. She encouraged the Council when they hear about these negative remarks about landmarking, they bring it to the Commission's attention.

Mrs. Volk recalled Mr. Mason's statement that virtually none of the Landmarks Commissioners had been by to see the house. Mrs. Volk remarked that normally all of the Commissioners do go by and see the houses that are being considered for landmarking, and that is her habit and she has seen this house. Mr. Mason advised if Mrs. Volk saw it, she was trespassing. Mrs. Volk advised she saw it from the street and further, she had been in the house with her husband many years ago.

Mr. Ilyinsky indicated he too has been in the house and what terrifies him about not landmarking a beautiful place like this, is the specter of the developer, to which Mr. Mason agreed. Mr. Ilyinsky recalled Mr. Mason stating he would not want this house landmarked "at this time", commenting that if Mr. Mason would assure him that he would not tear this house down within his lifetime, he would be appreciative of that. Mr. Mason responded as long as he owns the house, it would not be torn down. Mr. Ilyinsky advised he lives in a landmarked house and was told a certain amount of money was going to be offered to buy his house, and he found out later, it was a developer who was simply

going to tear it down and construct two smaller homes on his lot. He agreed that he has yet to see proof positive that a landmarked house has ever lost its value.

Mr. Mason stated it is not the fact, but the perception of the real estate and legal community and that perception controls most of their lives. He recalled he stated he was opposing landmarking of his property "at this time" and those words were intentional, as he is in favor of landmarking and wants to preserve his house, and if he is forced to sell it, he wishes to bring his grandchildren by ten years from now to show them the house their parents were raised in; but he was asking them to not saddle him with the unbearable burden financially of trying to market this house with a landmark status, in an environment where the perception is that a house like his which requires a lot of maintenance and restoration from a 1923 lifestyle to a 1991 or 1992 lifestyle, as he believes that is the house that suffers most. He recalled there is a house on his street owned by Mr. Thomas who spent several million dollars restoring it and after landmarking it, found it to be an asset, not only for him but for the whole street. Res. 28-91

He has a document in his possession which was written by the head of a brokerage firm in Palm Beach to a client who had looked at his house and he read it to the Landmark Commission, and he was willing to furnish it to Mr. Moore. He stated the letter is not signed and he will not identify the broker who wrote it. Mr. Heeke advised Mr. Mason that several years ago the Council crossed the bridge in landmarking from voluntary versus involuntary landmarking and the Ordinance is in place and either the structure is worthy of landmarking or it is not, and from there they moved forward. He stated they invariably prefer the voluntary designations as that makes their task a lot easier. He recalled at the last meeting 91 Middle Road was landmarked and that also is one that is not visible from the street, however, what Mr. Frank says about the visibility is not a reason to stop landmarking is a very accurate statement. He stated the Council's concern is not with Mr. Mason, but with a subsequent owner who might not want it. He stated the Council has heard many arguments both pro and con on the real estate values of landmarked homes, and also have witnessed some very fine changes to landmarked structures. He advised interior remodeling does not in any way effect landmarking, as it is strictly exterior. Mr. Mason stated he was aware of that, but they have to convince his potential buyer. He commented a lot of the real estate community is not aware of the fact that interior remodeling can be done without a problem. Mr. Heeke reported there is a publication which is in the works which may add some light to the subject.

Mayor Marix agreed with Mr. Mason that the public relations are not what they should be and she didn't believe they should wait to get out some special booklets on the landmarking process. She believed there probably would be one or two facts that could be sent to the realtors by way of letter which also would obviously invite them to seek more details until the publication is printed. She felt the facts that they can do whatever they want inside should be made available to the real estate community, and she didn't see why that couldn't be done now rather than wait for the printing of the publication. Mr. Heeke believed there should also be some illustrations of work that had been permitted to allay these fears.

Mrs. Wiener asked where the booklet was at this point? Mr. Moore stated they are in the stage of almost being ready to go to print on the Landmark Restoration Manual, which will answer many of the questions, and advised the Mayor and Town Council they have written letters and have spoken to various groups and Mrs. Volk will be speaking to the realtors tomorrow. He believed there was one thing being left unsaid by Mr. Mason, as it is his opinion at this point there is no realtor who would ever quote someone a fact that it is acceptable to have a property not landmarked when the property is subdividable into two lots. He stated that is the fact in this particular case as there is enough property there to allow for two homes and there is nothing that could be printed that could take away from the fact that this property is more valuable for two houses than it would be for one house, as that is a market condition that exists today. He stated the issue is whether this house is worthy of landmarking and the developing interest should not be a concern of the Council at this point, as the evidence presented to the Mayor and Council on the worthiness of the landmark structure is what is before them today.

Mr. Mason questioned the fact that the property would be able to support two houses as 25' on the north has been sold off. Mr. Moore stated he was not aware of that fact.

Mrs. Wiener believed they were talking about an individual piece of property here, recalling a few months ago, there was a similar case before the Council, and what happens is the facts were not there. She felt when someone attaches a name like Wyeth to a home, it suddenly becomes necessary for the house to be landmarked. She recalled they had a situation where they had gone down the road, administratively and she doesn't know how these things do occur, where the owner himself has to tell us these facts are incorrect. She stated she has a serious problem with the staff comment made this morning after it was learned the house is not viewable by the public that if it were not landmarked, perhaps it might become viewable by the public, as the walls and trees could be taken down. She has a real problem here as we talk about freedom and we have here not a developer, not someone new in Town, but a four generation family and she suggested they put themselves in his shoes, in terms of landmarking, and think about it. She stated she heard he would sell to a developer, also that two houses could be placed on the property, which again are incorrect facts.

Mr. Heeke felt the issue was still under the Ordinance, does it or does it not qualify? Mrs. Wiener stated she would say it doesn't.

Mr. Moore responded what is before them is whether or not the house is worthy of landmarking or is it not worthy of landmarking and the side issue of whether or not the property could be subdivided is not germane to this issue. He acknowledges a mistake was made as to the original architect but the research material was incorrect, and it was an area in the research material which was used in error and Mr. Mason did correct the error, the Landmarks Commission did review it with the new architect on record and it is now before the Council for their consideration, based on these facts.

Mr. Ilyinsky recalled there could be a solution here if the facade were landmarked and he made a motion to postpone this matter for thirty days and perhaps there could be a compromise made. Mr. Mason agreed to waive his rights on this matter until the August Town Council meeting.

Mr. Heeke advised he was inclined to support the landmark designation. Mrs. Douthitt agreed as she thought it was a superb house which she visited by invitation also. Mr. Weinberg seconded the motion made by Mr. Ilyinsky. On roll call, the motion carried unanimously.

VIII. LICENSES AND PERMITS

A. Charitable Solicitations

1. Alzheimer's Association; No. 256-91
2. Planned Parenthood of the Palm Beaches; No. 120-92

Mrs. Peters reported the applications for the charitable solicitation permits are in order and recommended for approval by staff. On motion of Mr. Ilyinsky, seconded by Mrs. Wiener, the permits were authorized by the Town Council. On roll call, the motion carried unanimously.

Licenses &
Permits

9

Committee
Reports

Public
Works
Comm.
Mtg.

IX. COMMITTEE REPORTS:

A. Report on the Public Works Committee Meeting Held on July 3, 1991

I. CALL TO ORDER AND ROLL CALL. A meeting of the Town of Palm Beach Public Works Committee was called to order at 9:30 AM on July 3, 1991 by Chairman Weinberg. On roll call Committee members Chairman Weinberg and Committee member Ilyinsky were present. Also, attending the meeting were: Mayor Marix, Town Manager Doney, Mr. Dusey, Mr. Bowser, Capt. Croft from the Police Department and Ms. Reedy.

II. APPROVAL OF AGENDA. Mr. Ilyinsky recommended approval of the agenda. Mr. Weinberg amended the agenda to add the Mid-Town Seawall. Agenda was approved.

III. CONSIDERATION OF PAVEMENT WIDTH OF NORTH COUNTY ROAD FROM WELLS ROAD TO COUNTRY CLUB ROAD. - Committee recommends that the required number of "no passing" signs be erected in each direction from Wells Road to Country Club Road, the Police Department initiate strict enforcement of traffic regulations in this area, and the Police Department carefully monitor this area for six months. At the end of this six month period, the Police Department carefully monitor this area for six months. At the end of this six month period, the Police Department should provide a report of enforcement actions initiated and their comments and recommendations on this matter. Also, Mr. Guyott who is a Town Resident and lives at 202 Plantation Road offered comments and concerns regarding speeding, passing and other traffic issues in this area. Further action could be considered at the end of the six months period by the Public Works Committee.

IV. CONSIDERATION OF PROPOSED MEDIAN BEAUTIFICATION FROM WELLS ROAD TO MIRAFLORES DRIVE - Committee recommends that Mr. Dusey determine what varieties of vegetation are proposed for the median and submit a detailed conceptual plan for further consideration by the Public Works Committee.

V. CONSIDERATION OF REMOVAL OF FLASHING TRAFFIC SIGNAL AT NORTH COUNTY ROAD AND COUNTRY CLUB ROAD - Committee recommends removal of flashing traffic signal at North County Road and Country Club Road.

VI. CONSIDERATION OF EXTENSION OF THE SOUTH END PEDESTRIAN/BICYCLE PATHWAY NORTHWARDLY TO NORTHERN MOST SLOAN'S CURVE DEVELOPMENT DRIVEWAY - Committee recommends that the Pedestrian/Bicycle pathway be extended at the estimated cost of \$10,000, in accordance with the description of this project as identified by Mr. Dusey.

VII. CONSIDERATION OF ALTERNATIVE MODIFICATIONS TO YARD TRASH TRUCKS TO MINIMIZE LOSS OF VEGETATIVE MATERIAL DURING TRANSPORT - Commission recommends the Public Works Department modify three yard trash trucks now with doors and evaluate same, which were going to be overhauled in the coming fiscal year. If successful, any new purchases of trash trucks will be purchased with the doors.

VIII. ANY OTHER MATTERS - CONSIDER MODIFICATION OF THE PARAPET WALL AT MID-TOWN BEACH AREA TO PREVENT PEOPLE FROM STANDING ON THE WALL - Committee recommends that as a "sample" project, the Public Works Department place concrete buttons and pyramids on the wall temporarily, and then determine if it would be practical to install them permanently if this will address the concerns on this matter.

2. Mr. Dusey advised that the Town has an interlocal agreement with the City of West Palm Beach regarding the sanitary sewage treatment plant and there is a proposal to enter into a new interlocal agreement which would give the local entities more authority in actions taken by West Palm Beach. Mr. Dusey said that he will need to further research this matter and advise on same, but this matter will need to be considered by the Mayor and Town Council within the next few months.

3. Mr. Doney advised that several storm drainage projects which were to be done on an assessment basis were recommended to be deleted from the FY-92 Proposed Capital Improvement Program by the Finance and Taxation Committee. Mr. Doney advised that this matter will need to be thoroughly considered so as not to create peaks and valleys in the annual funding of the Capital Improvement Program. This matter will need to be considered further by the Finance & Taxation Committee, and by the Mayor and Town Council at the meeting on August 1st or before, because the Capital Improvement Program Funding will have an affect on the operating millage rate for FY-92.

Adjourn-
ment

IX. ADJOURNMENT. Meeting was adjourned at 10:50 AM.

signed M. William Weinberg, Chairman & Paul R. Ilyinsky, Committee Member

Mr. Weinberg stated the first consideration was to consider the widening of North County Road from Wells Road to Country Club Road, and the Committee recommended there be an additional number of "No Passing" signs erected in each direction from Wells Road to Country Club Road and the Police Department initiate strict enforcement of the traffic regulations in this particular area for a period of time, up to a six months period, during which period, this will be monitored and a report made to the Council. Motion was made by Mr. Ilyinsky that the recommendation of the Committee be implemented with the posting of the "No Passing" Signs on North County Road from Wells Road to Country Club Road.

Mayor Marix recalled there was also a request that the minimum speed of 25 to 35 miles per hour be strictly enforced also.

Mr. Ilyinsky amended his motion to include there also be posted minimum and maximum speed limit signs, as well as the "No Passing" and the Police Department strictly enforce the traffic regulations in this area. Seconded by Mr. Weinberg. Mrs. Wiener felt they would have to crawl behind someone going eight miles per hour. On roll call, the motion carried 3-2 with Mrs. Douthit and Mrs. Wiener voting against the motion.

Mr. Weinberg pointed out Mr. Dusey was asked to determine what type of vegetation should be planted in the median from Wells Road to Miraflores Drive and there is no action required on this until they receive a report from the Public Works Department.

Mayor Marix stated he was asked to give a verbal report and not spend a lot of time and money in drawing pictures.

Mr. Weinberg indicated the Committee recommended the flashing traffic signal at North County Road and Country Club Road be removed and Mrs. Wiener so moved. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Mr. Weinberg advised there is a recommendation from the Public Works Committee there be an extension of the bicycle pathway in the south end northwardly to almost the Sloan's Curve development. Mrs. Douthit moved the recommendation for the extension of the bicycle pathway in the south end be approved. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Mr. Weinberg reported there was a recommendation to modify the yard trash trucks to minimize the loss of vegetative material during transport and the recommendation is the three yard trucks now working should be overhauled and in the future trash trucks will be purchased with doors on them, so that there is no loss of material as the trucks drive through the Town. Motion was made by Mrs. Douthit to approve the recommendation on the trash trucks modification. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Mr. Weinberg called on Mr. Dusey for his pictures of the modification which will be made on the seawall at Mid-Town as the Committee recommended as a sample project, the Public Works Department place concrete buttons and pyramids on the seawall temporarily and then a determination be made if it would be practical to install them permanently, if it is believed this will address the concerns on this matter.

Mr. Weinberg indicated they do have a lot of people running, skateboarding and falling off the walls, resulting in harm to them and litigation against the Town. Mr. Heeke stated his concern at what height they would be and how far they are placed from each other. Mr. Dusey exhibited the pictures showing pyramids and wave-type installations and after discussion, it was the recommendation of the Town Council, on motion of Mr. Weinberg, that Mr. Dusey have the "wave" like items cast and then seek the cost of installing the concrete "waves" on the Mid-Town sea wall, to discourage sitting, walking or skateboarding on top of the seawall and the cost be made available to the Town Council for further consideration at the Town Council meeting of August 13, 1991. Seconded by Mrs. Wiener.

On roll call, the motion carried unanimously.

