TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL MEETING
HELD ON JULY 8, 2003

I. CALL TO ORDER AND ROLL CALL

The regular Town Council Meeting of July 8, 2003, was called to order at 9:30 a.m. by Town Council President William J. Brooks. On roll call, the following Elected Officials were found to be present:

Mayor Lesly S. Smith
President William J. Brooks
President Pro-Tem Norman P. Goldblum
Councilman Jack McDonald
Councilman Samuel McLendon
Councilman Allen S. Wyett

Also attending for all or a portion of the meeting were:

Town Manager Peter B. Elwell
Assistant Town Manager Thomas G. Bradford
Assistant to the Town Manager Sarah Hannah
Town Attorney John Randolph
Police Chief Michael Reiter
Assistant Director of Planning, Zoning, & Building Veronica Close
Zoning Administrator Paul Castro
Code Compliance Officer Rob Walton
Administrative Aide to Director of Planning, Zoning & Building Linda Corbett
Public Works Director Al Dusey
Public Works Assistant Director Paul Brazil
Town Engineer James Bowser
Coastal Management Coordinator Sandra Tate
Finance Director Jane Skittone
Assistant Finance Director Cheryl Somers
Fire-Rescue Chief Kent Koelz
Recreation Director Russ Bitzer
Tennis Pro Jim Hay
Golf Pro Rick Dytrych
Information Systems Manager Spencer Wilson
Dock Master Jon Luscomb
Town Clerk Mary A. Pollitt

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Town Clerk Pollitt gave the invocation. President Brooks led the Pledge of Allegiance.

III. PRESENTATIONS

A. Recognition of Jeffrey Bankston, Assistant Fire-Rescue Chief, Fire-Rescue Department Upon His Retirement From the Town of Palm Beach After Twenty Nine Years and Ten Months of Service.

Mayor Smith recognized Assistant Fire-Rescue Chief Bankston for his years of service and presented him with a watch.

B. Recognition of Brian House, Chief Code Compliance Officer, Department of Planning, Zoning, and Building Upon His Retirement From the Town of Palm Beach After Twenty Five Years and Eleven Months of Service.

Mayor Smith recognized Chief Code Compliance Officer, Department of Planning, Zoning, and Building Brian House for his years of service and presented him with a watch.

IV. COMMENTS OF MAYOR LESLY S. SMITH

Special congratulations are due to Russ Bitzer and the Recreation Department for our fun and inspiring Fourth of July celebration – which for many years has been memorable because of Al Ross's participation. This year, it was memorable because we had to carry on without him. We used to tease Al for being nearly as old as the Declaration of Independence – He was 101 when he left us, and his last years were spent educating us about America's institutions and the responsibilities of patriotism. It was only fitting that as we honored Americans serving in Iraq – and we celebrated Iraqi citizens' first taste of independence – we also remembered this former navy man who so loved his country.

Yesterday was the day the Council got out its fine-toothed comb and worked to style a budget that fits both our needs and our pocketbook. The Palm Beach Post last week referred to us as a fairy tale island, but that notion itself is a fairy tale. We take our fiscal responsibilities quite seriously, and like every other city and town in the country, we have been hard-hit by the economic downturn. Because we are obligated to pay 1.6 million dollars into the pension fund next year, we asked all department heads to cut their budget requests to make up a $600,000 shortfall. They did an extraordinary job in what is a very tough balancing act, given Palm Beach's pride in service delivery.

All of you know those budget cuts included some worthy projects and programs that we would like to have funded, but which were not judged critical at this time. We had to postpone several items that were geared to helping solve our traffic congestion problems – including a $150,000 traffic study, electronic message signs to warn drivers, and additional security cameras. I am confident that we can operate very well with these decisions, without sacrificing our quality of service, and that these items will be restored in the near future. One item that was eliminated, however, concerns me – that of a Town newsletter and other methods for better communication with our citizens. Several residents have mentioned, for example, that information about homesteading properties is not readily available or understood, so many homeowners are missing out on the $25,000 exemption. I would suggest that this is a vacuum that our two major community organizations could fill. I hope that both the Civic Association and the Citizens Association will augment their already-excellent communications process with homestead exemption information and other news that every Palm Beacher should know about.

The bottom line on our new budget is that we have succeeded in keeping our tax rate steady, but taxpayers will be paying a bit more because of increases in property values. Here is where the homestead exemption makes a big difference: between an average tax increase of about 7 per cent and the minimal 2.4 per cent increase allowed by law on homesteaded properties, thanks to the save our homes referendum several years ago. Our crackerjack Town staff has once again performed above and beyond the call of duty in paring down the budget and supporting our fiscally-conservative stance.

V. APPROVAL OF AGENDA

The following change was made to the Agenda:

ADD to the current Agenda - Item X.B. New Business 6. - Consideration of Town Attorney Randolph Monitoring the Litigation Regarding Attorneys from Dade/Broward Counties Objecting to the Requirement for Occupational Licenses.

Motion made by Councilman McDonald, seconded by Councilman McLendon, to add to the current Agenda - Item X.B. New Business 6. - Consideration of Town Attorney Randolph Monitoring the Litigation Regarding Attorneys from Dade/Broward Counties Objecting to the Requirement for Occupational Licenses. On roll call the motion carried unanimously.

The Agenda was approved, as amended, through a motion of President Pro-Tem Goldblum, seconded by Councilman McLendon. On roll call the motion carried unanimously.

VI. COMMUNICATIONS FROM CITIZENS- 3 MINUTE LIMIT PLEASE

James Murtha, 120 Chilean Avenue, spoke regarding the construction traffic, new style street lights, and permit parking in his neighborhood. He suggested a moratorium on construction for the 400 South Ocean Boulevard Building and complained about the continuous construction activities over the past four years which caused noise and debris problems. He also suggested an entrance change to the 400 South Ocean Boulevard Building.

President Brooks requested that Veronica Close, Assistant Director of Planning, Zoning & Building and Al Dusey, Director of Public Works, handle the complaints of Mr. Murtha.

VII. PUBLIC HEARING REGARDING UNIFORM METHOD OF NON-AD VALOREM ASSESSMENTS FOR CERTAIN SOLID WASTE COLLECTION FEES

A. Resolution 25-03 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Establishing the Preliminary Non-Ad Valorem Assessment Rates for Commercial Solid Waste Collection For TRIM Purposes; Providing An Effective Date. [Albert P. Dusey, Director of Public Works]

Public Works Director Al Dusey explained that the Town has been pursuing a plan to assess solid waste collection fees on tax bills for certain commercial properties. He stated there are numerous advantages to the method of non-ad valorem assessments, but the primary one is that payment is faster and more complete. He said it takes the County between six and eight months to catch up with property owner changes and this has caused the Town to go several months without being able to collect fees. He stated that the solid waste fees would now be part of the tax bills, and they will be collected at the time of closing eliminating this problem.

Public Works Director Dusey stated that all legal requirements have been met in order to adopt this method of non-ad valorem assessments.

Mr. Dusey advised that the Town has received a number of written objections which includes thirty-one residents from The President Condominium at 2505 South Ocean Boulevard. He stated that since the condominium has a small commercial area without a property control number, the billing system will remain unchanged.

Mr.Dusey reported that Mr. Erik N. Gilbertson objected to the assessment, in writing, advising that he would like quarterly billing. Mr. Gilbertson also stated that he does not want the Town to be involved with the County in any way regarding this matter

Mr. Dusey advised that Mr. Frank Cathey wrote regarding property he is selling at 246 Oleander Avenue. Mr. Cathey stated that the new owner will not be using the garage apartment as a rental unit.

Mr. Dusey said a letter was received this morning from Ms. Karen Vasquez, Property Manager of Plaza Center, 251 Royal Palm Way. He stated that there had been some correspondence, in the past, with Ms. Vasquez regarding how her facility is assessed and the number of days they are serviced. He reported that Ms. Vasquez has asked the Town not to act until they can have the Solid Waste Authority change their solid waste classifications. Mr. Dusey felt that Ms. Vasquez has sufficient time between now and the time of assessment to get the classification adjusted. He stated that as soon as the Town is notified by the Solid Waste Authority of any changes, it would be taken care of.

Mr. Dusey explained he wanted these letters included in the record but felt they did not have any significant impact on the Council's deliberations, at this time.

Town Manager Elwell stated that there was one other letter sent by Bernice C. Gilbertson that was similar in character to the one from Erik Gilbertson. She stated a general objection to being charged for these services as well as opposing the placement of solid waste fees onto the tax bill.

Town Manager Elwell explained any action taken today by the Council is tentative and final action will be taken in September. He noted that was the reason behind Mr. Dusey's statement that the objections noted today would not impact on the Council's action.

Cecil Mullines, Manager of 2505 South Ocean Blvd., The President Condominium, requested a clarification from Mr. Dusey. He wondered if the way they are currently billed, will remain the same?

Mr. Dusey responded that they will continue to bill the condo association in the same manner.

Mr. Dusey advised that Rob Ori of Public Resource Management Group, Inc. reviewed and made adjustments to the Town's method of charging for solid waste collection. Mr. Dusey recommended acceptance of the assessment methodology that was developed by Public Resource Management Group, Inc. and adopting the Resolution.

Mr. Dusey, responding to Councilman McDonald question regarding exceptions to this billing system, stated that there are about seven properties that have compacted garbage which cannot be billed in this method as it is done by contract. He said there are seven separate bills including the school district. He stated that the south end condos get weekend service that cannot be assessed because the Town offers this service based on demand only, and they are billed when requested.

Town Attorney John Randolph read the rates, as proposed, into the record under Section 3 of Resolution 25-03 then proceeded to read the Resolution by title:

> A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, ESTABLISHING THE PRELIMINARY NON-AD VALOREM ASSESSMENT RATES FOR COMMERCIAL SOLID WASTE COLLECTION FOR TRIM PURPOSES; PROVIDING AN EFFECTIVE DATE.

Mr. Murtha asked if the assessments in this proposal would be paid to the Town or to the County?

Mr. Dusey replied that they would be paid to the Town.

Councilman Wyett moved approval to accept the methodology for establishing the rates for solid waste collection. The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

President Pro-Tem Goldblum moved approval of Resolution No. 25-03, as recommended by staff. The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

VIII. CONSENT AGENDA

A. APPROVAL OF SPECIAL TOWN COUNCIL MEETING MINUTES FOR THE MEETING OF JUNE 9, 2003, APPEAL OF THE LANDMARKS PRESERVATION COMMISSION'S DENIAL ON APRIL 16, 2003, OF A REQUEST TO UNDESIGNATE THE LANDMARK PROPERTY AT 455 SOUTH COUNTY ROAD

B. APPROVAL OF TOWN COUNCIL MEETING MINUTES FOR THE MEETING OF JUNE 10, 2003.

C. APPROVAL OF SPECIAL TOWN COUNCIL MEETING MINUTES FOR THE SPECIAL TOWN COUNCIL MEETING OF JULY 2, 2003, MARY FLANNERY v TOWN OF PALM BEACH AND CITY OF WEST PALM BEACH (ATTORNEY/CLIENT CLOSED DOOR SESSION)

D. APPROVAL OF SPECIAL TOWN COUNCIL MEETING MINUTES FOR THE SPECIAL TOWN COUNCIL MEETING OF JULY 2, 2003, SUSAN A. ROWE AND DENNIS P. ROWE, INDIVIDUALLY, AND AS PARENTS AND NATURAL GUARDIANS OF THEIR DAUGHTER MELISSA S. ROWE v TOWN OF PALM BEACH (ATTORNEY/CLIENT CLOSED DOOR SESSION)

E. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL COMMISSION AT ITS MEETING OF JUNE 25, 2003.

This item was pulled from the Consent Agenda.

F. RESOLUTIONS.

1. Resolution No. 24-03 A Resolution of the Town Council of the Town of Palm Beach, Florida, Pledging its Portion of the $12.50 Moving Violation Funds Allocated by Palm Beach County Resolutions 92-1187, 99-1205, and 2002-0192, as Amended, in Accordance with Section 318.21(9), Florida Statutes, to the Municipal Public Safety Communications Consortium Communications Project; Authorizing the Execution and Delivery of a "First Amendment to Interlocal Agreement"; Waiving the Town's Rights to Withdraw its Pledge During the Term of the Debt Financing of the Communications Project; Providing a Conflicts Clause and a Severability Clause; Providing an Effective Date; and for Other Purposes. MPSCC [Michael S. Reiter, Chief of Police]

2. Resolution No. 27-03 a Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving an Agreement Between the Town of Palm Beach and Wachovia Bank,

N.A., for Banking Services and Authorizing the Town Manager to Execute the Same of Behalf of the Town. [Jane Skittone, Director of Finance]

G. OTHER

1. Authorization to Proceed with Design of the D-1 (North Ocean Boulevard at East Inlet Drive) and D-3 (Tangier Avenue at North Lake Way) Storm Water Pump Stations [Albert P. Dusey, Director of Public Works]

2. Ratification of CCNA Selection Committee Ranking for Electrical/Mechanical Engineering Consultants [Albert P. Dusey, Director of Public Works]

Councilman Wyett moved approval of Consent Agenda with the removal from the Consent Agenda of Arcom Major Matters (Item VIII. E.) The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

IX. COMMITTEE REPORTS

A. FINANCE AND TAXATION COMMITTEE MEETING OF JULY 7, 2003.

The report of the Finance and Taxation Committee Meeting of July 7, 2003, is included in its entirety below:

MINUTES FROM THE FINANCE AND TAXATION COMMITTEE MEETING HELD ON MONDAY, JULY 7, 2003

I. CALL TO ORDER AND ROLL CALL

Committee Chairman, Town Council President, William J. Brooks called the meeting of the Finance & Taxation Committee to order at 9:30 a.m. On roll call, President Brooks and Committee Member, Town Council President Pro-Tem, Norman P. Goldblum were found to be present.

Other Elected Officials present at the meeting were: Mayor Lesly S. Smith; Councilman Jack McDonald; Councilman Samuel C. McLendon; and Councilman Allen S. Wyett.

Also attending all or part of the meeting were: Town Manager Peter B. Elwell; Assistant

Town Manager Thomas G. Bradford; Assistant to the Town Manager Sarah Hannah; Police Chief Michael Reiter; Human Resources Director William C. Crouse; Information Services Manager Spencer Wilson; Risk Manager; Karen Temme; Finance Director Jane Skittone; Assistant Finance Director Cheryl Somers; Fire-Rescue Chief Kent Koelz; Fire-Rescue Office Manager Belinda Hardy; Purchasing Agent Charles Boggs; Public Works Director Albert P. Dusey; Assistant Public Works Director Paul Brazil; Dock Master Jon Luscomb; Recreation Director Russell Bitzer; Golf Pro Rick Dytrych; Tennis Pro Jim Hay; Recreation Supervisor Alan Brown; Assistant Director of Planning, Zoning & Building Veronica Close; Planning, Zoning & Building Chief Inspector Steve Carew; Planning, Zoning & Building Administrative Aide to the Director Linda Corbett; and Town Clerk Mary A. Pollitt.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Town Clerk Pollitt. The pledge of allegiance was led by Mr. Brooks.

III. APPROVAL OF AGENDA

The agenda was approved as presented.