Mr. Weinberg called on Mr. Dusey to discuss the inter-local agreement with the City of West Palm Beach, regarding the sanitary sewage treatment plant. Mr. Dusey reported this matter was brought up at the Public Works Committee meeting as informational. He stated the entities which currently operate the sewage treatment plant which include West Palm Beach, Riviera Beach, the County of Palm Beach, Lake Worth and the Town of Palm Beach are investigating a new inter-local agreement which will give those involved more input in the running of the plant and its budget. He recalled there was a bad experience during the construction of the expansion of the energy improvements several years ago, and generally, they are going into the direction of giving more input, however, it will take research on staff's part to ensure this will be in the Town's best interest.

Mr. Weinberg called on Mr. Doney to discuss the storm drainage project. Mr. Doney indicated this will be an item for further consideration during the FY 92 proposed budget year as the proposed Capital Improvement Program for FY 92 that was considered at the May 30th and May 31st Finance & Taxation Committee meetings, and recommendations were made and approved at the June Town Council meeting that the storm drainage projects, which were to be done on an assessment basis be deleted and this reduced the proposed Capital Improvement Fund by one million dollars. He stated his concern that historically, there are numerous projects under the Capital Improvement Program and in order to not create peaks and valleys in the funding, this issue will need to be further considered by the Finance & Taxation Committee and then subsequently by the Mayor and Town Council, so as not to create an artificially low operating millage rate this year and then defer projects which will cause a large interjection of operating millage during subsequent years.

Mr. Weinberg moved the Public Works Committee Report be accepted into the record. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

X. OLD BUSINESS

A. Other

1. Consideration of Request by Southern Bell for Telephone Services Easement at Recreation Center

Mrs. Douthit recalled this has been before the Council several times. Mr. Heeke recalled this is the third time. Mr. Buck Passmore, the Palm Beach County Manager for Southern Bell addressed the Council indicating there is a damaged cable which needs to be replaced and due to the deterioration of that cable, there are only seven circuits left and they wish to replace it with the latest in technology at a cost of approximately \$140,000 and they need an easement of 300' which would go from an existing easement to an existing easement. He pointed out they are putting in four conduit pipes which will be placed underground and since they have been asked by a Town official to move the existing location of the conduit because of a building they want to build, they will move the conduit into a parking lot, which is twelve or fifteen feet further than what they originally planned to do and at an additional cost of approximately \$5000. He pointed out since they are going from an existing easement to an existing easement and because they are going to a parking lot, they are not occupying the property but placing the four or five inch conduit underneath the property, then will restore the parking lot to its original condition and use, so the Town would be losing nothing as far as ground area is concerned.

Mr. Passmore advised these four conduits will provide for telephone service to the Town of Palm Beach for many years to come, and they should never have to disturb this area again. He recalled at the last meeting he was asked to go back and request a payment from Southern Bell for this easement and he did this, but was advised that Southern Bell is doing this for the Town's own good as they need to provide service to the Town of Palm Beach and for the good of the Town, they are installing the latest technology at a cost of \$140,000. He stated secondly, the ground in which they wish to place the conduit will not be occupied by Southern Bell but will be used to place the conduit and then the ground will be replaced to its original use, so nothing is lost, and they are doing this at an additional cost of \$5000 and request permission for the telephone services easement. He stated the Town Manager has requested the work be done during the summer months and Mr. Passmore stated he believed it should be done this year as he didn't believe they could wait until next summer to place this cable as they may run out before that and he would like to have a decision made today to allow them to use the easement.

Mr. Ilyinsky wondered if they would be penny wise and pound foolish not to let Southern Bell do this at their own expense? Mrs. Wiener felt it was perfectly fine for them to do it, but if you refer to Mr. Dusey's memorandum and the conversations we have had on this, the fact is they are doing something which they need to do but they are using our land and she quoted from Mr. Dusey's memo, "Apparently, Southern Bell believes they have some right to have the Town dedicate the easement to them at no cost, based on their franchise agreement with the Town. I fail to see the connection, since Seaview Park is obviously not a right-of-way, public road, street, alleyway, etc."

Mrs. Wiener felt the Town should get something out of this, perhaps a month's free telephone service, a day's free telephone service, a payment of some kind and what she personally expected when Mr. Passmore returned was something coming back from the telephone company. Mr. Heeke suggested \$25,000 might be a good round figure. Mrs. Douthit realized it would cost them \$5,000 to put it under the parking lot, but that is a drop in the bucket. Mayor Marix thought in a way they gained because we won't have problems with our telephone service. Mrs. Wiener responded the telephone company charges for everything they do and they are a profit making organization and how many people here have stock in Southern Bell.

Mayor Marix asked Mr. Passmore if she heard him say there is a possibility if they didn't do this work, the Town could jeopardize their telephone service? Mr. Passmore stated that was true but they would be doing it, whether the Town charges for it or not as the telephone company is bound by their own policy and will provide service. He believed the Town was in a "no lose" situation, as they are going to provide the Town with the latest in technology that Southern Bell can provide and it is costing them a lot of money to do that. He advised they would be going from

Old Bus.

Southern
Bell
ease-
ment

an existing easement to an existing easement and they are not taking up any more space on either end and the 300' connection they are talking about goes between a parking lot which will be resurfaced back to its original use and the Town is losing nothing. He stated the telephone company is putting in a lot of money to install the latest technology and the Town is losing nothing.

Mr. Weinberg advised the Southern Bell Telephone service charges the Town for everything they do, so the Town would like to charge them \$100 a foot for the tree hundred feet.

Mr. Ilyinsky did not agree and made a motion that Southern Bell be granted the easement, as he can see it does nothing but benefit the Town. Mrs. Wiener asked if the motion meant there would be no charge? Mr. Ilyinsky stated that was correct, no charge.

Mr. Dusey advised the Mayor and Town Council that this request also includes a five by five slab of concrete with a cabinet on it above ground. Mr. Passmore stated that was correct but the concrete is already located in an existing easement which the telephone company already occupies. Mr. Dusey wasn't sure this was the case, indicating he would have to check on that.

Mrs. Wiener seconded the motion of Mr. Weinberg with an amendment that the charge be \$250 per foot. Mr. Ilyinsky advised he has not withdrawn his motion. Mr. Heeke noted this motion by Mr. Ilyinsky has yet to be seconded. Mrs. Douthit seconded the motion of Mr. Ilyinsky.

Mr. Dusey asked to make a comment before the vote was taken as his office would like to see, if this motion is adopted, that the details of the easement be reviewed by staff and landscaping be provided to shield the cabinet. Mr. Doney asked that it be a recorded document and they would pay all recording costs. On roll call, the motion failed to carry 2-3 with Mr. Ilyinsky and Mrs. Douthit voting for the motion and dissenting votes cast by Mrs. Wiener, Mr. Weinberg and Mr. Heeke.

Mrs. Wiener then moved that the Southern Bell Telephone Company be charged \$250 a running foot for the installation and all the matters that Mr. Dusey addressed by part of the motion also with regards to the granting of the easement. Seconded by Mr. Weinberg. On roll call, the motion carried 3-2 with Mrs. Douthit and Mr. Ilyinsky voting against the motion.

New
Business

XI. NEW BUSINESS

A. Resolutions

Res.34-91

1. Resolution No. 34-91 - FY92 Proposed Golf Course Winter Rates

Mr. Monaghan read the resolution by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA,
INCREASING GOLF COURSE WINTER RATES TO BECOME EFFECTIVE NOVEMBER 1, 1991.

Mrs. Douthit moved the Resolution No 34-91 be approved as read. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

B. BID AWARDS

1. Sealed Bid No. 026-90/91 - Marina Dock Bulkhead Repairs - Consideration of Resolution No. 32-91

Mr. Monaghan read the Resolution No. 32-91 by caption:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA,
AWARDING A CONTRACT TO CONSTRUCTION TECHNOLOGY, INC. FOR THE 1991 MARINA DOCK AND BULK-
HEAD REPAIRS.

Res.32-91

Mr. Ilyinsky moved for approval of Resolution No. 32-91. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

C. Other

1. Discussion of Lake Worth Inlet Sand Transfer Plant

Lake Worth
Inlet
Sand
Transfer
Plant

Mr. Heeke advised they had a joint meeting with the County Commission, which is mandated under the Florida Statutes, and there is a suit pending against the County to enforce the contractual obligation to maintain the Sand Transfer facility and keep it operational, as the County announced they will no longer fund it and it is their responsibility to maintain it. He advised that during this joint meeting, the County Commission directed their staff to prepare and send a letter to the Port, suggesting to the Port this would be a benefit to the Port and that in turn the Port should be responsible for the Sand Transfer facility. He stated the County Commission asked the Town of Palm Beach to echo this position and we were careful to point out that during the discussions, this was in no way a waiver of any of our rights in the litigation. Mr. Heeke asked if it was the Council's pleasure to have a letter prepared similar to the one that the County Commission prepared to the Port of Palm Beach for this purpose? Mrs. Douthit did not agree, for several reasons, one being the Port is a taxing District and we are all grateful they have not yet taken advantage of this privilege. She stated another fact is the Port is always very anxious to enlarge and create further slips and they refer to it as a depression in the coast line, which she felt was a huge enlargement involving more cruise ships, larger takers, etc. which always means greater traffic. She stated the County Commissioners have suggested that the Port take on the responsibility of the Sand Transfer Plant because they are the number one benefiter of this and she is opposed since she believes the Port Commissioners could possibly elect to use the privilege of their taxing district to pay for the operation of the Sand Transfer Plant and they could possibly tag on a bit more to help finance their enlargement, and she believes that would be handing them a license to steal and she is totally opposed to it and she firmly believes the County should live up to its contract of 1955 and maintain the Sand Transfer Plant.

Mrs. Douthit believed also the County wants to opt out of this responsibility so they can stay within their ten mil limit. Mayor Marix believed the County Commissioners have a marvelous record of peeling off parts of its expenses into other taxing districts, as they have done it with Health Care Tax.

Mrs. Douthit pointed out there are already 256 Taxing Districts in the County as of this date. Mayor Marix believed they would be spending that money on something else, so actually it is falling in line with the other things they peel off and they go on spending anyway.

Mrs. Wiener agreed as our agreement was with the County Commission and how they go about doing their business is their problem and the responsibility is with them.

Mrs. Douthit moved that the Council not write the Port the letter requested by the County Commission and they continue on with the suit with the County Commission to force them to live up to their agreement.

Mr. Heeke advised the law suit will continue on.

Mrs. Wiener seconded the motion made by Mrs. Douthit.

Mr. Monaghan advised that he has not been involved in the lawsuit but assumed that the contractual rights are still in force, and it simply is a policy decision as to whether or not they wish to allow this alternative of having that cost covered, but as the President pointed out that is an issue separate from the contractual obligation of the County.

Mayor Marix suggested they bear in mind the fact that so much of the beach has been diverted to Singer Island and it has been built on and the County makes a lot of money off those taxes, so she felt they certainly could go forward with the Sand Transfer Plant.

Col. I Henry Stern addressed the Council, speaking as a private citizen, stating he has observed that the Port of Palm Beach management wishes to do everything they can to enlarge the port, regardless of what detrimental effect it might have to the intracoastal waterway and the surrounding area, including Peanut Island, the Inlet, the Sand Transfer Plant, erosion, etc. as the Port doesn't observe this as a hindrance as they want to go ahead and enlarge their facilities. He was glad to see the Council take the attitude expressed today and offered his assistance.

Mr. Heeke advised during the meeting he attended at the County Commission, he expressed his opinion that it seemed to him the Corps of Engineers would also bear some benefit and responsibility for maintaining the Inlets, not just here but elsewhere in the State and they too might have a vested interest and he didn't know whether the County Commission would pursue that avenue, but he sees a certain logic to that.

Mrs. Douthit recalled the Corps of Engineers has admitted to being responsible for eighty per cent of the erosion and she would like to see them finance the operation of the Sand Transfer Plant, not only here but any others in the County, and that would afford the County Commission the opportunity of spending that money on something else.

On roll call, the motion carried unanimously to not write the letter as suggested by the County Commission to the Port of Palm Beach on the sand transfer plant.

Mr. Heeke wondered if the County Commission should be informed of the Council's thinking on this matter. Mayor Marix felt it would be appropriate to tell them we have decided to continue with the lawsuit as we do believe it is their responsibility. Mrs. Douthit thought it should also be brought out it was an unanimous vote.

2. Consideration of Application by Port of Palm Beach to Corps of Engineers to Construct New Slip, Perform Dredging and Related Matters.

Port of
Palm Beach

Mr. Heeke advised this is a 900' depression the Port wishes to install. Mrs. Wiener asked if there was ever prepared a Master Plan for the Port of Palm Beach? Mr. Ilyinsky did not believe there was. Mrs. Wiener felt this may be contrary to their original plan. Mr. Ilyinsky did not believe so as no-one ever foresaw this growth. He stated that the largest aircraft carrier could fit into the size of this slip, so that would give them some idea of the size of it. He complimented the President of the Council on the letter he wrote to them as he too, felt the little guy in the little boat is the one who has been left behind. Mr. Heeke stated the letter is still in draft form and any suggestions of the Council can be incorporated into the letter.

Mayor Marix pointed out the drawings received by the Town are on June 28th and were all signed by the engineers in April, so they have been working on this for a long time. She noted the turning basin will be huge but the interesting thing about it is it will be right next to Peanut Island, and anyone who goes in and out of the inlet on a small boat realizes what the size of these boats will be and there probably will be many more using this port, as that is why they are making this new slip. She recalled a few years ago, she was on a small boat near this area and there were people with her from the DNR and DER who were appalled at the size of a ship coming in at that time and what it was doing to the seagrass in that area. She was sure they would not approve if they could see how much closer to Peanut Island this will be and what an impact it will have on the marine habitat and the grasses in that area. She didn't believe people who snorkel and swim in the area off of Peanut Island would not be able to do that anymore and there is always a possibility of an oil spill.

Mayor Marix recalled she had read something about how this will help the unemployment rate and believed they could make money by providing a Port with restaurants and small shops, much like in Sausalito where the small boaters would make a point of stopping there, as that is where you get good employment for the area and it is not these gigantic ships which come in and out, as they don't help the local employment picture one bit.

Mayor Marix believed it would affect many of the other communities in this area as well as the Town of Palm Beach. Mrs. Douthit moved that a letter be written, voicing all of our objections and the reasons for them, to the Corps of Engineers to discourage their permitting of this particular slip. Mr. Ilyinsky asked if this type of permit would go before the Treasure Coast Regional Planning Committee? Mr. Doney advised the Treasure Coast Regional Planning Committee has received a copy of the public notices issued by the Corps and we have had no feedback from them at this time. Mayor Marix suggested they be copied on the letter proposed. Mr. Heeke stated he will also copy the two Congressmen. Mrs. Douthit suggested all of the other agencies and communities involved should also be copied. Mr. Ilyinsky suggested Nate Reed should also be sent a copy of the letter. Mayor Marix suggested the Legislative Delegation and the Governor be sent copies. She noted in the letter it allows thirty days to give their objections, and she didn't believe that was long enough. She read in the letter that any person may request a public hearing and the request must be submitted in writing to the District Engineer within the designated comment period, and must state the specific reasons for requesting the public hearing. She believed they should request the public hearing and get all of the publicity they possibly could. Mrs. Wiener suggested at the top of the letter the request for the public hearing should be put in capital letters. Mayor Marix wondered if it should be in the same letter. Mr. Heeke suggested a second letter be sent requesting the public hearing.