Mr. Brooks reported that County Property Appraiser Nikolitis on May 30th submitted the assessed property value for FY2004 with an 8.38% increase for the commercial and residential properties in the Town of Palm Beach. He continued the staff had made additional cuts of $128,000 in the proposed budget to maintain the existing millage rate; however, Mr. Nikolitis later advised the assessed value would increase 10.1% in the Town equal to an increase of $507,000. Mr. Brooks said his recommendation, with the $507,000 increase, would be to add the watch commander at $235,000 to the Fire-Rescue budget and have the entire Council consider a series of budget options at the July 9th Town Council meeting for the balance of the $507,000.

Mr. Brooks explained the reason for preparing the FY2004 budget in the summertime is the requirement in the Florida Statutes.

IV. OVERVIEW BY TOWN MANAGER

A. Long Term Financial Plan

Mr. Elwell said the Long Term Financial Plan should be useful to the Town Council and the community to project trends in future years and project out for five fiscal years. Mr. Elwell reported that the projected FY2005 Budget shows a projected tax rate increase with decisions being made next year reviewing the emerging priority needs of the Town.

Mr. Elwell continued that beyond FY2005, tax rate decreases are projected for the next three years, and the Town's future is bright with the Town's strong financial position and conservative projections for future budgets.

B. FY2004 Proposed Budget

Mr. Elwell said that prior to the last minute budget cuts by staff totaling $128,000, over $600,000 was cut from the original projections to fund the proposed FY2004 budget. He said he will recommend re-instating $128,000 of last minute cuts which may have negatively impacted the operations of the Town.

Mr. Elwell referred to the fifth Townwide Goal of FY2004, to implement actions recommended in the Town's Strategic Plan and add to it a Strategic Plan for the Fire-Rescue Department and a Traffic and Parking Improvement Plan. He said the staff is proceeding with the implementation of the Strategic Plan recommendations; however, the Fire-Rescue and the parking plans were deferred with the first being necessary and the second one proposed. He continued the Fire-Rescue Department's specific plan was deferred due to the timing schedule of accreditation for the department with full accreditation expected in FY2006. Mr. Elwell said his recommendation for the parking and traffic plan with a price tag of $130,000 - $150,000 will be to defer the study for one year.

Mr. Elwell identified the increase to the General Fund as driven by the $1.7 million actuarially determined increase for the funding of the Town's retirement programs which reflects a doubling in cost of the retirement programs to the Town driven almost completely by the poor stock market performance in the last few years and tight financial times. He explained the $1.7 million represents a 98% increase in retirement funding and a 3.8% increase in the General Fund operating costs of the Town.

He pointed out the $376,900 of new debt service that is included in the budget plus $50,000 for feral cat management and $27,000 for the expansion of the lethal yellowing program. Mr. Elwell projected that approximately $800,000 will be returned to the General Fund balance on September 30, 2003, with an anticipated balance of approximately $16 million, representing approximately 34% of the proposed FY2004 budget equal to approximately $4.3 million excess fund balance, above and beyond the 25% minimum to be maintained.

Mr. Elwell, responding to a question from Mayor Smith, explained the $128,000 in cuts included items such as office supplies, telephone costs, copier costs, and other basic functions of the Town.

Mr. Elwell added, with the restoration of the $507,000 to the Proposed Budget, that he recommended restoring the following items:

Fire-Rescue Department:

Shift Commander (1 position, 3 employees) with an annual long-term cost of approximately $260,000; Total first-year cost = $235,000, (These estimates include salary, benefits, vehicle, equipment, and related supplies); security cameras and panic hardware for Fire Station = $24,000

Police Department:

Utility trailer and equipment to be used for traffic barricades and checkpoints during hurricane evacuation and roadblocks and when implementing the border security element of the Comprehensive Domestic Security Plan - $15,000; variable message sign to be used to advise motorists of 'bridge out', 'hurricane evacuation' or any other appropriate information - $20,095

Public Works Department:

Assistant Director - $85,000

Mr. Elwell said he did not recommend restoring the following items:

Town Manager's Office:

Lobbyist Retainer - $10,000 to $50,000; Traffic and Parking Study - $130,000 to $150,000; Townwide Newsletter - $20,000 to $60,000. This item has not been included because efforts are already underway to improve the Town's web site and develop a cable access information TV channel. We believe these and other efforts to improve communication with the public can achieve comparable results to a traditional mailed newsletter at a fraction of the cost.

Leisure Services Enterprise Fund:

Additional Tennis Court(s) at Phipps Ocean Park; one court = $80,000; Complete Project per Approved site plan = $525,000

Mr. Elwell said he did recommend partial restoration of the Contingency Fund in the amount of $59,237 to maintain the Town's policy to fund a Contingency line item that is equal to 2% of the of the General Fund operating expenses in a given fiscal year. He noted that FY2003 and FY2004 budgets included a 1% figure as a cost savings measure to contain the tax impact of the General Fund budget. He emphasized the proposed budget does not include any use of fund balance, and the personnel complement remains steady with an actual decrease of 16/100ths of a full time position. He noted the proposed recommendations of the shift commander and assistant public works director would change that number.

Harold Nechtow, representing the Citizens Association, requested the Town build the fourth tennis court at Phipps Park to allow additional players on the court who cannot play now because of the wait to get on the courts. He added an additional court would serve the needs of younger Town residents who want their children to play tennis.

Mr. Goldblum responded the monies for the fourth court construction would come from the Leisure Services Fund and a sufficient balance exists in the account to fund the court.

Spencer Wilson, Information Services Manager, explained the rationale for the inclusion of the following items in the proposed FY2004 budget:

GIS software to integrate mapping, CAD dispatching and crimes analysis proposed by the Police Department - $42,000 - part of which may be reimbursed by 911; plasma screens for the communications unit in the Police Department for displaying the GIS maps (part to be reimbursed by the County 911 fund) - $15,000; replace CDPD cellular service with GPRS as part of a required upgrade within the wireless community. CDPD will no longer be available after December 2003. GPRS is faster and more reliable and will help to enhance officer safety - $25,000; equipment to create a Town wireless infrastructure that will allow the Fire-Rescue Department and the Police Department to have faster network access from vehicles and mobile equipment without relying on outside vendors - $12,000; equipment for the Public Works Department to use in conjunction with the GIS program to assist with GASB 34 infrastructure reporting - $27,000; CISCO firewall hardware and software to better protect the Town's networking infrastructure - $12,000; and additional disk storage for the Town's Main AS/400 - $7,500.

Police Chief Michael Reiter explained his department's needs for FY2004 included two digital, single-lens, reflex cameras for the Crime Scene Evidence Unit - $5,000; a forensic video based optical comparator for the Crime Scene Evidence Unit - $6,700; Krimesite Imager Direct View, Crime Scene Evidence Unit - $23,640; A/C Unit, Police Mechanic's garage - Federal requirement for A/C repairs - $4,000; Laser Speed Gun, Motorcycle Patrol Unit - $4,125; MultiRAE Multigas Monitor Kit - vital equipment for a fully functional Explosive and Hazardous Materials unit that detects weapons of mass destruction in their gaseous state - $4,195; and a Security Arm Gate, Police Department east parking lot - $8,000.

Chief Reiter also noted that two items were removed from the initial FY2004 budget request but would be included if monies were available, and they were a request for a utility trailer and equipment to be used for traffic barricades and checkpoints during hurricane evacuation and roadblocks and when implementing the border security element of the Comprehensive Domestic Security Plan - $15,800, and a variable message sign to be used to advise motorists of "bridge out", "hurricane evacuation" or any other appropriate information - $20,095.

Fire-Rescue Chief Kent Koelz explained his requests for a vehicle exhaust removal system - $60,163 that would remove carbon monoxide and any other contaminants or hazardous materials in the building. He added the systems would be installed in the north and south fire stations.

Chief Koelz, addressing the issue related to the Shift Commander position (3 employees), said this was a recommendation made by the consultant, and those positions were in the budget prior to 1990 and were later covered by three Assistant Chief positions. He continued the need today is for the reinstatement of this position to be responsible for enforcing rules, laws, and codes, many of which are new requirements and include the control and administration of certain drugs plus supervision during nights and weekend shifts.

The Committee made the recommendation to the Town Council to restore $235,000 to the budget to fund the Fire-Rescue Shift Commander positions.

Public Works Director Al Dusey explained his request for an additional Assistant Public Works Director at a cost of $85,000 was based on the increased demands for the department and to respond to the residents of the Town providing the best services possible. He continued that since his 1986 employment date, 33 positions have been eliminated, some were replaced with contract services but the vast majority were not and were supplanted by better ways to do things. He said an Assistant would allow for strategic planning and putting preventative procedures in place with the management structure to be similar to the Police and Fire-Rescue Departments.

Mr. Elwell added that, looking ahead to the 5 year long range plan, the only positions Public Works will be requesting are the Assistant Director position and two field staff level positions to operate the nine new pump stations that are being built as part of the major drainage improvements. He reiterated that Public Works has a history, under Mr. Dusey's direction, of operating 'lean and mean', and he supported Mr. Dusey's request for an Assistant Director.

Mr. Brooks responded the Council has supported Mr. Dusey's efforts with the hiring of Sandy Tate, Coastal Management Coordinator, and the use of contract personnel as needed. Mr. Brooks said he could not support the request for $85,000 for an additional top level manager at Public Works; however, the Council members may have a different opinion. Mr. Brooks complimented Public Works on their efforts and the staff.

Mr. Goldblum questioned if Coastal Manager Sandra Tate assisted in any other projects? After Mr. Dusey responded negatively, Mr. Goldblum said he concurred with Mr. Brooks, and **the Committee's recommendation was to defer the addition of an Assistant Director of Public Works to FY2005.**

Mayor Smith questioned the $45,000 costs in FY2003 and the proposed $56,000 in FY2004 for parking meter maintenance and collections?

Mr. Dusey replied the Town needs to purchase electronic meters and is unable to repair the mechanical meters because the parts are no longer manufactured. He added the $56,000 is designated to purchase only 25 meters with additional meters needing replacement in the future.

Mr. Brooks summarized, that of the $507,000, the Committee is recommending to date $363,500 for the Council to consider at the July 8th meeting plus the items that were cut. He suggested the partial restoration of the contingency items should be discussed – $59,237.

Mr. Elwell said the amount falls between 0 and $144,000+. He said the concept is to consider taking a step back towards 2% of some magnitude the Committee is comfortable with.

Mr. Goldblum suggested adding the $144,000 to the Contingency Fund, and **the Committee recommended that up to $144,237 be restored to the General Fund Contingency account.**

Mr. Brooks requested the recommendations for the items totaling $363,500 be on the bullet list prepared for the July 8th Town Council meeting.

The Committee recommended restoring the last minute cuts from the budget of $128,500.

V. REVIEW OF FY 2004 PROPOSED BUDGETS

A. General Fund

1. Revenues

a. Overview
b. Proposed Increase in Parking Ticket Fines and Penalties
c. Proposed Increase in Lien Search Fee
d. Proposed Increase in Fees for Limousine Permits

Mr. Elwell reported that non-ad valorem revenues will not change substantially. He recommended that the Town continue its policy, for the benefit of the residents, that certain services like garbage collection and sanitary sewer services be provided through the General Fund Operating Budget (taxes) with the fees from those services qualifying for deduction from Federal income taxes.

After discussion, **the Committee recommended increasing Parking Ticket fines and penalties as presented; increasing the lien search fees as presented; and increasing the Limo Permit fees as presented.**

2. Expenditures

(Covered previously)

Mayor Smith questioned if the Building Department included the fines and forfeitures from the Sea Lord property in their projections?

Assistant Director Veronica Close responded the department based its budget on previous estimates and no particular items were targeted; although additional fines are expected from other sources in FY2004.

Mayor Smith questioned the $676,000 permit issuance revenue in FY2003 and asked how it compared to the $863,000 estimate for FY2004? Mrs. Smith also questioned the $765,000 Inspection and Compliance amount compared to $829,000 estimate for FY2004? She asked what the increases were based on?

Mrs. Close responded a personnel position was moved from contractual to Town employee, and several present positions were allocated differently.

Mayor Smith asked what the grant money amount was as compared to the expenditures listed in the proposed budget for Landmarks?

Mrs. Close explained the costs connected to several proposed grants, and the grants were mostly matching grants.

B. Debt Service Fund

1. General Obligation Refunding Bonds (Series 1993)

2. Revenue Bonds (Series 2000 and Series 2003)

Finance Director Jane Skittone explained that during the Fiscal Year 2003, the Town issued new bonds and refinanced the FY2000 Revenue Bonds. She continued that the 1993 GO Bond debt service for FY2004 will total $707,615, and the remaining balance of the 2000 Revenue Bond, with a call date of 2005, has a few more payments. Ms. Skittone added the 2003A Revenue Bond (paid off in 2010) that refinanced the coastal bond will kick in, and the 2003B Bond (paid in fiscal year 2033) is the facilities bond for the Town Hall and Fire-Rescue Station projects.

Ms. Skittone reported that the debt service will 'spike' slightly in FY2004 and FY2005 related to the new facilities bond and revenue bond. She continued that the debt service will level off during FY2006 through FY2010, and in FY2011 when the coastal bonds are paid off, the debt service drops down to the FY2003 revenue bond for the facilities projects.

Mr. Elwell noted that by judicious use of borrowing for the identified purposes, the Town is utilizing only 8% of the borrowing capacity of the Town, and the Town has very low debt compared to other communities.

Mr. Brooks said that maybe, as the Town Council considers FY2005, the possibility of considering a sinking fund for the revenue bond for the facilities projects may be discussed.

C. Capital Improvement Funds

1. Capital Improvement Program
2. Comprehensive coastal Management Plan (CCMP) - Pay-As-You-Go
3. Comprehensive Coastal Management Plan (CCMP) - Construction Fund
4. Town Facilities Bond Fund
5. Equipment Replacement Program

Finance Director Skittone explained that for FY2004, a total of $4.2 million is proposed to be spent on capital projects with $1.339 million of that amount designated for the Leisure Services Fund projects. She added that $2.6 million is designated for storm sewer drainage; $80,000 for Fire-Rescue station storm shutters; $30,000 for a de-contamination station; and $160,000 for the replacement of the Public Works facility.

Ms. Skittone continued that the Town Facilities Project Fund, the Pay-as-you-Go Coastal Management Fund, and the Bond Proceeds Fund are budgeted at expected levels in FY2004; however, most of the projects for those funds have been budgeted in prior years and rolled over. She explained that the Equipment Replacement Fund had $944,000 for expenditures related to equipment in Fire-Rescue; Planning, Zoning & Building; Police Department, Public Works, and Information Services. She mentioned that $1,001,632 goes into the fund from the various departments for depreciation.

D. Leisure Services Enterprise Fund

1. Overview (Including Business Plan Outline)

Mr. Elwell summarized the reasons for creating the Leisure Services Enterprise Fund with the overall goal of being as profitable as possible with the development of a business plan to be presented to the Mayor and Town Council later this summer. He referred to the business plan outline which will be developed to include: 1.)Executive Summary; 2.)Business Description (for each activity - marina, golf, tennis, and recreation programs); 3.)Financial Data; and 4.)Recommendations.