Mr. Heeke asked if this has been discussed with the other communities involved, such as Riviera Beach? Mr. Doney responded negatively. Mayor Marix believed they may not even know about it. Mr. Heeke suggested Tony Smith, the Town Manager of Riviera Beach also be notified so he can bring it before that Council, and probably Lake Park as they have a Marina which is predominantly sailboats. Mayor Marix suggested also West Palm Beach.

Mrs. Wiener believed the other two ports within sixty miles may also be unhappy about this and perhaps they should be made aware of it also. Mr. Heeke believed there was a significant environmental problem here as there is a manatee problem also in this area. Mayor Marix suggested some of the small boater people should be involved in this and start signing petitions and they also want comments from Federal, State and local agencies and officials, from Indian Tribes and other interested parties in order to consider and evaluate the impact of this activity. She suggested also the diving organizations and any group connected with water activities and the word needs to get out as the time frame is short with regards to the time they want these responses.

Col. Stern was asked by Mr. Heeke if there was any other organizations he could think of that needed to be made aware of this? Col. Stern stated he is on the mailing list of the Corps. and he plans to file objections through Save Lake Worth, Inc. with the Corps and will request also a public hearing. Mayor Marix believed the Citizens organizations should also be informed so they can get their objections in also. Mr. Heeke pointed out this notice also states the preliminary review of this application indicates an Environmental Impact Statement will not be required and he wondered if they should request an Environmental Impact Statement as this of all places screams for that type of study, so he suggested that also be included in the letters.

Mayor Marix recalled one of the more vocal Port Commissioners evidently does love things bigger and better as he brought us the Airport before he moved to the Port, and we all know what problems we have had there with absolute disregard for those who live nearby when the doubled the gates.

Dr. Lilja addressed the Council recalling Mr. Phipps had quite a go-around with the Army Corps to obtain permission to slightly deepen the water outside of his dock in the northwest end of the Town, which basically touches the turning basin and he thought it might be useful to obtain the records of that to work with. Mr. Doney indicated he had received notice from the Corps on this.

Mary Ratcliffe of the Palm Beach Civic Association addressed the Council, indicating they supported the Council on the opposing of the Port Expansion and they are also concerned about the increased anchorage, usage, environmental concerns and increased nautical hazards. Mayor Marix asked if they would also request a public hearing from the Corps to which Mrs. Ratcliffe responded, she supported that position as well as the request for the Environmental Impact Study.

Mayor Marix wondered if the boating people might like to get together with other private enterprises and buy space in area newspapers and asked Mr. Ilyinsky to follow through on this to which he agreed.

President Heeke suggested the specific reasons should be stated for requesting the public hearing and those reasons could be the environmental impact; the lack of need in the area with three other deep water ports within a sixty-five mile radius; the increase in traffic and possible pollution problems; the effect on the small boaters and the recreational area; and that it also borders on residential areas in this community.

Col. Stern indicated he will contact the Audubon Society. Mayor Marix believed also it should be brought out the incredible effect the dredging would have on the water in this area.

Mrs. Douthit withdrew her previous motion and made a motion that the President of the Council be authorized to write a letter to the Corps and they be advised of our strong objection and there be copies of this letter made available to the other associations and agencies to discourage in every way this expansion; and there be a second letter sent with copies of the second letter to the list of other communities, agencies and associations making the request for a public hearing and an impact study. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

XIII. APPROVAL OF WARRANT LIST AND FUND EXPENDITURES FOR JUNE, 1991. Motion made by Mr. Ilyinsky, seconded by Mr. Weinberg to approve the Warrant List and Fund Expenditures for June, 1991. On roll call, the motion carried unanimously.

XIII. DEVELOPMENT REVIEWS:

A. Major Matters Previously Considered by the Architectural Commission at their meeting of June 26, 1991. Motion was made by Mrs. Wiener, seconded by Mr. Weinberg to receive the Architectural Commission's Report of their meeting of June 26, 1991. On roll call, the motion carried unanimously.

The major matters were:

- B3-91A - Facade Renovation at Tiffany's, 259 Worth Ave. Deferred.
- B3-91A - Facade Renovation at Hermes, 259 Worth Ave. Approved.
- B31-88 - Landscape Plan for Villa Plati, Bradley Place. Approved.
- B22-91 - New residence for Robert Eigelberger, 240 N. Ocean Blvd., Approved.
- B12-91 - Landscape Plan for Mr. & Mrs. Eugene Applebaum, 325 Via Linda. Deferred.
- B26-91 - New Residence for Robert Eigelberger, 109 Atlantic Ave. Approved.
- B28-91 - Remodeling of Rubell Gallery and Phillip's Galleries, 238-240 Worth Avenue, Approved partially with conditions.
- B30-91 - Addition to residence of Mr. & Mrs. Harry Williams, 115 Via Palma - Approved conditionally and partially.
- B32-91 - Renovation for Ms. Kathleen White and Mario Mudano, 420 Brazilian Ave. Approved conditionally.
- B33-91 - New Residence for Gregory E. Holloway, 314 Dunbar Rd. Approved.
- A41-91 - Bay Window Addition to home of Richard R. Limehouse, 215 Mediterranean Rd. Removed from agenda.
- B105-90 - Remodeling of guest house of Gerard Haryman, 112 Woodbridge - Approved.
- B27-91 - Landscape Plan for Mr. & Mrs. Martin Cannon-Mochorowski, 177 Lake Trail Circle - Approved.
- B11-91 - Driveway Revision for Euro-Homes, Inc. 252 Atlantic Ave. Approved conditionally.
- B17-91 - Revision of approved project for St. Edwards Church, 220 Park Avenue. Approved conditionally with landscape plan to be resubmitted.
- B25-91 - Guest House of America, Inc., 2880 S. Ocean Blvd. Approved conditionally.
- B36-91 - Facade Renovation for Chanel, 247 Worth Ave. - Deferred.
- B37-91 - New residence for Mario Mendoza, 255 Mockingbird Trail. Deferred.
- B38-91 - Facade Renovation got 400 Royal Palm Way - Approved conditionally.
- B39-91 - New residence for Dr. & Mrs. Marvin M. Rosenberg, 695 N. Lake Way. Approved conditionally.
- B42-91 - Addition and Renovations for residence of Ms. Lourdes Aspuru Llanas, 233 Tradewind Drive. Conceptually approved then deferred for further study.
- B41-91 - Renovation of 248 Worth Avenue (Love Realty) Approved conditionally.
- B43-91 - Landscape Plan for Meridian Condominium, 330 S. Ocean Blvd. Deferred.
- B44-91 - New Pergola for Mr. & Mrs. William Mann, 1440 S. Ocean Blvd. - Approved.
- B45-91 - Landscape Plan for Palm Beach Hamptons, 3100 S. Ocean Blvd. - Approved conditionally.

Luncheon break was taken.

Meeting called back to order by President Heeke at 1:15 PM.

Old Business

1. Variance No. 32-91 - Peter Stanley, 1331 N. Ocean Blvd; to allow construction of a basement as

Major
Matters -
Arch.
Commission

Var.32-91

prohibited in Definition NO. 6, "Basement", and to allow construction of a swimming pool at a street side yard setback of 15' in lieu of 30' required. R-B District. Deferred from June meeting.

WAIVER REQUESTED:

Waiver to story height limitation permitting the construction of a two-story single family dwelling now prohibited under Town Council enacted zoning in progress.

Waiver -
Stanley
dwelling

Attorney Paul Prosperi addressed the Council on behalf of Mr. Stanley, noting this is his second time to appear before the Council on this application, however, Mr. Stanley has appeared eight times before various boards to receive permission to build a single family residence on the lot located on the corner of Ocean Terrace and North Ocean Blvd. He advised they have withdrawn that portion of the application relating to the pool with regards to the five yard setback. He stated principally they seek relief from Zoning In Progress in the overlay district on North Ocean Blvd from Queens Lane to Onondaga. He stated the reasons for requesting this relief, as provided in the Ordinance, are multiple, first, they are a special case as this application was originally made in August of 1990 and this is the eleventh month and eighth public meeting in order to develop this site, which he thought would distinguish this applicant from others; secondly, the Zoning In Progress contemplates that it would not effect single story residences and this proposed building is under the height and the footprint size that would be permitted without a variance or Special Exception waiver as a single story on this site, so what they are coming with today is a building that is less tall and has a smaller footprint than would be permitted.

He exhibited a proposed site plan which showed the setback which defined the footprint permissible under the existing codes for a two story residence and this shows the building is smaller in each dimension than what would be permitted. He stated the footprint is 3,128 square feet covering approximately 24% of the lot.

He reported if this was a single story residence, the setbacks would be 25' and 10' and 12.5' instead of the 16' shown, and the allowable square feet would be 5500 square feet, and they propose to build 3,128 square feet which represents 62% of the existing 4,988 square feet area which would be the zoning envelope. He reported they are building a smaller structure in both footprint of the property and height of the structure, a smaller structure than would be permitted for a single story residence. He stated it is not any bulkier as to cubic contents that they would be permitted if this was a single story residence.

He advised the building would be 24'8" high to the top of the ridge of the roof from the finished floor, and the Zoning Ordinance provides a single story residence be 25'. He stated this is a reduction in size both with regards to the height and the footprint.

He reported his client has reduced the size of the building so that it falls within what is permitted, without seeking a waiver from Zoning In Progress. He stated if his client would build a one story house, he could build a larger structure now without seeking a waiver and without seeking a variance, so they would not be permitting anything larger than what his client would be allowed to build if it were a one story.

Mr. Prosperi stated secondly, they have a citizen and taxpayer attempting to find a use of his property and has been through an eleven month ordeal, with eight different public meetings where the Town has hired at least two or three outside consultants to focus on this particular problem, and all his client has done is to reduce the size of his building so he can get the use of his land. He has avoided the temptation and opportunity to bring suit, which he could have done after the denial in February, which would have frozen the zoning laws to which he would have been entitled at the time had he brought the lawsuit. He recalled at the last meeting, reminding the Council his client did have thirty days within which to bring the lawsuit, because the law consieres the action of the Council at that time was quase-judicial in nature, and he asked the Council again today to consider what their action says about the Town and its fairness, as if the waiver is not granted, it will have taken his client eighteen months to build a house on a single family lot and consider the impacts that it would have on them personally. He had read that it may have been some grand strategy for them to come to the Town with plans for a house intentionally made larger than what he intended to build and then he would put himself through humping through eith or nine or ten different hoops in order to be able to secure permission to build a smaller house and he doesn't believe that was his client's motive. He requested their authorization for the waiver, as the house meets the size and setback requirements for a single story residence.

Mr. Moore believed Mr. Prosperi needs to address two additional issues, one is the overall height of the house as Mr. Prosperi stated today it was what a one story house could be. Mr. Moore believed the one story maximum would be twenty-five feet, as measured as set out by the Town's Zoning Ordinance, noting the overall height here is 26.2', or one foot two inches higher than what would be allowable for a one story house. Mr. Moore believed the other calculations do match up for the one story, as far as setbacks are concerned and lot coverage. He stated the house is smaller per that particular aspect. He stated one area which was not discussed in great detail was the basement area which must stand on its own merits, as his Floor Area Ratio is .427%, without the basement and with the basement, it is .52 and .45 is what is permitted, so if the basement is granted a variance, it would be larger than the FAR could be for a one story house. He believed, other than that, Mr. Prosperi's figures have been verified. He stated the original architect, Mr. Drago, misinterpreted some of the areas of measurement and the arithmetic was correct, but using a wrong point of reference which allowed for some inequity in the figures.

He advised the Mayor and Town Council there is Zoning in Progress and also, they have heard one request and will hear another request for a waiver to the Zoning In Progress and Mr. Randolph has reiterated his position that a waiver could be requested, as it was anticipated when Zoning In Progress was initiated, and in order to obtain a waiver for the provision of one story only, while Zoning is in Progress, the applicant must address the issue of one story versus two stories, which Mr. Prosperi has been doing.

Mr. Moore stated the staff pointed out this has been before the Council several times and is distinguishable only in the area that Mr. Stanley has not sued the Town. He knows of no other applications that would fall in this category.

President Heeke asked about the waiver for the one story. Mr. Moore explained when the Zoning Commission had asked for a study in this area and requested the Council to place Zoning In Progress into effect while staff and its consultant study an overlay district for the area from Queens Lane to Onondaga Road from Ocean Boulevard west to North Ocean Way. He stated the discussion centered on not only the objectives of the study which was to study the area which was predominantly one story, with 75% of the structures in that area being one story. He stated the issue was massive size of homes that were being constructed in recent years and replacing less massive homes by way of either demolition or on vacant lots. He stated in order to study this problem, they asked for time to study these in the off-season and this study has begun and one of the areas they will be recommending for the Zoning Commission and the Mayor and Council's consideration is the return of the basement credit on topography that has more than a two foot differential between the high and the low side of the property and he believed in this particular case, the differential was about four feet.

Mr. Moore advised that in putting the Zoning In Progress into effect, there was a discussion about the waiver

process and the Town Attorney advised a waiver could be sought as this would not be a direct moratorium where an Ordinance was in place and a spelled out procedure of how to seek relief, but that in light of the study, if someone were to have an unique situation that they wished to have addressed, they could apply for a waiver and that is the policy that has been followed.

Mr. Moore gave the staff comments: Hardship should be addressed in relating to the pool, but that request has been withdrawn; the Building Department requests if this is granted for the garage, it be limited to three cars and the Town Manager's office requested an additional explanation on the hardship.

Mr. Heeke recalled there were several letters received and he read the request from Mr. & Mrs. Fanjul who objected; Mrs. Peters read the letter of objection from Mr. & Mrs. Cirin and a letter from Robert M. Grace; Mr. Heeke read the letter of objection from Mr. & Mrs. Martino; and a letter from Ann Maria Lilja, 110 Ocean Terrace was read by Mr. Heeke which was a letter of objection.