2. Individual Review of Component Functions

a. Golf (including proposed rate increases)
b. Tennis (including proposed rate increases)
c. Recreation
d. Marina (including proposed transient rate increase)

Mr. Elwell, referring to the contractual agreements with the Golf Pro and the Tennis Pro, said he is looking forward to some adjustments in the terms of the financial relationship with the Golf Pro bringing a positive and negative incentive into the golf course manager/Town employee portion of the relationship where Mr. Dytrych would have a financial stake if the Town turned a profit or showed a loss. He added that adjustments have been considered for the financial arrangements in the existing concession agreement with the Town, and details of that arrangement will be included in the business plan which, when presented, will forecast a $30,000 profit for FY2004.

Mr. Elwell said similar arrangements will be negotiated with the tennis professional. He noted that the adult programs costs within the Recreation Department are covered completely as required by ordinance with slight adjustments made from time to time to increase fees.

After discussion of the fee schedules, **the Committee recommended the approval of the golf and recreation fees with the fees for the tennis program to be presented at the August Town Council meeting** ***(later in the meeting it was determined the rates for the Tennis program would be presented at the July 8th Town Council meeting).***

After discussion regarding the addition of a fourth tennis court at Phipps Park, **the Committee recommended construction of the tennis court at Phipps Park with funding for approximately $80,000 from the Leisure Services Fund.**

Tennis Professional James Hay commented on the layout and condition of the Seaview Park tennis courts which are not competitive with some of the other tennis facilities in the area. He added the newer Phipps Park courts are preferred by tennis players.

Councilman McDonald commented that the Seaview courts are the worst facility in Town because of the time required to retrieve and return balls on or for the other courts, no shade is provided, and little water is available. He continued that to raise fees at Seaview is a misjudgement, and many players have left Palm Beach to play in West Palm Beach at Howard Park.

Mr. Elwell stated the purpose of the Leisure Services Enterprise Fund that includes the Golf, Tennis, Recreation, and Marina line items is to have them free of ad valorem tax revenue and be self sufficient within the group, although some line items will make money and others will not.

Mr. Elwell speaking to the issue of constructing a fourth tennis court at Phipps Park, said the issue of the overhead electrical lines has been resolved with FPL; however the staff's recommendation would be to finish the total project at a cost of $525,000 from the Leisure Services Enterprise Fund, but to do that a few years out from now. He said the elapsed time would allow evaluation of the Fund and how well it will be functioning. He said he would like to see the Committee consider the 'piece-mealing of the project vs. the finishing it in one go' question with the issue of the $80,000 being spent for one tennis court at this time and the possibility of spending several hundred thousand dollars more to finish the total project at a later date.

Councilman Wyett suggested after hearing the condition of the Seaview Courts, the Town Council consider renovating the Seaview Courts in 2007.

Tennis Pro Jim Hay responded when the Seaview Courts are redone, possibly one or two courts may be lost in the re-designing of the courts.

Mr. Brooks said if the Town had six courts at Phipps to use for tournaments, etc., the number of courts at Seaview could be lowered.

Mayor Smith questioned if the Town employed a dockmaster on the weekends?

Dockmaster Jon Luscomb responded the Town has employed people at the docks for six or seven years with the hours of operation from 8 a.m. to 7 p.m. in the summer. He added evening hours have been extended to allow for the delayed bridge openings.

The Committee recommended increasing the proposed marina fees as follows: increase winter (October 1 through May 15) from $1.62/ft/day to $1.95/ft/day plus electrical charges in excess of 100 amps and summer rates (May 16 through September 30) daily transient rate from $.65/ft/day to $.90/ft/day plus all applicable electric charges.

Mr. Elwell pointed out that the Leisure Services Fund, with everything that is proposed to be done in its new form this year, will make money in the operating budget, and a transfer to the Capital Improvement Fund is recommended for the construction of the capital improvements that have been recommended with the end result being a balance of $4.4 million at the end of FY2004 in retained earnings. He added that, in future years, the fund will be healthier.

E. Internal Service Funds

1. Risk Management
2. Health Insurance

Finance Director Jane Skittone reported the proposed FY2004 budget has a 1.15% increase for self insurance, workmen's comp, liability, and property with the Health Insurance Fund increasing 20% with part of that required to set up a contingency fund for $500,000. She continued that the contingency fund will provide for a contingency reserve that will be appropriated annually for unanticipated expenditures of a nonrecurring nature and/or to meet unexpected increases in health insurance costs and claims exposure, and provide a clear guideline for the use of the

Contingency Reserve

The Committee recommended the approval of establishing a Health Insurance Fund Contingency Policy.

F. Trust and Agency Funds

1. General Employee Retirement Fund
2. Public Safety Retirement Fund

Ms. Skittone explained the proposed budget contains $1.7 million contribution to those funds or a 98% increase over FY2003.

VI. REVIEW OF LONG-TERM FINANCIAL PLAN

Mr. Elwell reported the Town is in terrific financial shape with the future looking better.

Ms. Skittone said the major assumptions used to prepare the forecast were: Taxable Value, Investment Yields, General Inflation, Salaries and Wages, and Employee Benefits. She continued that, for the Risk Insurance premiums, Property Insurance was estimated at 5% per year, Liability Insurance at 10% per year, and Worker's Compensation at 10% per year. Ms. Skittone said the General Fund Contingency Fund was budgeted at 2% from FY2005 through FY2008.

Ms. Skittone said she will be preparing an update to the Long Term Financial Plan to be handed out in September reflecting the changes made and presented at this meeting.

Ms. Skittone reviewed the summary of department requests for FY2005 through FY2008.

Mr. Elwell added the perception of deferring of certain items until FY2005 resulting in increased revenue requests should not be viewed as an intention to fund the items but rather as the need to weigh them against each other to determine priorities at that time.

Mr. Goldblum suggested the issue of providing beach tags for non-residents who want to use the Town's beaches should be investigated.

Mr. Elwell responded that staff could do that, but based on the funding assistance the Town receives from the State for the beach program, the expectation would be the Town could not charge a differential fee to non-residents.

Mr. Wyett suggested charging an entrance fee to Phipps Park only in lieu of the parking meters that are currently there.

Ms. Skittone mentioned that in FY2005 with all the requests and using the tax appraiser's earlier numbers for estimation purposes, if the forecasted budget was reduced by $670,000, the result would be a zero percent millage rate increase. She added that staff plans to make recommendations in the future regarding the Leisure Services Enterprise Fund with the presentation of a business plan in either August or September.

Ms. Skittone said the Risk Insurance Fund is being reviewed and the possibility exists that a recommendation may be made to increase the levels for catastrophic losses to that fund. She said that close to the end of FY2004, the staff will be prepared to present a reserve policy for post employment benefits and for rate stabilization purposes although that fund has a healthy reserve of $15 million that has been accumulated for that purpose of post employment benefits.

VII. ANY OTHER MATTERS

There were no other matters.

VIII. ADJOURNMENT

The meeting was adjourned at 1:00 p.m.

William J. Brooks, Committee Chairman

Norman P. Goldblum, Committee Member

End of report of the Finance and Taxation Committee

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1.Review of the Committee's Recommendations [President Brooks and staff]

President Brooks noted that all the Council members were present for the entire Finance and Tax Meeting held on Monday, July 7, 2003.

Councilman Wyett expressed his concern over the approximate 10% rise in ad valorem tax revenues. He said that by having a flat millage rate, the Town creates the impression that they haven't raised taxes but they have. He continued that the County is increasing the Town's evaluations on homesteaded properties by 2.4% and on non-homesteaded properties in excess of 8% creating a tax increase. He stated that the Town has spent the entire 10% increase in ad valorem revenues by taking the $500,000.00 last minute windfall and picking up items that were to be deferred. He thought that the Council should examine this again and felt some of it should be passed back to the taxpayers.

President Brooks said it was a good recommendation and stated that he and Town Manager

Elwell had done some preliminary work on this matter.

Discussion took place regarding tax cuts and what the savings would be to property owners. Town Manager Elwell stated that a homeowner of a $1,000,000.00 assessed homesteaded property would save about $30.00 if they were given a $25,000.00 tax cut and President Brooks said there would be a savings of approximately $15.00 if it was a $500,000.00 homesteaded property.

Councilman McDonald stated that Mr.Wyett's concerns have been true for the last eight years.

Councilman Wyett responded that there was not a recession causing many people's incomes to drop during the last eight years. He stated that he believed it would be a symbolic gesture, realizing that the decrease in millage is insignificant in terms of dollars. He noted that there was not a person sitting in this room or residing in Town who had not had a sharp reduction in income. He said that the taxpayer is hurting while the Town is spending.

President Pro-Tem Goldblum stated that the problem is the Town is only funding the Contingency Fund by 1% and the Town should be funding it by 2% per year. He felt that it would eventually hurt the Town if it doesn't start funding it by 2%.

Councilman Wyett agreed that the 1% Contingency Fund is too low but felt other items could be deferred other than the Contingency Fund. He used as an example the Fire-Rescue recommendation which is put off each year, an issue that was being deferred again until next year. He stated almost half of that money could be passed back.

Town Manager Elwell suggested that since there is dialogue on some of the items discussed at the Finance and Tax Committee Meeting, the recommendations should be gone through individually.

The Town Council took the following actions regarding the FY2004 Proposed Budget:

1. Approved the recommendation to include $235,000 for the Fire-Rescue Shift Commander Positions, through motion of President Pro-Tem Goldblum, seconded for discussion by Councilman McDonald.

Councilman Wyett said that the supervisory position is a good idea but is deferrable. He reasoned that the position is automatically being added next year as a cost; we are living through one of the worst recessions in recent years; and the budget is tight. He continued that to expand Town costs, at this particular point, when it is deferrable and there are no guarantees that the recession will end this year or next, is not advisable.

Town Manager Elwell stated that the position is one that is essential in the long run but certainly has been deferred and could be deferred.

Chief Koelz said it is a position he feels very strongly about. He imparted his concern regarding any decision made to defer adding the position of Fire-Rescue Shift Commander. He reviewed the importance of this position from a safety aspect as well as administrative aspect. He advised that this would not only be a valuable addition to the Fire-Rescue Department but to the Town.

Councilman McDonald asked to have the question called. On roll call the motion carried 4/1, with Councilman Wyett casting a dissenting vote.

2. Recommendation to restore $128,500 of last minute departmental cuts.

Town Manager Elwell explained that the Council, at the preliminary budget meeting back in March, set a goal for no tax increases. He continued that there were substantial cost increases that went beyond the Town's control, and the Town had to accommodate those first and then had to deal with any other anticipated increases. He advised that during the budget planning process, a gap of approximately $225,000.00 was found. He stated it was necessary to make cuts, and in doing so, they still had to insure that the Town's services were not negatively affected. He advised that if they had not received the good news from the property appraisers office last week, the Town could have lived without the $128,500 and still have provided services to the Town. He discussed that cut backs would have been made in areas that seem insignificant but are basic to the Town's operation. He recommended that some of the cuts be restored, due to the additional revenue the Town will be receiving.

Councilman McLendon stated that he believed that there was a prediction of an $800,000.00 surplus in the existing 2003 budget after expenditures. He asked why they couldn't use $500,000.00 from there?

Town Manager Elwell stated that it can be done but recommended against it even though the Town traditionally has in the past used annual projected surpluses as balancing numbers. He discussed the reasons that the Town had weaned off the use of the fund balance as an annual balancing number and stated that the staff recommends strongly to continue in that mode. He advised that the Town is at risk when a bad year comes around and that there would have to be a very substantial financial tax increase to cover the loss of the fund balance roll over.

Councilman McLendon stated that since the adopted 25% of the budget in the Contingency Fund is now exceeded by about $4,000,000.00, there was no need to make it $4.8 million.

Town Manager Elwell stated that he understood and did not disagree with him but expressed his concerns over the use of the excess fund balance.

President Brooks suggested that the Council might discuss, at some point, undesignated fund balances.

Mr. Elwell stated that if the Town continued in this mode forever, a balance beyond what is necessary for the protection of the Town would accrue. He said it is a policy decision and the Town Council should decide what that level is. He continued that Mr. Brooks' suggestion was good and that a recommendation could be worked out on what the top level for fund balances might be.

Approved the recommendation to restore $128,500 of last minute departmental cuts,

through a motion of President Pro-Tem Goldblum, seconded by Councilman Wyett. On roll call the motion carried 4/1, with Councilman McLendon casting a dissenting vote.

3. Approved the recommendation to defer the addition of an Assistant Director for Public Works to FY 2005, through a motion of Councilman Wyett, seconded by President Pro-Tem Goldblum. On roll call the motion carried 4/1, with Councilman McLendon casting a dissenting vote.

4. Recommendation to restore up to $144,237 to the General Fund Contingency account.

Town Manager Elwell stated that the current proposed budget presented last week is at 1%. He addressed Mr. Wyett's earlier comments and stated that if the Council was considering a small token tax cut, then any amount between $0 and $144,237 would be helpful to move back to the 2%, but the full amount requested would only bring it back to 1.3%.

Mr. Ned Barnes, Palm Beach Civic Association, said he is in favor of keeping this contingency item in the budget because the money for the lobbyist and consultant has been eliminated. He stated the Civic Association thinks it is very important to maintain contact on the State level through a consultant or lobbyist considering that the Strategic Plan has some ongoing initiatives requiring State action. He said, in the last year, they have found how difficult it is to get legislation passed citing the angioplasty legislation. He felt this is the place the Council might want to put money back.

President Brooks referred to the concerns Mayor Smith had regarding the elimination of money for a Town newsletter. He discussed the positive aspects of having a newsletter and suggested that perhaps it is an item that could come out of a contingency fund.

Approved the recommendation to restore $144,237 to the General Fund Contingency account, through a motion of President Pro-Tem Goldblum, seconded by Councilman Wyett. On roll call the motion carried 3/2, with Councilman McLendon and Councilman McDonald casting dissenting votes.

5. Approved the recommendations to increase the parking ticket fines and penalties, as presented; to increase lien search fees, as presented; and to increase the Limo Permit fees, as presented, through a motion of Councilman McLendon, seconded by Councilman Wyett. On roll call the motion carried unanimously on roll call.

6. Approved the golf fees as presented, through a motion of President Pro-Tem Goldblum, seconded by Councilman McLendon. On roll call the motion carried 3/2, with Councilman McDonald and Councilman Wyett casting dissenting votes.

7. Recommendation to include $80,000 for construction of an additional tennis court at Phipps Ocean Park with design and construction to start in FY03 with funding from the Capital Contingency Fund to be repaid in FY04 from

the Leisure Services Enterprise Fund retained earnings.

Councilman Wyett moved approval.

Discussion took place regarding the length of time needed, the process involved and the funding of an additional tennis court at Phipps Ocean Park.

Approved the recommendation to include $80,000 for construction of an additional tennis court at Phipps Ocean Park with design and construction to start in FY03 with funding from the Capital Contingency Fund to be repaid in FY04 from the Leisure Services Enterprise Fund retained earnings, through a motion of Councilman McLendon, seconded by President Pro-Tem Goldblum. On roll call the motion carried unanimously.

8. Approved the recommendation to increase the rates for transient rentals at the Marina, as presented, through a motion of President Pro-Tem Goldblum, seconded by Councilman Wyett. On roll call the motion carried unanimously.

9. Recommendation to create a Health Insurance Fund Contingency Policy.

Town Manager Elwell stated that this recommendation is being made to address particularly large claims that can occur, during the year, without having to come back to Council with a budget amendment by Ordinance. He explained that it is the balance that has already accrued within the fund that is specifically earmarked to be used for extreme circumstances. He advised that the recommended amount to be earmarked is $500,000.00.