Dr. Sten Lilja addressed the Council stating he felt Mr. Prosperi's presentation made today has turned this thing upside down and he would like to try to get it back on track. He recalled the Town recently enacted legislation which prohibits three story houses in the R-B Zoning District. He stated in addition, the Town declared Zoning in Progress and enacted a moratorium which prohibits for the time being any structure which is more than one story, as seen from North Ocean Boulevard. He stated the proposed building at 1332 North Ocean Blvd. is in violation of both items of legislation as a Variance or waiver of any of these two laws at this time would constitute the setting of a serious precedent so any court challenge to the Zoning laws would be difficult to defend. He felt if they don't enforce the Zoning laws themselves, the Courts will consider the laws to be invalid. He stated he looks to the Council to protect them and enforce the Town laws and requested the Council to please do so. He recalled there has been discussion today about the reduction of the house and as they go along, everything does change and it was decided by the Town Council that the comparison should be made with the project that was denied by ARCOM in December and by the Council in January. He felt that in spite of the alleged reduction of the property in size, the Dec/Jan drawings state the footprint is 3,050 square feet and if they look at what is before them today, it states it is 3,128 square feet, which he views as an increase in square feet and in spite of considerable deduction from the previous drawing, he doesn't make any sense out of this application. He believed the information as provided the ARCOM and the Council has not been correct and there is a discrepancy and the Council should be entitled to go by information that is correct and presented in all seriousness.

Mrs. Wiener commented that last month, they agreed all figures would be agreed upon and decided in the Building Department and ten days prior to the Town Council meeting, there would be no discussion about differentials and asked Mr. Moore to explain. Mr. Moore commented that the figures Mr. Drago, the original architect, presented, were incorrect. Mrs. Wiener stated she was talking about the figures presented today. Mr. Moore stated the differential where there may be an error on Dr. Lilja's part is that the differential is the porch area which has been added and it would compensate less square footage in the house, but it is a change of about 150 square feet, and he believed that is where the differential comes in. He stated the figures were verified by the Building Department and the new architect and with Dr. Lilja.

Mayor Marix asked if the porch was added later? Mr. Moore advised the porch was added to the plan that was before them in June and the square footage taken away from the house, so this is a smaller house inside. Mr. Weinberg recalled hearing Mr. Moore state the overall height of the house is still too much. Mr. Moore indicated the overall height of the house, as measured from the ground is 26.2' and the permitted height of a one story house would be 25', so this is 1.2' more than would be allowed.

Mayor Marix recalled hearing this applicant has been before various boards eight times, asking if this was the same application that has come back eight times? Mr. Heeke believed it was modification of the application each time, as ARCOM denied the plan at one time and that is when it first came before the Council, as an appeal of the ARCOM decision and Town Council heard it and unanimously concurred with the ARCOM decision and thereafter, Zoning In Progress was involved and another application has now come to the Town since a waiver is required. Mr. Moore indicated the application as originally presented to the Architectural Commission, which subsequently wound up before the Council on appeal and the ARCOM was upheld, there was no further action as the applicant had the ability to accept the denial of the appeal or to take the matter to the Circuit Court, which he chose not to do and has come back with a new plan.

Mayor Marix asked if this were a new application, it hasn't been in front of the Council eight times. Mr. Moore stated this is a new application. Mayor Marix didn't believe a new application had been before them eight times, as if this is the application that was turned down, they would have had to wait a year to come back. Mr. Moore corrected the Mayor, indicating this was not a variance request, it was the ARCOM denial and appeal.

Mayor Marix reread her comments given earlier under Mayor's comments with regards to waivers. She didn't think anything should be done about it as they have asked the Zoning Commission to look into it and when the citizens left for the summer, that is where this was. She stated she didn't think they should scrap the whole zoning picture, because although she realizes what Mr. Prosperi was saying about the house being within the maximum heights that would be allowed as a single home, or close to it, they are not talking about the maximums or what could be done, but the Council has a problem with the way that road looks and it is their duty to do that and she realizes it will take a few extra months to wait. Mr. Prosperi stated it would mean his client would most likely be two years in the process of trying to secure their permission. He asked them to put themselves in Mr. Stanley's position, and imagine the frustration and agitation they would feel if it took them two years to get something started.

Mayor Marix believed if Mr. Stanley had designed a house that complied with the Ordinance, he wouldn't have had to come to eight different meetings. Mr. Prosperi advised his client was talking about occupying only 62% of the permissible zoning envelope for a two story residence and a smaller percentage, probably 58% of the Zoning envelope for a single story residence and the dispute on the height is this house is 24.8' above the finished floor to the top of the ridge of the roof and Mr. Moore is stating the measurement comes from the crown of the road, so that is from where the discrepancy comes. He asked for permission to talk about whose ox is being gored, as he walked around the area yesterday afternoon and the Cirins have a two story garage structure built within five feet of the property line of Mr. Martino. Mr. Martino has a real three story house, he stated and Dr. Lilja has a footprint of approximately five thousand square feet. Mr. Prosperi pointed out they are talking here about a property owner, a taxpayer and a citizen of the Town, who is doing his best and has come back eight times, each time responding to the questions asked, each time making a change. He stated maybe they can hold it against his client that he didn't sue the Town as sometimes people have been successful in suing the Town and sometimes they choose not to be so confrontational. Mayor Marix pointed out it also could have taken several years. Mr. Prosperi agreed that was possible, but with respect, he wondered what interests were being preserved as just because others have built their house, whether that gives them more right than someone who wants to build a house. He urged them to take off their political hats and look at this in a sense of fairness as his client has made modifications to try and make this house more compatible. He stated this house is smaller than any previously submitted and comes within a foot of the height limitation of a single family and is under the square footage limitations of a single family dwelling.

Waiver -
Stanley
dwelling

Mr. Heeke pointed out the Council saw something distressful to that neighborhood and that is the reason they put in the Zoning in Progress and asked that this matter be studied and the Zoning Commission also recognized it and attempted to do something about it and are also in the process of studying it. He thought they needed to look at the north end, as this Council perceives it as they are concerned.

Waiver -
Stanley
dwelling

Mr. Prosperi felt they should be focusing on the fact that this house is basically within the guidelines and could be built as a single story residence. Mr. Heeke pointed out it is not a single story residence. Mr. Prosperi advised it wouldn't be any bigger. Mr. Weinberg asked if they could reduce it any further? Mr. Prosperi responded stating at the last meeting, he stated what they would like the Council to do is to fire the starting gun again and return the plan to ARCOM and perhaps they can work something out there, but without an action on the part of the Council, they are looking at a six month delay before they can start again. Mayor Marix believed if they sent it back to ARCOM with no waiver granted, it will simply waste time, and obviously the action that Mr. Prosperi would like to see this Town Council take is to grant the waiver. She stated nothing in this case has anything to do personally with Mr. Stanley, but it is the way the road looks as on Merrain Road there was a house erected which was so massive and it is a disaster to the neighbors and suddenly all of the new houses have become very massive up there and the Council decided to have a moratorium because of this problem and this is obviously a big looking house. She stated the Council has asked the Zoning Commission to make a study and the citizens in that area have left the area, thinking that is what is going on and behind their backs, the Council is granting the waivers. Mr. Prosperi stated it makes a nice argument except it doesn't quite sound as dramatic if they look at the dimensions he is talking about. Mayor Marix didn't believe it was not going to be any smaller looking. Mr. Prosperi pointed out it is in terms of height and square footage and the mass is the same. He stated what they are talking about is one foot, which is the height measured from the grade of the road, and he believed that was something that could be worked out.

He stated this house could be built without asking for a waiver, so what are they protecting anyone against? Mayor Marix thought if two stories were granted, when there is a Zoning in Progress going on, it just didn't look right. Mr. Prosperi advised it is a question of the mass of the house and it is also a question of what is already built in the neighborhood, as Mr. Martino has a three story house as does Mr. Cirin and the house to the north is two stories and those houses are within a foot or 18 inches of the ridge of this roof and to ignore those facts, and then to suggest that Mr. Stanley is not the issue here, doesn't make sense as those are the facts and the numbers. He pointed out the Town has paid money to hire outside consultants, to check these numbers and he asked them to focus on the dimensions and the numbers and it seemed to him these are the facts upon which the decision should be made.

Mr. Heeke believed this was the same square footage within one hundred feet of the initial application. Mr. Prosperi pointed out the height of the house has come down six feet. Mr. Heeke believed they were talking about 100 square feet of difference. Mr. Prosperi stated part of the square footage is in the porch. Mr. Heeke pointed out that was not acceptable. Mr. Prosperi believed it was the volume that wasn't acceptable. He stated the house isn't anywhere near being built at the maximum.

Mrs. Wiener asked how much could he build if this was a one story home. Mr. Prosperi referred to his exhibit showing if this was a one story, the house would be five feet closer to Dr. Lilja's house, five feet closer to the road and four feet closer to the house to the north.

Mrs. Wiener believed this would be a good deal. Mr. Weinberg noted the total mass is the same to which Mr. Prosperi agreed. Mr. Moore advised that thirty per cent of the actual lot area is 3,909.60 square feet and the most he could do with the footprint on lot coverage; but the Floor Area Ratio would be the maximum of .45 would be 5864 but that would be if he wanted a second story.

Mrs. Wiener asked if she was correct when she states the mass is the difference between the 3100 and the 3900? Mayor Marix did not believe they were equal as they are talking on one hand about the footprint and on the other hand, they are talking about cubic footage.

Mr. Moore advised Mr. Prosperi's proposal of 3128 square feet is the footprint of the proposed two story house which is 1.2' too tall for the one story requirement. He stated if the building were one foot two inches shorter, he would be authorized to put a maximum of 3900 square feet on the property, which is 800 square feet more in mass or bulk, if they were the same height of 25', however he is 1.2' too tall. He pointed out this would have to go to the Architectural Commission for its review and that is what they are saying they want to do with this plan. He believed he would be entitled, without the waiver, to have an additional 800 square feet at the same height, minus the adjustment of 1.2" without coming to the Council for a variance.

Mayor Marix believed they should send that to the Zoning Commission to look at also, but regardless of that, right now, the things they are studying is whether or not two story homes should be built there and he is telling us he can build a one story house which will take up more room on the lot and we all have egg on our face, because it is going to be a big bulky house. She realized he could do that but we have Zoning in Progress right now for a two story house, and it isn't Mr. Stanley's personality or anything else, we have said we won't allow two story houses until they have been studied. She didn't think it was a matter of whether or not he can build a bigger one story house, as that is not the issue. Mr. Moore agreed it was not the issue and he wishes to go back for the purpose of the Zoning in Progress, which was to study the problems they perceived in this neighborhood, they, and the neighbors and the Zoning Commission and that is the problem of redevelopment along Queens Lane to Onondaga from Ocean Way to Ocean Blvd. He believed the prior application presented to the Architectural Commission the first time he came before that Commission, was the typical developer application, which was maximizing the entire property to its fullest use and it had no minimums and it was stretched to the full use of the Zoning Ordinance. He stated the purpose of them taking a look at the Zoning Ordinance was to see if the Ordinance should be revised and they did lower the overall height of R-B from 35' down to 30' this year, and in order for them to have come for the waiver, they must present something that would be more in line with what the problem is as it exists in the area and be sensitive to what that problem is, and in fact, that is what Mr. Prosperi's presentation is saying today - that the applicant has been sensitive to it and has reduced the lot coverage down to 24%, the landscape at 44% instead of 40% and he has increased all setbacks and he has addressed all areas, except Floor Area Ratio.

Mayor Marix wondered if he has done all that, how has he wound up with the 100' difference caused by the porch? Mr. Moore advised he has reduced his lot coverage by one per cent. Mr. Heeke believed when they were talking about square feet on a single story of 3,910, and if they go to the second story, they are doubling that square footage. Mr. Moore stated they would have to reduce to the 25% maximum. He informed the Mayor and Council their studies up to this point are pointing to a partial second story provision in this area, but not a full story provision.

Mr. Moore stated the original application was taller than it could have been, taking advantage of the maximum, as the original architect, Mr. Drago, did not use the correct point of measurement and that was in dispute and the consultants were drawn in to make the final determination.

Dr. Lilja addressed the Council, noting a variance would be needed for FAR, if the basement is allowed. Mr. Moore advised if the variance is granted, they would be granting the use of the area.

Waiver -
Stanley
dwelling

Mrs. Douthit made a motion because she felt in this case, they should focus not on numbers but on principle and her motion was to deny the requested waiver. Seconded by Mr. Ilyinsky, stating he doesn't know Mr. Stanley so there is nothing personal in this at all and one of the most difficult things elected officials can do is stand up for regulations and in this case, the Zoning in Progress and that is why he is seconding the motion. Mrs. Wiener recalled when the Zoning in Progress was put into effect, there was a heated discussion and it was stated that people could come forward and request a waiver and to state they are protecting the Town's citizens when they have been advised by the Town Attorney that each individual case must be considered on its own merit and a request for a waiver, especially when there have been accommodations made by the applicant, are perfectly in order and not a prostitution of the Zoning in Progress. Mayor Marix felt this was obviously a problem one, with the figures and the general setting is not one that really is good for a waiver. Mr. Weinberg stated it was his thought that the Council's responsibility is to seek the greatest good for the greatest number of citizens and aside from the 1.2' situation, he believes the applicant has a good case in terms of compliance, and this should be sent back to ARCOM.

On roll call, the motion to deny carried with Mrs. Wiener and Mr. Weinberg voting against the motion, 3-2.

Mr. Moore advised the matter of the Variance 32-91 needs to be considered, reporting the pool request has been withdrawn, so they need to address the use of the basement area for parking and mechanical. Mrs. Douthit stated she was confused as to why this needed to be addressed now. Mr. Moore advised the application for variance is for the use of the basement area and mechanical room.

Mr. Heeke asked if Mr. Prosperi desired this for his client for a one story purpose? Mr. Prosperi responded this is for a one story house using a basement level. Mr. Heeke believed if this was granted now, they really didn't know what they were granting as there may be, when the Zoning Commission finishes its study, the opportunity for a partial two story, and in which event, they would have preempted the looking at this as a three story. Mr. Moore agreed, stating this still will take a separate action.

Mrs. Wiener believed if they entertained this, it would only be permitted for a one story plan. Mayor Marix felt that was unfair to Mr. Stanley to be stuck with a one story plan, when he has no plans for a one story house and it is making him basically never to be able to build a two story. Mr. Heeke believed there could be a basement credit added back. Mrs. Wiener stated it may be Mr. Stanley wants to build now and if his attorney is asking for it, they should look at it and in order to protect themselves they could grant it and state it is for a one story only.

Mr. Heeke asked what the hardship was? Mr. John Baccari, the architect, indicated the hardship is the Flood Plain elevation of 18" above the crown of the road, plus the differential in the grade on the side street is over four feet. Mr. Moore stated the concept on the downside of property which has a severe change in elevation will be to encourage putting in a garage level with no habitable space other than mechanical and garage equipment. Mr. Ilyinsky asked if this was counted as a second story to which Mr. Moore responded affirmatively, noting that after changing the zoning in this past season, stating they used to give credit to the basement and no longer do so. Mr. Ilyinsky asked if there were any strong objections to that and Mr. Moore responded he had none, as they can't build conventionally without getting another variance which would allow them to raise the property more than one foot, and that is what they are trying not to do.

Mayor Marix didn't think it was a problem for them to look at a perfectly normal set of plans and approve the variance, but she was concerned it would be unwise to approve something for which they have no plans. Mr. Moore believed the attorney showed where the building envelope is and what he is asking for is the basement area to park cars and for a mechanical room so they can build.

Mrs. Wiener asked if there was a hardship which would allow the Council to grant the Variance? Mr. Moore responded the architect has identified the current zoning ordinance as written and the existing topography of the property creates a hardship so they would not be able to build on the western portion of the property without obtaining a variance to raise the property more than one foot, or a variance to place his parking and mechanical in that area; and in fact the staff is on record that they have no objection to the garage and mechanical on that level, simply because that is the direction their study is going to utilize that so they don't get the "wall" effect.

Mayor Marix asked if there was a difference between a wall that retains dirt and a wall that contains a mechanical room? Mr. Moore advised the wall that retains dirt can be built on the property line at six feet and the wall that contains the mechanical would have to be a minimum of ten feet away. Mayor Marix recalled they had discussed this be allowed with the house being set back somewhat.

Mr. Prosperi stated they are talking of a one story house and it would be virtually identical to Dr. Lilja's home. Mr. Moore stated this would actually be less square footage.

Mrs. Wiener moved that Variance No. 32-91 be granted with the proviso that it only be in effect as long as a one story dwelling is built on the property, and it will be for the maximum of a three car garage and mechanical equipment only. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

A short break was taken.

Meeting called back to order by President Heeke.

Var.36-91 2. Variance No. 36-91 - Wynne S. Ballinger, 235 Banyan Road; to allow construction of a greenhouse providing a rear yard setback of 3' in lieu of 15' as required. R-A District. Deferred from June meeting. Letter dated June 19, 1991 from Francis X.J. Lynch, Attorney, requesting withdrawal. (This matter was withdrawn earlier in the meeting).

Var.38-91 3. Variance No. 38-91 - Donald Trump, Mar-a-Lago, 1100 South Ocean Boulevard; to consider expansion of non-conformities as per Section 8.23 of the Town Zoning Ordinance and allow the existing property manager's cottage to front a new street at a setback of 18' in lieu of 35' as required, and allow the garage to the property manager's cottage to setback 8' when 35' is required, and allow the garage, staff and service quarters to the main structure to be setback 12' from the means of ingress and egress when 35' is required. R-AA District. Deferred from June meeting. Letter dated June 24, 1991 from Peter S. Broberg, Attorney, requesting postponement to August 13, 1991 Town Council meeting. (This matter was postponed to the August 13, 1991 Town Council Meeting earlier in the meeting).

New Business

4. Variance No. 40-91 - W.W. Solkin, 254 Plantation Road; to allow construction of a garage addition at an angle of vision of 110 degrees in lieu of 100 degrees permitted. R-B District.

Var.40-91

Mr. Glenn Harris with the architectural firm of Peacock & Lewis addressed the Council on behalf of Mr. Solkin, requesting the variance to go from a one hundred degree angle setback on the frontage to one hundred ten degrees, and with that exception, they are meeting the other restrictions set forth by the Code in every way, setbacks, height, lot coverage, etc. He stated the angle of vision setback requirements, if they are maintained, would make it almost impossible to add this two car garage. He advised the granting of this variance would not have a detrimental impact on the neighborhood.

Motion was made by Mrs. Douthit on the grounds the Council has typically approved the addition of garages to get the cars off the roadways, and this variance is minuscule, Variance No. 40-91 be approved. Seconded by Mr. Ilyinsky.

Mr. Moore advised the staff comments are the variance is minuscule, but there is no hardship involved. Mr. Harris advises the garage entry will be screened with landscaping from the roadway. On roll call, the motion carried unanimously.

5. Variance No. 41-91 - Bruce Helander, 350 South County

Var. 41-91

Road; to allow the Helander Gallery to operate a gallery of the same name within 950' of the other gallery in lieu of a 1500' required separation per Section 4.20(b) footnote (2) of the Town Zoning Ordinance. C-TS District.

Mr. Heeke advised he did have a conflict of interest on this and would not be able to vote on this matter.

Mr. Moore advised the Ordinance requires two businesses of the same name to be at least 1500' apart and this application is for a waiver to that condition and it will be temporary and for the period when the lease expires in April of 1991. He stated staff has no objection provided it is conditioned that if the Worth Avenue store lease is renewed, the provision of this variance would become null and void. Mr. Helander agreed to the stipulation. Mrs. Wiener wondered if they should put a time limit on it to which Mr. Helander agreed. Mrs. Wiener moved Variance No. 41-91 with a time limit of one year to complete the move be granted to Bruce Helander Galleries. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

6. Variance No. 42-91 - Ben and Sondra Tabakin, 1431 N. Ocean Way; to allow construction of a two-story addition at the rear of a split level residence thereby creating a three-story residence which is prohibited. R-B District.

Var.42-91

WAIVER REQUESTED:

Waiver to story height limitation permitting the construction of a two-story single family dwelling now prohibited under Town Council enacted zoning in progress.

Waiver -
Tabakin
dwelling

The architect, Robert Bell, addressed the Council on behalf of Mr. & Mrs. Tabakin who requested the variance, exhibiting the site plan of the property. He advised they have tried to look at different situations but their intent is to seek permission to add a family room and kitchen on the ground level and a master bedroom and bath area on the second level. He has tried to work this out to put the addition all on a single floor, but if it was added to the south, it would not leave any room for a pool deck on the southern exposure. He believed if it was added to the north side of the property, they would run into the angle of vision requirement. He stated there are other two story houses in this area. He indicated what they are trying to do is to relocate the entry and raise the existing tie beam area and they are trying to locate it as far back from the street as is feasible. He stated the existing lot coverage is 15.8 and the proposed coverage is at 25%.

Mr. Moore advised the application is similar to the one before them last month in this area, and the request is for a waiver and he hasn't heard Mr. Bell address any benefits that would aid the Town, so he did not see a benefit in the waiver request before the Council, and on the Variance request, there has been no hardship demonstrated.

Mrs. Wiener believed that based on what has been stated here today, and considering that this is a new application and the majority of the Council does feel strongly that the waivers should be kept in place until a decision has been reached at the end of the Zoning Season, she would like to move that the request for waiver be denied. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Mr. Heeke asked what the hardship was on this Variance? Mr. Bell responded the lot proportions and the type of structure places hardship on the usage, and if the addition were added as one, it would hinder the remaining area of the lot and how the site could be used. He advised that no single portion of the residence would be more than two stories in height.

Mr. Moore stated staff finds no hardship.

Motion was made by Mrs. Douthit to deny the Variance No. 42-91 on the grounds there has been no hardship demonstrated. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously for denial.

7. Variance No. 43-91 - L.F. Larsen, 1070 North Ocean Boulevard; to allow a second story height modification and two-story addition at the rear of the existing residence. Said addition and the existing two-story portion will be rebuilt at a height of 37'8" measured from street elevation, exceeding the 25' maximum allowed. The overall building (including the roof) will be increased 6' to a height of 41'4" which includes a 3'8" parapet wall in lieu of 30" maximum allowed. R-A District.

Var.43-91

Mr. Skip Jackson, from the architect's office, addressed the Council, indicating this is an existing to story residence and the house is built on a natural ridge. He noted the footprint of the house has not been changed and they wish to reduce the two stories at the rear of the residence to comply with the Coastal Construction regulations, leaving the first floor as is, and the portion of the building which will become two story is in the center, not on the sides or in the front.

He stated there is an existing courtyard with a swimming pool and they wish to extend that three feet to install a full size pool. He indicated the reason for their request is with the normal building heights that are now in effect with the existing tie beams, would put them higher than what was allowed. He commented if they were not on a ridge, they could meet the Code requirements, but due to the fact they are on a natural ridge line, they need a variance to the height.

Mr. Moore believed they were looking for a six foot variance, noting they are now at 31.4', and the reason for the necessity of the variance is as Mr. Jackson stated, the fact they are built on a high natural ridge line. Mr. Heeke believed the topography creates the hardship. Mayor Marix pointed out they are taking away some of the second story.

Mrs. Wiener moved that Variance No. 43-91 be granted, for the height and elevation problems which exist on that piece of property as the hardship. Seconded by Mr. Ilyinsky. On roll call, the motion carried 4-1 with Mrs. Douthit voting against the motion

8. Special Exception No. 6-91 - Renato's Restaurant, 87 Via Mizner; applicant proposes to relocate their bar across the Via in a 585 square foot space providing 27 additional seats as accessory use to the permitted restaurant. Additional seating requires 6 additional parking spaces. Per Section 6.21(d)(1) of the Zoning Ordinance, applicant seeks a special exception to provide required parking within 500' of the premises. C-TS District.

Spec. Excep.
6-91

Attorney Peter Broberg addressed the Council, noting they are under the 2000 square foot limitation and are asking for an increase in space of 500', which will still be under the 2000 square feet. He indicated the increase would be directly across from the French Doors and adjacent to the outdoor seating. He indicated his client wishes to have this area for his patrons to queue and have a drink before they have dinner and also for protection from the weather. He advised they have to appear before the Council for the Special Exception for off-street parking. He recalled there is no off-street parking in the Via Mizner and they have three grandfathered parking spaces, which is for nine seats and they need the equivalent of six more parking spaces. Mr. Heeke asked if they have located the commitment for these spaces? Mr. Broberg advised they are in the process of securing them in the Apollo lot. Mayor Marix recalled many people have been before this Council and have secured their parking in this lot and she wondered if there were any left? Mr. Broberg advised the lot is not used very widely.

Mr. Moore gave the comments of the staff who have reviewed the application and there currently is a written verification of the leased spaces for the outdoor seating which currently exists, and suggested that if this is going to be granted, there should be an annual verification of the spaces remaining in place under lease by Renato's.

Mrs. Douthit moved the Special Exception No. 6-91 be granted, contingent upon the necessary parking spaces being obtained. Seconded by Mrs. Wiener.

Adrian Winterfield addressed the Council asking why the provision invoked on the Helander Gallery was not applicable here. Mr. Moore responded this particular application is under the 2000 square feet.

On roll call, the motion carried unanimously.

9. Special Exception No. 7-91 - Via Mizner Associates Limited Partnership, Via Mizner North Courtyard; to allow a change of use from commercial to residential, specifically, to use the second floor and a part of the first floor of the space east of the northeast courtyard and the third floor of the northwestern structure for apartments.

Spec. Excep.
7-91

Attorney Peter Broberg addressed the Council on behalf of the applicant, indicating this is a request to create two apartments in Via Mizner. He stated the first apartment would be on the second floor, and the second apartment would be on the third floor and this will be a mixed use of the property, keeping the European effect in this beautiful Via.

Attorney P. Broberg advised the intensity of use in these areas will be reduced, as they are providing for one tenant in each apartment and it complies with all of the requirements for a Special Exceptions as those in the units would be Town-persons.

Mrs. Douthit asked about the parking? Mr. P. Broberg responded this is a grandfathered use and where they would park is where everyone else parks in this area. He advised for these two apartments, there are eleven grandfathered spaces and the two story space would be 1,065 feet and the three story space is 1,555 feet. He felt by making two units out of this, they have a requirement for five spaces, even though they have grandfathered in eleven spaces. He believed the mythical parking spaces are being reduced.

Mrs. Wiener asked if there was anyone living there now to which Mr. P. Broberg responded he was not aware of any. Mr. Weinberg asked if they would comply with the Fire Codes? Mr. Broberg responded on the eastern unit, they would be required to have one means of entrance and exit. He stated this would be just one entrance that goes both ways because of the exception - there are four exceptions to the Standard Code, which has to do with the distance travelled from the exit - the number of dwelling units - the gross area - and the height - one story above the main entrance it leaves and it falls within all the exceptions - so it only requires one exit on the second story, however, the third story requires two. There presently is a main stairwell and a fire escape in the back.

Mr. Weinberg asked if they contemplated a second set of stairs to which Mr. Broberg responded that the fire escape is a functional fire escape and it meets the Code requirements.

Mr. Weinberg asked if that would comply with the Fire Code? Mr. Broberg responded to the best of his knowledge, it does, but Mr. Moore should speak to that.

Mrs. Douthit asked if the easterly apartment would be right above Renato's new proposed bar and waiting area? Mr. Broberg: responded that two-thirds of it would be above that area.

Mrs. Douthit asked if a hold harmless agreement to the Town could be executed with regards to noises and odors and everything else that may go with it, so the people who rent the apartments are not back to us complaining about the noise and odors.

Mr. Broberg responded they would be agreeable to that.

Mr. Moore stated he thought Mr. Broberg would agree to anything to get the Special Exception, however, this is a Special Exception and the Council has every right to be asking these questions. He felt the question on where are they going to park was a very valid question, whether they are phantom spaces or not. Mayor Marix asked if they can park at Apollo? Mr. Moore responded they could and another issue is the fire exiting - it is a Town requirement that there be two exits out of a second floor unit, stating it is a Town requirement and it has been in place for probably ten years, so he was not sure what he is referring to when he stated he meets the standard

Fire Prevention Codes - that is a requirement of both the Building Department as well as the Fire Marshall's office, along with sprinklers. Mrs. Douthit asked if the steel fire escape constituted an exit? Mr. Moore Spec. Excep
believed that it could substitute - but they would be required to go to the Building Board of Adjustments and 7-91
Appeals for that relief which would not hold up his application here. He may have to seek relief there for the fire escape rather than a closed stairwell off the second and third floors.

Mrs. Douthit stated she was referring to the easterly one on the second floor, the staircase going up, but Mr. Broberg mentioned a fire escape.

Mrs. Wiener believed he meant the fire escape serves as the second exit. Mayor Marix stated she heard him say the fire escape goes to the third floor? Mr. Broberg responded that was for the westerly apartment. Mr. Weinberg felt they should take them one at a time.