Approved the recommendation to create a Health Insurance Fund Contingency Policy, through a motion of President Pro-Tem Goldblum, seconded by Councilman McLendon. On roll call the motion carried unanimously.

10. Recommendation to approve the tennis fees as presented later in the meeting, effective October 1, 2003, with the review of the rates next year.

After discussion of tennis fees and the printing of the Recreation Department's brochure, staff agreed to review the Council's recommendations and present a revised proposal at the end of the agenda.

11. Approved the acceptance of the tentative budget for FY2004 through motion made by Councilman Wyett, seconded by Councilman McLendon, and carrying unanimously on roll call.

2. Resolution No. 23-03 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Proposed Operating

Millage Rate of 4.1000 for the Tentative Fiscal Year 2004 Budget; Approving a Proposed Debt Service Millage Rate of .0773 for the Tentative Fiscal Year 2004 Debt Service Budget; Approving the Computed Rolled-Back Millage Rate of 3.7154 to be Provided to the Property Appraiser in Accordance with F.S. 200.065; Establishing the Date, Time and Place of the First and Final Budget Hearings to Consider the Proposed Millage Rates and Tentative Fiscal Year 2004 Budget and Directing the Town Manager to Transmit this Information to the Property Appraiser of Palm Beach County in Accordance with the Requirements of F.S. 200.065. [Jane Skittone, Director of Finance]

Attorney Randolph, noting changes were made to Resolution No. 23-03, read Resolution No. 23-03 by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING A PROPOSED OPERATING MILLAGE RATE OF 4.1000 FOR THE TENTATIVE FISCAL YEAR 2004 BUDGET; APPROVING A PROPOSED DEBT SERVICE MILLAGE RATE OF **.0761** FOR THE TENTATIVE FISCAL YEAR 2004 DEBT SERVICE BUDGET; APPROVING THE COMPUTED ROLLED-BACK MILLAGE RATE OF **3.6605** TO BE PROVIDED TO THE PROPERTY APPRAISER IN ACCORDANCE WITH F.S. 200.065; ESTABLISHING THE DATE, TIME AND PLACE OF THE FIRST AND FINAL BUDGET HEARINGS TO CONSIDER THE PROPOSED MILLAGE RATES AND TENTATIVE FISCAL YEAR 2004 BUDGET AND DIRECTING THE TOWN MANAGER TO TRANSMIT THIS INFORMATION TO THE PROPERTY APPRAISER OF PALM BEACH COUNTY IN ACCORDANCE WITH THE REQUIREMENTS OF F.S. 200.065.

Town Manager Elwell explained the modification from the previously printed resolution was to correct the rolled back millage rate to reflect the additional assessed property value from the previous information supplied by the Property Appraiser. He continued that the 4.1 mills proposed operating millage rate is an artificially high number and is not the millage rate that is intended to be adopted. Mr. Elwell said the State law requires that if, between now and September something extraordinary happened and the millage rate needed to be increased above what is adopted on this date, the Town would have to do a first class mailing to every property owner in Town, and in order to spare that expense in an extreme circumstance, the policy has been to adopt an artificially high millage rate at this point in the process.

Councilman Wyett made a motion to approve Resolution No. 23-03. The motion was seconded by Councilman McLendon and carried 5-0 on roll call.

Town Attorney Randolph, referring to item E. on the Consent Agenda, said the ARCOM Major Matters, page 74 in the backup, did have a typo indicating that the matter would be moved from the June meeting to the *June* meeting, and it should read to the *July* meeting. He requested that the Major Matters be approved with the correction as stated.

Councilman Wyett made a motion to approve the ARCOM Major Matters from June. The motion was seconded by Councilman McLendon and carried 5-0 on roll call.

X. REGULAR AGENDA

A. Old Business

1. None.

B. New Business

1. Request by Foster Marine Contractors, Inc., for Authorization to Work Continuously from Friday at 1:00 p.m., until Monday at 6:00 a.m. (Tentatively on the Weekend of August 22-25, 2003) to Expedite Completion of the South County Road Water Main Replacement and Minimize Traffic Impacts at the Worth Avenue Intersection. [James M. Bowser, Town Engineer]

Town Engineer Bowser stated the request was to assist Foster Marine Contractors with a directional bore that will go on either side of the Worth Avenue/South County Road intersection. He explained that this design will avoid an open cut through the intersection which would require closing the intersection completely, and this request will minimize any inconvenience to the public.

Motion made by Councilman McLendon to approve the request by Foster Marine Contractors, Inc. for extended work hours scheduled tentatively on the weekend of August 22-25, 2004. The motion was seconded by President Pro-Tem Goldblum and carried 5-0 on roll call.

2. Code Enforcement Board Authorization for Foreclosure Action Case No. 01-1358, Harry J. Brown, 130 Peruvian Avenue. [Veronica B. Close, Assistant Director of Planning, Zoning, and Building]

Assistant Director Veronica Close said this case involved the citing of a property owner in September 2001 for failure to complete a construction project with the twelve month allowable period. She summarized that Mr. Brown was given a number of extensions to complete the project; however, in October of 2002, the Code Enforcement Board allowed an additional sixty days with the proviso if the work was not completed, a $250/day fine would be retroactive to April 2002. She continued a lien was filed against the property, and the issue is now before the Town Council for foreclosure action.

Attorney Maura Ziska, representing the owner Harry Brown, said a final inspection was made at the site on July 7, 2003, and all inspections have been completed with only the certificate of occupancy yet to be obtained. She said the certificate of occupancy cannot be issued until the fines and lien have been resolved with the Town.

Ms. Ziska recalled that at the October 2002 Code Enforcement Board meeting, the Code Enforcement Board allowed a sixty day extension to achieve substantial completion including the landscaping. She continued that (retired) Chief Code Compliance Officer Brian House required at that time to complete the landscaping and the hardscaping in the front area. Ms. Ziska said that the side landscaping could not be installed because the swimming pool needed to be installed close to the building and that required a steel bulkhead with other rigorous requirements from the Public Works Department.

Ms. Ziska continued that the owner thought he complied with the Code Enforcement Board's directions after a discussion with Mr. House in October 2002. She added the lien was recorded on December 3, 2002, with the installation of the swimming pool and minor landscaping installed after that date.

Ms. Ziska stated her position was that the owner was in substantial compliance with the Code Enforcement Board directive by the December deadline and the additional inspections stemmed from minor issues that dealt with the pool installation.

Mr. Brooks, recalling the citing of Code Enforcement Board notifications, said he was having a problem understanding Ms. Ziska's explanation regarding the length of time taken to finish the project.

Ms. Ziska replied some of the delays were due to contractors being involved. She specifically noted a window contractor ordered windows that were paid for and never delivered them.

(Retired) Chief Code Compliance Officer Brian House stated he told the owner if the project was complete, there would be no problem, and he also said in a private meeting after the CEB meeting, that the house had to look like it was finished. He added the Code Enforcement Board also addressed the issue of the pool, and while construction was still going on, the neighbors were still bothered with noise and complaining to the Town. Mr. House recommended that the fine be collected, and a certificate of occupancy not be issued until the fine was collected and the lien foreclosed upon.

Councilman McDonald said this is the second time an issue has come before the Town Council where, in this instance, two years have elapsed since the owner was cited, and the neighbors had to endure the noise and disruption from the project for that time. He said he could not understand why the Code Enforcement Board could not present this item to the Town Council much sooner, and it was his understanding that this problem would have been solved after the first incident.

Mr. McDonald questioned the delays in time after the extensions were granted by the Code Enforcement Board. He said he did not see any reason to abate any of the fines, because of the time taken to complete the project.

Ms. Ziska reiterated the house was substantially completed in September of 2002 minus the side landscaping and the pool installation.