Mrs. Douthit agreed, asking about the easterly apartment. Mr. P. Broberg stated they are of the opinion and certainly Mr. Moore could clarify - but they are of the opinion that they comply and don't need two means of exit and ingress for the second story apartment. The Town's Code specifically says if it is under 3500', it says: "In group or residential occupancies, except Type 6, construction not having more than four dwelling units per floor, but total floor area not exceeding 3500 square feet or two stories in height, may be served by one common exit. The maximum difference to travel to reach the exit from the entrance door from any living unit shall not exceed thirty feet."

Mrs. Wiener asked if that was correct? Mrs. Douthit asked if the farthest point was no more than thirty feet from the door? Mr. Broberg: responded that was correct - from the outside door. Mr. Moore asked if there was no more than 3500 square feet in the apartment to which Mr. Broberg responded they only have 1065.

Mr. Moore questioned how many residential units are on that portion of the Via Mizner, to which Mr. Broberg responded there is this one. Mr. Weinberg commented there is the west one.

Mr. Moore questioned if they are residential units now? Mr. Broberg responded they are commercial.

Mr. Moore asked if they had any rooms in there now? Mr. Broberg: responded the upstairs are used by parts of the two shops down stairs, each have stairs going up to the second floor - they are there now - inside. Mr. Heeke believed they could use emergency escape ladders - the kind that could be thrown out.

Mr. Heeke expressed what worries him is we do have cooking etc. below and it's easier for a fire to start with that in process.

Mrs. Douthit commented there are also those metal boxes with chains and steel rungs, which can be used as fire escapes.

Mayor Marix wanted to know if this area had fire sprinklers already to which Mr. Broberg responded negatively.

Mayor Marix believed probably the first thing they should do is to sprinkle it.

Mr. Moore pointed out that is a comment of the Fire Marshall's office - that if it is not sprinkled, then they would request that it be sprinklered. Mrs. Wiener asked if they intend to install sprinklers to which Mr. Broberg responded affirmatively. Mr. Moore advised there are provisions in the rest of the building for fire sprinklers and this would be an extension into this area.

Mr. Weinberg believed that solved the problem for the easterly apartment. Mrs. Wiener stated it did up to a point, but her only problem with the east is the Renato situation. She believed that any lease that is prepared, should protect the Town from complaints, as far as noise and odors of the restaurant are concerned. Mr. Broberg responded he thought that would be prudent for the landlord to do anyway.

Mrs. Douthit wanted to know about the parking. Mayor Marix asked how the trash would be handled.

Mr. Broberg responded there is an alleyway there and he is sure that is where the trash cans are going to placed.

Mrs. Wiener moved that Special Exception No. 7-91, as far as the east side apartment is concerned, be granted if and when the Town is satisfied as to the parking arrangements; the Town is satisfied as to the lease which will include the noise and odor situation which may occur and we don't want to hear about; and finally the sprinklers and the garbage and the sprinkler system which you will install - based on those three situations, she moved that the east side be granted. Mr. Heeke asked Mr. Moore if this meant with staff approval to which Mr. Moore responded it did, but of course, subject to Mr. Randolph's final revision of the lease document. Mr. Weinberg seconded the motion. Mr. Ilyinsky wondered if they were binding this too much? Mrs. Wiener did not think so as these are things we have to have.

Mr. Broberg commented he didn't think the lease should be common knowledge. Mrs. Wiener agreed they only cared about the noise and odor problem, and to make sure that our attorney has seen that that particular part of the lease, in fact is there.

On roll call, all voted affirmatively.

Mrs. Wiener indicated they now would do the western apartment. Mrs. Douthit believed all those same conditions should apply as she thought they were equally appropriate. Mr. Heeke asked if this also needed to be sprinklered? Mrs. Wiener believed it did. Mr. Broberg stated this apartment is larger by 500', with the total being 1555 feet.

Mr. Weinberg asked if this apartment had a single stairway to which Mr. Broberg responded it has a single stairway but it is on the third floor so by code, there has to be two exits and they have two - the main one in the front and the fire escape in the back.

Mr. Ilyinsky asked about the parking for this apartment. Mayor Marix suggested they handle it like they did the other and have them get the assigned spaces at Apollo.

Mrs. Douthit believed all the same conditions should apply to this apartment as did to the easterly one and she moved that Special Exception No. 7-91 with respect to the westerly apartment be approved with the same conditions as applied to the other easterly apartment, which would include sprinklers, any other Code

requirements, and the parking and all other items for the east would be equally applicable for this request for the westerly apartment. Mr. Weinberg seconded the motion and on roll call, the motion carried unanimously.

Spec.
Excep.
8-91

10. Special Exception No. 8-91 - Citibank, F.S.B., 400 Royal Palm Way; to allow a branch of Citibank to occupy 2,640 square feet of first floor space and 1,000 square feet of second floor space together with a variance to permit this use with 14 parking spaces rather than the 18 required. C-OPI District.

Mr. Moore advised Attorney Prosperi is representing the applicant and is not in the room at the moment and suggested this be heard at the end of the meeting, noting this may have to be deferred as there is a new set of circumstances which have arisen. Motion was made by Mr. Weinberg that this application be deferred until the end of the meeting and in the event the applicant's attorney is not here at that time, this matter be deferred until the August 13, 1991 Town Council meeting. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

C. Other

Mar-a-Lago
Consultant

1. Consideration of Request by Landmarks Preservation Commission for Town Council to Authorize the Employment of a Consultant to Assist the Landmarks Preservation Commission to Review the Mar-a-Lago Application

Mr. Moore recalled at the June meeting, staff made the comment to the Council that the area of expertise that this application had risen to, in concern with the Landmarks' sensitivity of the project as related to planning for a subdivision application which is before the Town, had risen to such a level that the staff needed assistance. Mr. Moore stated Mr. Randolph was asked by staff to search for someone with capabilities of looking at this application from a planning aspect, as well as architectural and relate their findings to the staff. Mr. Moore advised Mr. Randolph selected a group called the Clarion Group from Chicago and Cheryl Ingram, a planner for that organization made contact with an architect who had extensive background as far as Landmarks Preservation was concerned, by the name of Howard Decker, and they were put on board by the Town Attorney to assist the Town's staff in this matter.

Mr. Moore recalled at the June meeting of the Landmarks Preservation Commission, they too indicated they also would like to have a professional to assist them and then Mr. Randolph wrote to Mr. Doney on this subject but the Landmarks Commission was told the staff could not authorize this request and it would have to be acted on by Council. Mr. Moore explained he has monies budgeted in his account that could take care of the expense. Mr. Moore advised they have additionally asked for help in the area of landscaping as it pertains to the subdivision itself. He believed Mr. Decker had a landscape architect who is beginning to look at the project as well. Mr. Heeke believed they all had good credentials and come highly recommended and he believed this would enable them to go through the process without any delay.

Mrs. Douthit asked if the Council would have an opportunity to meet with them? Mr. Moore indicated the staff has found them very competent and yes, when the application comes before the Mayor and Council for final review, the consultants would be in attendance.

Mr. Ilyinsky asked if there were any dollar figures available to which Mr. Moore responded the Town Attorney negotiated the contract and he was not privy to that information.

Mayor Marix asked if there was a possibility of getting this fee funded through a grant? Mr. Moore responded a grant application was prepared to the National Trust and an error was made in their understanding of it as there were two separate applications, one for the landscaping and one for review from a planning aspect into the historic nature of the property and they are revising the grant application to be filed with the National Trust to include not only the review for architectural and historical merits, but also the landscaping. Mayor Marix asked if Mr. Moore knew what the response time would be to which Mr. Moore responded he was not sure of the time-frame, but there is a chance to recoup the money if the grant is awarded. Mayor Marix asked if the consultants were planners or did they know what not to plan? Mr. Moore responded that was their task as they were to look at the application as presented and comment on its merits or demerits.

Mr. Heeke felt they should be allowed to serve as independent consultants. Mr. Moore stated they were hired on that basis. Mayor Marix wanted to be sure they were not people who specialized in just planning, and wanted to know if they stood up for planning people and not for planning people? Mr. Moore responded they have worked for both government and the private sector and Miss Ingram is a past employee of the National Trust and the other is a sitting member of the Evanston, Ill. Landmarks Preservation Commission and a past member of the State organization. He believed they have expertise on both sides of the issue which would enable them to give an objective opinion.

Mrs. Wiener moved that the recommendation of the Town Attorney and the Town's Building Department's staff as to consultants for the Mar-a-Lago situation be hired. Mr. Ilyinsky asked if there was a dollar figure? Mr. Moore stated it was not to exceed \$17,500, and some could possible be recouped by a grant.

Mrs. Douthit seconded the motion.

Mrs. Volk asked if this also included the landscape consultant? Mr. Moore clarified that this figure would also include the landscape consultant to look specifically at this landscaping. Mrs. Wiener pointed out it was not the same firm. Mr. Moore stated they would hire them as a separate contractor. Mr. Heeke suggested there be two separate motions, one to address the landscaping.

Mrs. Lesley Smith addressed the Council, stating she believed she heard Mr. Moore stating the people that would be hired as the consultants, would be hiring a landscape architect. Mr. Moore stated if they wished to divide the issue, they certainly may, but he contemplated the consultants have been given a list of professionals which are competent in South Florida. Mr. Ilyinsky asked if their fee was included in the \$17,500 to which Mr. Moore responded affirmatively.

Mrs. Smith addressed the Council noting at the Landmarks Commission's meeting, she spoke on behalf of the Garden Club of Palm Beach, who would be willing to help financially as well as with the task of finding an expert and they have a list of qualified people in the State of Florida as far as historic landscape architects are concerned. She stated she would like the record to reflect that they would be willing to help with the cost if it went over that amount, but they do wish to participate with the picking of the expert.

Mr. Moore advised he has forwarded the Garden Club list of landscape people to the Clarion group. Mayor Marix asked if they were instructed that they should make their pick of the landscape architect from that particular list? Mr. Moore responded he did not, as he was waiting for this authorization and the list was given

9

to them for informational purposes. Mayor Marix believed if they want to be hired as a consultant, they might be happy to use one of the people on the list.

Mr. Moore responded he thought this is something they will forward to them. Mrs. Douthit believed there are more than one person on the list, so they will have a pick. Mrs. Smith advised there were six or seven on the list, and all from South Florida and their reasons for recommending them were to keep the cost down. Mrs. Douthit stated she was all for having someone local.

Mr. Heeke called the question on the motion which was for approval of Clarion and Associates and asked Mrs. Wiener to restate the motion.

Mrs. Wiener stated her motion was that Clarion & Associates, as recommended by both the Town Attorney and the Building Department's staff be the company that will do the expert, independent, outside work in relation to the Mar-a-Lago situation, with an amount not to exceed a cost of \$17,500, including the cost of the landscape architect. Mr. Heeke asked if the motion was contemplating that Clarion assist in the selection of the landscape architect. Mrs. Wiener responded affirmatively. Mr. Heeke asked if they could select it from any list to which Mrs. Wiener agreed. On roll call, the motion carried unanimously.

10. Special Exception No. 8-91 - Citibank, F.S.B., 400 Royal Palm Way. Mr. Heeke noted Mr. Prosperi was now in the room and told him the motion on this application was either to defer to the end of the meeting or to the August 13, 1991 Town Council meeting.

Attorney Prosperi advised he does represent Citibank, who wish to establish a branch banking facility at 400 Royal Palm Way, which will be approximately 2,640 square feet of first floor space and on the second floor, a related office facility with a variance from the parking requirements. He stated the office facility at 400 Royal Palm Way is required to provide four cars for each 1000 square feet but under the Town's Code, a banking facility requires five cars per 1000 square feet, and they will have 3.6 thousands, they will need four additional parking spaces and that is the parking deficiency.

Spec. Excep
8-91

Mr. Prosperi indicated the bank has occupied space at the corner of South County Road and Worth Avenue as a branch banking facility and they have provided a certification that shows that they are a Town-serving branch with 72% of the accounts are identified to the zip code of 33480.

Mr. Prosperi stated at 205 Worth Avenue, the branch provided no customer parking and they would be providing eight dedicated customer parking spaces behind the 400 Royal Palm Way building, as well as employee parking. He has provided the Town with a traffic study prepared by Frederick R. Harris which concludes, assuming the worse case assumptions, that the existing road and curb cut facilities would be adequate to serve the new branch. He believed additionally, they would be relieving traffic and parking congestion on Worth Avenue.

Mr. Moore reported the staff has no objection, providing the certification is produced of the Town-serving aspect, however, the Town Engineer and Police have concern about the parking. He stated if this is granted, this would be the first application granted for a full service bank in this region-serving area, OPI, and not a normal use for financial institutions. He indicated he has not had the time to analyze fully the traffic study and would need some time to have a traffic engineer analyze that. He pointed out there is an objection to the request for the variance request for the parking. He understood from Mr. Prosperi that perhaps they may be able to obtain additional space for parking in the immediate area.

Mrs. Douthit stated she would prefer to make a decision when they have the entire package, rather than do it piece-meal. Mr. Prosperi responded he had hoped in retaining Mr. Harris for the traffic study, would be acceptable to the Town. Secondly, Mr. Prosperi stated Citibank has entered into a Letter of Intent conditioned upon ultimate approval by the Council to lease an out-parcel of space adjoining the property, which is zoned C-OPI and is currently in use for rental apartments and their plan is to demolish the rental apartments and install a parking lot, which would provide from 15 to 18 parking spaces, which would be in excess of the minimum and would allow, with adequate stacking to install a pneumatic tube for a drive-through teller facility. He has entered into the agreement and this will require an additional approval from the Town Council with regards to the drive-through facility, but it would eliminate totally the parking deficiency.

Mr. Prosperi stated he normally would have no problem with putting this over to the next meeting, however, the Bank needs to be out of its space on Worth Avenue and in order to make the improvements necessary at 400 Royal Palm Way, they would need this time, and he was hoping that the Council would recognize the advantage of getting the Bank off of Worth Avenue and putting it in a C-OPI zone, and they have been able to demonstrate it is town-serving and although at this time, they do not have all the parking spaces required by the Code, they are adding eight parking spaces which they do not now have.

He indicated he will promptly apply for the Special Exception application necessary to install the drive-in facility and the second condition that they would need to obtain the consent of the landlord at 400 Royal Palm Way, and he sees no problem with getting that.

Mayor Marix asked if the previous tenants had a problem with the parking, requirement wise? Mr. Prosperi stated they were required to have the same parking. Mayor Marix noted they were short on parking too, so the Town wouldn't be any shorter by having the Bank there.

President Heeke asked if they anticipated any automatic teller on the exterior of the building? Mr. Prosperi responded the ATM machine would be inside the building, however, there will be 24 hour access.

Chief Terlizzese advised they had no problem with the ATM machine, however, they should be very visible. Attorney Prosperi advised this ATM machine will be inside and there will be a vestibule created for it off the parking area, and will be accessed only by people who have cards to access the area. Mr. Prosperi advised the area will be well lit and there will be closed circuit television cameras.

Mr. Moore noted the application states there will be 2,640 square feet on the first floor and 1,000 on the second and he suggested in order to accommodate the bank's needs, the Council could authorize the first floor portion be approved until the parking issue is resolved and only the 2,640 portion approved and the second floor be looked at later and address the parking and the pneumatic tube system. Mr. Prosperi stated this would be acceptable.

Mrs. Douthit moved to grant the Special Exception 8-91 be granted with the condition that this would be for the use of the first floor only and the second floor issue would be brought back to the Council when the parking issue is resolved. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

9

Comm.
from
Citizens

Attorney Monaghan asked if there was a time certain intended for the second part of this application? Mr. Moore indicated it would be for the August 13, 1991 Town Council meeting.

XIV. COMMUNICATIONS FROM CITIZENS - 3-MINUTE LIMIT PLEASE

MAR-A-LAGO CONSULTANT: Mr. Adrian Winterfield addressed the Council about the consultant for Mar-a-Lago, since he believed he heard Mr. Moore state the Building Official gave the Town Attorney the task of engaging the experts and the Town Attorney did so, and subsequently, the Town Council passed a motion which purported to engage the expert. He stated if this was the case, the motion of the Council should have been a ratification of the action already taken. He stated he was concerned about what he thought he heard was the procedure, as it is one thing to say you didn't have the expertise to do something, but something else to say that the Town Attorney should hire the expert. He felt there should be lines of authority established in lieu of allowing people to go off in several directions at once and then having an outside consultant who has one speciality and he uses his valuable time to engage another outside consultant of a totally independent speciality.

XV. ANY OTHER MATTERS

Stein-
hardt
application

A. STEINHARDT APPLICATION. Mr. Weinberg advised he had attended the latest meeting of the Palm Beach County Planning Committee and because of the ruling of the Corps of Engineers, the Committee determined the use of the underwater lands would have to wait for the decision of the CORPS, but the decision on the land use would enable Mr. Steinhardt to build under C-1 zoning, small stores and businesses, such as convenience stores, or hot dog stands, however, this is still in litigation.

Letter
from
Gertrude
Maxwell

B. LETTER FROM GERTRUDE MAXWELL. Mr. Heeke requested the long letter from Mrs. Maxwell thanking the Council for allowing the stairs which led to the Anthony house to be on display at the Town Hall be a part of the minutes.

June 19, 1991 - Mayor, President Heeke and Members of the Council:

Words cannot express my appreciation for the honor you bestowed upon me in your June 11, 1991 Council Meeting by presenting me with the beautiful plaque, acknowledging my gift to the Town of Palm Beach, of the replacement steps from the Historically Important Winifred Clarke Anthony home at 6 South Lake Trail, Palm Beach, on Lake Worth, where the Town of Palm Beach was incorporated April 17, 1911. I am grateful that these steps will be publicly displayed on the second floor landing of the Town Hall as a tribute to our pioneer Town fathers who, according to historic records, gathered together "rather hastily" and developed a Town Charter on the front steps of Louis Semple Clark's house.

Hastily because the year round island residents heard about a plan by the West Palm Beach government to annex the unincorporated areas of Palm Beach. This would have created a municipality on both sides of Lake Worth. Under the leadership of Mr. Clarke and his friend, Captain E. N. (Cap.) Demick, who became the first Mayor of The Town of Palm Beach, the Town fathers got 31 men resident voters to attest to the Charter, which incorporated the Town of Palm Beach. They only needed 25 votes. Lest we forget, these men set the course for the exciting future of Palm Beach as a world famous, environmentally exotic, naturally tropical paradise island, and a gracious place to live. Palm Beach has been, and is, and hopefully will always be famous for its residents who are outstanding for their world-wide achievements and their generous, humane, charitable contributions.

As Mayor, President of the Council, and Town Council members, you, too, are setting the course for Palm Beach's future.

I am grateful for, and appreciate your sensitivity to the value of preserving the Town of Palm Beach's natural environment, Landmark Properties, unique architectural designs, its memorabilia, and the Town's happy, enjoyable resort lifestyle.

I appreciated the respect and understanding you showed in allowing the brief acceptance ceremony for the steps which belonged to the historic Clarke Anthony Home in your June 11th Council meeting.

When I visited the Anthony Home to accept these steps from the late Mr. Clarke Anthony, Winifred Clark Anthony's son, on October 14, 1989, I went through each one of the over 14 rooms of this great house, knowing that in a few days, it would be demolished. It would be gone forever. I visually pictured all of the significant historical events which had taken place there. In the stillness of the rooms, it seemed that there was something about the house which wanted to me to understand that even though its material structure was going to be demolished, that like a vivid memory, it would be there forever.

Outside, on the 2.6 acres on Lake Worth, where there were beautiful lush foliage, exotic flowering shrubs, and many species of palms, there seemed to be whisperings of the mingling of sad goodbyes and sweet memories.

As leaders of this Town, you have an outstanding record for preserving the best in every area of Palm Beach's past and present for future generations to treasure.

I am proud, and yet humbly grateful, that you have allowed me to join you in having a small part in preserving Palm Beach's history by donating the steps of the Clarke Anthony home to the Town in commemorating and celebrating the 80th birth year of the Town of Palm Beach.

As both the Town of Palm Beach and I were born April 17, 1911, I have been honored that the Town has shared dual birthday celebrations with me, each year since my husband, Mark Maxwell and I hosted the first, exciting and successful dual 75th Anniversary Birthday Party for the Town of Palm Beach and myself on April 17, 1986 in the Gold Room of the Breaker's Hotel. This year's very successful anniversary party was held at the famous Chuck and Harold's Restaurant in Palm Beach. Hopefully, we will celebrate this important occasion every year for many years to come.

Because I was born on the same day as the Town of Palm Beach, I feel a special spiritual affinity to the Winifred Clarke Anthony home which was the birthplace of the Town Charter and to these steps, the last remaining fragments of that grand old home.

Honorable Mayor Marix, President Heeke and Members of the Town of Palm Beach Council, I thank you again for one of the most memorable occasions in my life, when you extended to me the great honor of presenting me with the beautiful, meaningful plaque of appreciation for my donation of the steps. This plaque will be displayed in our

Palm Beach home for our children, grandchildren and many friends to appreciate and enjoy, symboling to them the importance of their heritage as Palm Beach residents.

Sincerely and so very grateful for your gift of appreciation,
(signed) Gertrude Maxwell, 1473 N. Ocean Blvd., Palm Beach, Fl.

C. WATER RESOURCES MANAGEMENT ADVISORY BOARD. Mr. Doney advised on July 2, 1991, a letter was written by Water Resources Management Advisory Board to Palm Beach County Commissioner Roberts indicating the Palm Beach Water Resources Management Advisory Board composed of representatives of the Municipal League, the County, the County Development Board, the Water Management District, DER, Utility Council and the Association of Special Districts including agricultural and environmental interests is recommending that the Palm Beach County Commission adopt an Ordinance which would put into effect permanent water restrictions, proposing an Ordinance at the County level, and they are encouraging all of the municipalities in the County to adopt a similar Ordinance. He stated the Ordinance states that between 9 AM and 5 PM, there be water restrictions and they are recommending if there is a parcel of land one acre or greater, the irrigation system should be required to be equipped with a water sensitivity device which would discontinue irrigation during periods of rainfall. He stated the purpose of asking the Mayor and Town Council to consider this today, as they wished to have comments on it by July 20, 1991. He recommended that since the Town staff has not had an opportunity to fully review this, he will respond to Commissioner Roberts indicating they will review and analyze the letter and after this review, this matter will be referred to the Mayor and Town Council for their comments at their August 13, 1991 Town Council meeting, to which the Council agreed.

Mayor Marix advised the water sensitivity device is a major problem as it doesn't always work and is inefficient, depending on certain circumstances.

(D) RUSSELL ENGINEERING REQUESTING USE OF OKEECHOBEE BOULEVARD RIGHT-OF-WAY. Mr. Doney advised the Town owns a piece of land on Okeechobee Blvd. near its yard trash site and it abuts Okeechobee Blvd. on the south side and Russell Engineering is doing some widening of the road at that point and have contacted Mr. Dusey to use this area for a staging area. He suggested the Town could receive some revenue and he requested permission from the Council for the Town to lease this area to Russell Engineering, providing the contractor will indemnify the Town as to any use of the property and they receive a fair rental value for this temporary use. He advised they would like to have an agreement with Russell Engineering subject to approval by the Town Attorney to protect the Town's interests and indemnification for any kind of oil spills or other problem which may occur. Mr. Heeke stated one of the items on the lease agreement should be there would be no interference with ingress or egress. Mrs. Douthit asked how big an area are they talking about? Mr. Doney stated there has not been a site plan submitted with the proposal, but he presumed it would be room enough for a trailer type office and several vehicles. Mrs. Douthit recommended that a condition of the lease also be that the site be restored to a good condition.

President Heeke stated the staff is authorized to work out the best arrangement with Russell Engineering pursuant to the items outlined by the Town Manager and called for a motion. Mr. Weinberg so moved. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

(E) TOURS ON WORTH AVENUE OFFERED BY TRI-RAIL. Mayor Marix reread her comments on the proposal by Tri-Rail to have tours on Worth Avenue:

The tours of up to some 40 people on Worth Avenue, if allowed to one group will have to be allowed to any group, so we could end up with groups all day every day. Worth Avenue is one of our greatest assets, we must not let it be ruined as have been many other lovely shopping streets. No question business on the Avenue in the summer is not good, but so many other factors cause it. The rents are very high, which reflect on the prices...this is partly caused by the tax structure. I have heard many complaints that much of the merchandise is not suitable for many of our residents...they cannot all wear the mini mini skirts which are often shown, etc., but the largest problem can well be that more and more summer type shoppers are being taxed out of Town. They are moving in great numbers to the mainland, their taxes have risen to impossible amounts, and the reason constantly given is that they newly built million and more houses nearby have affected their values. One sees more and more of these multi-million dollar houses going up, but one does not see many open in the summer. Owners of that type of home normally do not stay here all year. As the taxes go up, the houses are sold, torn down, and replaced by more million dollar homes. We are almost heading for the days I remember when the Avenue was closed in the summer, and the street lights taken down. Few stayed here in the days gone by, because except in the mid-Town section, there were no small homes, like were built in the 50s and 60s.

It is the tax issue that should be attacked through legal and legislative action if a solution is to be found, not degrading Worth Avenue through tour groups.

Many a home for sale, at a loss to pay taxes. Tour groups pushing their way down the narrow pavements of Worth Avenue driving away the very business we are striving to encourage.

Is this what we were elected to allow? Of course not, so let us work together and hard to keep Palm Beach the Jewel of the Gold Coast.

President Heeke recalled earlier in the meeting this was discussed and he asked this item be put over to this time and he would suggest they ask the Town Attorney to do some preliminary research to determine what, if any, limitations could be put on tour groups on Worth Avenue, which would be lawful.

Mayor Marix stated her reasoning is to protect the Town shop owners and the residents. She realized if 30 or 40 sightseers were put in some of the smaller shops on Worth Avenue, that would be an awful lot of people in a group to go in and out of the shops all at once.

Mrs. Douthit felt if 40 people were bussed over here, the next time, it may be two busses bringing 80 people and on and on and if this is going to be allowed, it should be done most cautiously.

Attorney Monaghan was asked if this would be much of an undertaking to research this? Mr. Monaghan responded they would have to take into consideration health, safety, welfare and traffic and what restrictions would be permissible in light of those threats. He believed they would have to look at the purposes of the zone to see if what is contemplated would be consistent. Mr. Heeke pointed out there is also some litigation pending that he would have to look at.

Mrs. Wiener stated she did not believe that people walking down the street can be asked to show how they got here, why they are here, and what are they here for? She believed there was a lot of political bug-a-hoo associated with this and she would not like to see them go down this road, even to go as far as asking the Town

Tours-
Worth
Ave. by
Tri-Rail

Attorney to protect them from a few people walking down the street, although she is aware of busses dropping off people on Worth Avenue for years and she couldn't identify them from anyone else walking down the Avenue. She thought they needed to approach this in a sane manner, and be reasonable about the type of protection they afford the residents of this Town.

She believes everyone who sits on this Council brings their own life experiences and this to her smacks of a police state as she came from one of those.

Mayor Marix stated she didn't believe there was any question ever of stopping people on Worth Avenue and asking how they got to Worth Avenue.

Mr. Weinberg stated he hoped that in this community, they would not behave in an undemocratic unAmerican way. Mr. Heeke stated that is why they wanted to be guided very carefully on this matter.

Mr. Jesse Newman addressed the Council, stating he was not addressing them as a Worth Avenue merchant, but on behalf of John Maass, the President of the Worth Avenue Association, who is presently out of Town and he asked him to convey to them how this got to this point. He advised them the Worth Avenue Association was approached by Tri Rail to see if they could bring visitors to Worth Avenue, subject to the Worth Avenue Association's approval and at a meeting of the Association, it was unanimously approved.

He made a call to the Police Department and was unable to talk to the Chief, but did speak to Cpt. Croft who didn't seem to have a problem with it. He called Mr. McPhail on the licensing and was told there should be no problem as they were going to use limousines who were properly licensed, Park Limo.

He stated it is not a group but an accumulation of people, made up of individuals who probably do not even know each other. He hoped he made it clear that the people who will be using the Tri-Rail will spend five hours on the Avenue and will not have a guide, but a coordinator to point out the restaurants.

Mr. Ilyinsky asked how Tri-Rail was advertising the Worth Avenue trip? Mr. Newman responded it is on their brochure and in the racks at the Tri-Rail stations. He stated this is being done only for the summer. He reported thirteen people will be coming tomorrow and Tri-Rail has stated they could not accommodate more than 40.

Mayor Marix indicated her concern stating she is sure it will be a nice group of people, but if one group has a coordinator, which she really believes is an escort, she is sure that this thing will get beyond being just one small group. She discussed it with Mr. Doney and he was not aware of the contact made with Chief Terlizze and Mr. McPhail. She stated when a whole group of these people congregate in one store, she is concerned about security. Mr. Newman recalled that perhaps twenty-five to fifty convention people come to Worth Avenue each year in Lolly the Trolley, in busses, in cabs, in limos and this will be no different.

Mr. Newman stated no busses are allowed on Worth Avenue and the Town didn't want busses and neither does the Worth Avenue Association. He stated these are the tour groups that would dump the people on Worth Avenue for forty minutes or so and they wouldn't be spending any money there. Mayor Marix didn't believe it would be any different with the Tri-Rail people as they are paying \$13.50 to come on the Tri-Rail and that includes lunch. Mr. Newman stated they will be on the Avenue for five hours. He felt the Mayor and Council should let the merchants have a chance as years ago, when he owned a shop on Worth Avenue, they closed down during the summer and they didn't have to pay rent in the summer months but these merchants are open all year round and pay rent all year around.

Mr. Weinberg noted they are only listing one day a week for this trip.

Jean Feather, General Manager of Saks Fifth Avenue, addressed the Council, indicating she was also a member of the Worth Avenue Board and she wanted them to know the Association and its members have the greatest respect for this government and have clearly demonstrated it in many ways. She acknowledged they honor all the holidays with the greatest respect since they sincerely appreciate this Town and she loves being a resident as well as a business person. She equated this to anticipation of contacting any hotel in Town, or the new Ritz-Carlton and suggesting they, as a store, or as a Avenue Association, send a limousine to pick up groups of people to come to the Avenue to shop. She stated this is how she looks at this promotion with the Tri-Rail people. She hoped that quality residents in South Florida will get on the train and come to Worth Avenue and shop and buy. She appreciates the support of the residents of the Town but does welcome the guests of the hotels and this is how they are welcoming these people who might come on Tri-Rail. She didn't believe it was a matter of survival for any of the stores of the Association, whether they do it or don't, since the numbers of people will be limited, but sees them growing not in number but in the quality of the people. She stated this is a experiment through September, and they do hope the Council will see them through this, as it is a legitimate thing for the Association to do, with all due respect for the tradition of the Town, which they have always adhered to and will continue to do so in the future.

Mayor Marix was certain the people who would be staying at the Breakers for \$100 to \$200 per day would be better shoppers than some of the people they were going to get on the Tri-Rail. Ms. Feather stated she didn't know if that was true or not, as these people might be coming from hotels in South Miami and she knows there are many in that area who hate the drive to Palm Beach, but love to shop the Avenue, and they do welcome their Central and South American customers who are quite wealthy. She believed they are going into a future of Rapid Transit, where a lot of people from Miami might not be driving but will utilize the rapid transit in the future.

Holiday Tuttle, a member of the Board of the Worth Avenue Association, of the Diane Frees Boutique told of a customer she had last week whose husband drove her to Worth Avenue as she did not like to drive on I-95 and spent about three thousand dollars on the Avenue in various shops. She stated this particular customer was glad to hear about the Tri-Rail transportation. She knows this promotion will not make or break their business, as they plan for the summers. Mayor Marix stated she has no problem with anything Ms. Tuttle has said, but stated again her concern about the precedent that would be set. Ms. Tuttle stated she has been here for two years and in the last two weeks, there have been large busses at the corner of South County and Worth Avenue letting off groups of teenagers to spend several hours on the Avenue, and she assumes they are authorized tours in some way to be here, and she didn't think the Tri-Rail people would be any different.

Mrs. Wiener stated anyone can go down any street in any Town and doesn't have to be given authority to do so. Mr. Ilyinsky felt they needed authorization to have the busses.

Mr. Paul Prosperi addressed the Council, indicating he is not a member of any group, however, he would like to make several comments, stating in the New York Times today there were some comments made by the President of United States who stated the Federal Government was cutting off Federal Funds to towns and municipalities who use

local ordinances to effect economic segregation and he was using that in terms of middle income and low cost housing. He knows from the Comprehensive Plan our middle income housing is garage apartments and servant's quarters, so he felt this Town had clay feet on a lot of these issues.

Mr. Prosperi stated he has sat through most of this meeting today and it occurs to him that the relationship between this Town's government and the County government and the State government are less than copacetic. He believed the image of this Town among other elected officials and appointed officials is one that is less than helpful for obtaining help or funding from various government agencies, and with all due respect to spending monies, some of which would be his tax money, to investigate prohibiting people from coming to this Town because they happen to choose public transportation to come to this Town is not what he would consider to be a good use of his tax monies, nor is it helpful for the image of this Town, nor is it particularly American or democratic in value. He felt it hurts in terms of some of the other opportunities they could get to benefit this Town. He stated he happens to own some property in Jupiter Island and it gets a lot of money for its beach renourishment and other things, and he felt they ought to pay attention to some of the messages that are being sent out of this Town, which are very unfriendly and don't yield dividends, where they would otherwise be able to collect them.

Mayor Marix stated she resented the inference Mr. Prosperi placed on some of the things he said as one of the big problems they have in this Town is when they try to do something very good - it is the Press's image that is sent out, which they all know is a fact, as very often they are presented doing some things that they don't do. She stated in no way was anything she said or discussed with Mr. Doney ahead of time or the comments she made today, that she wanted people to buy expensive things, or not to walk on Worth Avenue, or as Mrs. Wiener stated to ask people where they are coming from. She indicated that was not the case at all, but her concern was that if they call them "groups" but if we have organized "groups" coming here with escorts, she is sure there will be groups like skinhead groups, KKK groups, all of whom will be able to come in here and stated they can come in and walk down the avenue as they are a "group". She stated that was her worry. She had no problem with anyone coming to Worth Avenue with no money at all to look at the shops, that was fine, she had no problem with that. She indicated if they wanted to come up on the Tri-Rail, get a bus over to Worth Avenue, that is fine also, but she is worried for the safety of the Avenue and she is surprised that no-one else picked that up.

Mr. Prosperi indicated he was not meaning to offend the Mayor but only meant to take issue with her position. Mayor Marix didn't believe he understood her position, so she didn't know how he could take issue with it. Mr. Prosperi stated perhaps he didn't understand her point and apologized for not understanding it, but normally he is relatively articulate and he thought he was paying attention and if he misunderstood, she should think of the message that is sent out more generally, reiterating he didn't mean to take personal offense, but merely to take issue with the remarks.

Susie Smithers addressed the Council, a member of the Worth Avenue Association Board and she was excited about the Tri-Rail promotion. She stated she has lived in Greenwich, Ct. and there are signs on all of the public transportation "Park and Ride" and she would like to look at this as a "Ride and Shop" promotion. She hears all kinds of complaints about there being no place to park on Worth Avenue and the way she is looking at this, is they are opening up Worth Avenue as the people who will be doing this will be ambassadors for future business in the winter. She didn't want to offend anyone, but she felt it would be good for the Avenue.

Mayor Marix stated this is exactly the other way of doing something and she thought this young lady is the one who should be in charge of the public relations on Worth Avenue.

Mr. Paul Henry addressed the Council indicating the perception is the Tri Rail is not a very nice ride, but it is quite lovely. Mayor Marix stated it is lovely and she is not objecting to Tri Rail. He stated the Worth Avenue Association felt the Wednesday on Worth Avenue was a tricky little catch and all they are trying to do is have people. He is constantly concerned about security but feels confident about this as it will be a small group of people. Mayor Marix hoped he would feel confident when the other groups show up. Mr. Henry advised they they have a lot of tour groups on Worth Avenue, but they are done well, and are not noticed as groups. He didn't think it appropriate for the Town to look into what they can do to stop tours as there already are a lot of tours coming into this Town.

Mayor Marix stated it wasn't what they could do to stop tours, but they wanted to know to what extent they can protect the residents and the shop owners if they were anticipating any problems, and that is very different from wanting to stop tours. Mr. Henry stated he was referring to the earlier statement read by the Mayor to the Council about looking into what can be done, and perhaps he misunderstood what she was saying. Mayor Marix pointed out that regulations were not stopping. Mr. Henry stated he misinterpreted her remarks, but even to look into regulating, it would mean all tours.

Mr. Newman thanked the Mayor and Council for allowing this to be brought to light and pointed out the reputation of Worth Avenue did not happen by accident, as it is known throughout the world and these hard working merchants pick the address and will maintain it. He read from an article of the Roanoke Times World News which had a statement about Worth Avenue: "Worth Avenue stores tend to be high in both quality and price, many of the stores are recognized names around the world among upscale clientele, while those that give Palm Beach its character are unique to Worth Avenue. The Avenue's fame derived in part from its unique shops with a combination of merchandise and ambiance that exists nowhere else." Mr. Newman advised the Council that these merchants are not going to change that image and they should be allowed the chance.

Mr. Ilyinsky felt they should allow the Worth Avenue merchants a chance as he felt he fell in the middle with the statements made today as he agrees and disagrees with a lot of the things that have been said, as he does wave the flag and finds it deplorable to deny anyone the right to walk any street in the United States at any time they want to, however, there is a difference between misunderstanding the word "guided tours" and people who travel on a rapid transportation system like Tri-Rail, as two-thirds of the people in Europe travel this way perhaps once a day. He stated they cannot tell people they can do this or that, as if these "tours" or Ride and Shop is the logo, he thinks it would be perfectly alright but he wouldn't want to see people going through some sort of a check point. Mayor Marix retorted no-one ever suggested that. Mrs. Douthit agreed. Mr. Ilyinsky stated he agreed with the Mayor's comments on the security, but he felt they had to reach beyond that and he thought the tour business should be given a chance, and if it is a disaster, they can revisit it again, but he didn't want to spend one penny for the Town Attorney to research it. Mayor Marix thought perhaps at that time it might be too late, as the precedent will be set. Mr. Heeke stated the issue was whether or not there was any regulation that was even possible. Mayor Marix indicated she resented the point of view of the intent to keep people off Worth Avenue, as that was not her point and no-one even suggested that, as all of them knew last year there was a very serious problem and she was in court when it was ruled against the Town, and that cost the Town much more than the few minutes the Town Attorney would be spending on it. She felt she owed it to this Town when she foresees a possible danger to bring it to a meeting, to have it discussed, and she resents very much when it gets twisted around.

Adjourn-
ment

Mr. Heeke called the discussion to an end.

XVI. ADJOURNMENT Meeting was adjourned at 5:36 PM.

Grace T. Peters
Town Clerk

MINUTES OF SPECIAL TOWN COUNCIL MEETING HELD ON

AUGUST 1, 1991

TC
Meeting
8-1-91

Roll Call

I. CALL TO ORDER AND ROLL CALL: President Heeke called to order a special meeting of the Town Council on Thursday, August 1, 1991, at 9:30 AM in the Town Hall Council Chambers. On roll call the following were found to be in attendance: Mayor Marix, President Heeke, President Pro Tem Weinberg and Councilman Ilyinsky. Councilwomen Douthit and Wiener did not attend the meeting. Staff members attending the meeting were: Town Manager Doney, Finance Director McPhail, Mr. Myers, Mr. Moore, Mr. Bowser, Mr. Bitzer, Mr. Jakubiak, Mr. Elwell, Mr. Crouse, Chief Terlizese, Chief Elmore, Capt. Shetron and Ms. Reedy.

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II. INVOCATION AND PLEDGE OF ALLEGIANCE: Invocation was given by President Heeke. Pledge of allegiance was led by President Pro Tem Weinberg.

III. APPROVAL OF AGENDA: On motion by Mr. Ilyinsky and seconded by Mr. Weinberg agenda was approved with no changes.

FY-92
proposed
budgets

IV. FY-92 PROPOSED BUDGETS

A. 1991-92 FISCAL YEAR "TENTATIVE" MILLAGE RATE AND BUDGET FOR GENERAL FUND AND PROPOSED BUDGETS FOR OTHER FUND GROUPS. Before conclusion of meeting, in accordance with Section 200.065(2)(b), Florida Statutes, the Town Council shall announce and advise on the following:

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

Mr. Heeke said the purpose of this meeting is to set a tentative budget as required by State law. He said this is a "Tentative" rate, set higher because if it is determined at a later date that a higher millage rate is necessary and they have to raise the tentative rate, then the Town is required by State Law to send a certified letter via first class mail to every property owner in the Town of Palm Beach announcing the change in the proposed millage rate. Mr. Heeke said they expect the millage rate will be reduced when the final budget is adopted.

Mr. Doney said he would like to give the Mayor and Town Council a brief update on the budget revisions which have been made to date, and to identify other issues which would need to be considered by the Finance and Taxation Committee and subsequently by the Mayor and Town Council during the budget process. He said those hearings will take place in August and September.

Mr. Doney referred to his memorandum dated July 23, 1991. He said the memo identified the proposed tentative operating millage rate for FY92, and Mr. Doney said he is recommending a millage rate 3.8339 mills which represents a 6.73% increase over the roll back millage rate which is 3.5921 mills, and a 3.37% decrease over the adopted FY91 operating millage rate which was 3.9679 mills. Mr. Doney said the actions the Town Council must take today is to set a tentative operating millage rate and he recommends that the Town Council approve a tentative operating millage rate of 3.9 mills. He said that figure is higher than 3.8339 mills but would allow the Town Council to reduce that figure depending on future deliberations of the Finance and Taxation Committee and the Town Council.

Mr. Doney said further discussion and action which is required by the Town Council is; the Health Insurance Program, the FY92 Proposed Capital Improvement Program and the Staffing and General Pay Increase, if any.

Mr. Doney said he realized this was a very tight budget year but he felt this was a responsible budget, and one that is justified to be able to maintain the current level of services to Town residents. He said there was one particular change in the level of service in the proposed budget which is a \$100,000 increase in the Public Works Department Program to expand the voluntary recycling program for multi-family residents. He said it is required by State law that a certain percentage of the waste volume be removed from the waste stream by 1993 or 1994.

Mayor Marix said she had read an article about mulching, and she asked if the Town of Palm Beach has considered this?

Mr. Doney said that Mr. Dusey had looked into that previously and he would ask him to look into it again. He said mulching was being encouraged by the State and Federal agencies to compost, but he said that any compost operation in the Town of Palm Beach would be relative only to vegetation yard trash. Mr. Doney said that in some areas of the Country where they have more serious solid waste and land fill problems then we have here, they are encouraging residents to do household composting where all items are composted together. Mr. Doney said in some areas there are units which residents can purchase for composting in their back yard providing they have the room.

Mayor Marix asked if we could look into composting even if it is only for vegetation matter. She said many Towns are now requiring composting, and she thought it would pay for itself and save money on purchases of top soil.

Mr. Doney said Mr. Dusey had spoken with the Solid Waste Authority but in September the Solid Waste Authority will be abolished and the Palm Beach County Commission will take over the function of the Solid Waste Authority. He said that neither agency has shown an inclination towards allowing the reduction of fees for garbage which is transported to the solid waste resource recycling facility.

Mayor Marix said it was her understanding from reading the article that the Town would save money because we wouldn't need to buy as much top soil. She said the article didn't address the possibility of a reduced rate for solid waste disposal. Mr. Heeke suggested that Mr. Dusey should look into mulching as a possible revenue source but he felt the use of mulch for the Town of Palm Beach would be fairly limited.