Alfred Brown, representing the owner Harry Brown, explained one of the contractors, CW Windows, stole the money paid for the windows and did not produce any windows for the custom sized window openings. He continued Platinum Windows made the custom made windows over an extended period of time (longer than anticipated). Mr. Brown noted that the site was vandalized after the windows were installed resulting in the re-installation of windows on one side and back of the house. He added the pool installation required further delays due to approvals needed from the Town, and the neighbors' complaints were due to a request for a new wall between the properties. He said the old wall was re-stuccoed and painted.

Mr. McDonald asked, if the house was substantially completed last September, why was the Council hearing the project in July?

Mr. Brown replied the pool was not installed in October 2002. He said items like 8 bolts missing from the garage door, mulch to be installed, and other small tasks had to be done.

Mr. McDonald asked Mr. Brown if he thought the Town was at fault for delaying the inspection process or were the issues unrelated to the Town?

Mr. Brown replied he was not placing blame on anyone and attributed the problems to circumstances of events.

Attorney Randolph said the Town Council's involvement is difficult because the Council has not been involved in the Code Enforcement Board proceedings. He continued the issue before the Council is whether or not the Council wishes to go forward with the recommendation of the Code Enforcement Board to foreclose. He said he was not sure if the applicant was seeking a decision to not foreclose or if they were asking for an abatement of the fine. He pointed out that it should be the Code Enforcement Board's decision to determine if a fine should be reduced or abated, and an applicant has the right and opportunity to go before the Code Enforcement Board who is familiar with the project to make a determination if the fine will be reduced. He added it was unfair of the applicant to come before the Town Council and request a reduction in the fine when the Town Council had no involvement in the Code Enforcement proceedings whatsoever.

Mr. Randolph said the Town Council can take action on the issue of the foreclosure and questioned if the applicant was requesting that the Town Council consider reducing the fine too?

Ms. Ziska responded she heard Mr. Randolph say the reduction of the fine was not within the Town Council's authority. She said her first request was related to the lien which should be a non-issue as the project has been completed, but if it is not under the Council's jurisdiction to do that, she and her client will go before the Code Enforcement Board to negotiate the fine.

Mr. Randolph clarified that a certificate of occupancy cannot be issued until the issues of the fines and the lien are cleared up on the property. He stated the fines would cease when violations are no longer present, and the applicant came into compliance.

Responding to questions from Mr. Brooks, Mr. Brown said he attended all the Code Enforcement Board meetings personally and thought he was doing the right thing during the process.

Mr. McDonald made a motion to defer the foreclosure issue for one month allowing the applicant to return to the Code Enforcement Board to address the issue of the fines. The motion was seconded by Mr. Goldblum and carried 5-0 on roll call.

Mr. Elwell questioned the timing of Mr. Brown's appearance before the Code Enforcement Board at their July 17, 2003, meeting and perhaps the first opportunity would be at the August 21st meeting. After discussion, it was determined by staff the issue would be heard at the July 17th meeting.

3. Under grounding of Overhead Utilities– Request for Authorization to Proceed with Analyzing Engineering Requirements and Estimating Costs of Burying Overhead Lines. [Thomas G. Bradford, Assistant Town Manager]

   a. Specific Information Regarding State Roads

   b. General Information Regarding Town Roads

Assistant Town Manager Tom Bradford said a proposal has been prepared with the help of Town Engineer Bowser and Harry Ragan from the firm of Johnson, Levinson, Slider, Davila, Inc. to address the study of underground utilities in the Town. He continued the study was divided into two components, the State Road component and all other areas of the Town, referred to as 'Town roads'.

Mr. Bradford said the reason for having two categories was the roads are important from a visibility point of view, and most of the Town hurricane evacuation routes are on the north/south State roads. He added that DOT has a number of construction projects, currently and in the future, and the Town would like to work within those projects first. He noted that the issue of all other roads, outside of the State right-of-way, is more difficult, and will take more time to deal with.

Mr. Bradford said he was requesting funding in the amount of $40,215 for both studies to come from the Capital Improvement Fund Contingency to enable the Town to move forward. He continued if this is granted, the Town should be able to closely meet the recommendations of a demonstration project toward the end of the year or the early part of 2004 and the other recommendations of the Strategic Planning Board.

Mr. Wyett suggested breaking the project into three parts: 1) State Roads 2) north/south Town Roads and 3)east/west Roads. He suggested deferring the study for the east/west Roads.

Mr. Bradford replied the study could be broken out that way with the Town side streets ending up being last.

Mr. Wyett made a motion to approve the funding for the study regarding burying overhead utility lines, with $40,215 appropriated from the Capital Fund Contingency for State Roads, north/south Town Streets, and east/west Town Roads to be done last. The motion was

seconded by Mr. Goldblum.

Ned Barnes, Civic Association, stated this subject was important to the Civic Association and that Mr. Bradford's work on this subject was appreciated. He continued that in developing a Long Range Plan for this, the need was not to implement the plan but to understand it in its totality–to see what is involved, to see where the poles are, to see what lines go behind homes, what lines go down streets. Mr. Barnes said that this is being embraced as an opportunity to get the big picture, and then to develop a long-range plan over time to see what can be done when, and some of the east/west roads may not be done for 15 - 20 years. He urged the Town Council to consider the plan in its totality.

Mr. Brooks replied Mr. Wyett's motion was not counter to Mr. Barnes stated intention.

Responding to Mr. Goldblum's concerns regarding grants, Mr. Bradford said Mr. Ragan's report will identify physical impediments and the Town Staff will do the financing part of the report with ways and means to generate funds provided in that part including grants.

Mr. Bradford clarified that the funding request of $40,215 was part of the motion.

Mr. Elwell, responding to questions from Mr. Brooks, said the motion was perfect with the full funding and expediting the work on the main roads that are Town roads will be done.

On roll call, the motion carried 5-0.

Responding to questions from Mayor Smith regarding the length of time the study would take, Mr. Bradford replied 120 days would be required for the State portion and 150 days for all other portions with the report presented to the Town Council in December or January.

4. Coastal Management Program Update

a. Resolution No. 22-03 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to Murphy Construction, Inc., for Mitigation Reef Construction in Association With the Phipps Ocean Park Beach Restoration Project. [Albert P. Dusey, Director of Public Works]

Director of Public Works Dusey recalled that the Town Council authorized staff to proceed with the bidding for a mitigation reef for Phipps Ocean Park, based on a State permit that required it be constructed six months in advance of the beach fill project. He continued that the intention was to build the fill project during the winter of 2004; however, the Corps has not given a permit to the Town for the beach fill project although the Town was willing to take the chance and build the reef prior to the issuance of the permit to maintain the schedule for the fill project. Mr. Dusey said the State had granted the permit and permission for the artificial reef and continue to work with the Corps of Engineers; however, the window of opportunity has passed that was necessary for construction next winter.

Mr. Dusey said he thought the Corps will grant a permit for the artificial reef, based on a tentative agreement at a meeting last week, however, location changes need to be made with the State and the contract is for a slightly different area. He said the recommendation from staff is that the Town Council reject all bids at this time for the mitigation reef with the staff returning to the Town Council later this year or early next year for an award on the reef with additional information available regarding the main permit for Phipps Ocean Park. He added the schedule is for construction during the winter of 2005, not 2004.

Mr. McLendon asked if the ire of the public could be transferred to the Corps of Engineers regarding the beach renourishment project?

Mr. Dusey replied the Citizens Association met with the Corps representative to indicate their desires. He added staff is making some progress, and the staff is moving as quickly as possible to see what the Corps is willing to permit, which may or may not be acceptable to the Mayor and Town Council.

Mr. Elwell added letters have been written to the Corps from interested Town citizens who are in support of the project as well as letters from citizens who do not support the project. He continued that the clashing public opinions can have some impact and demonstrates the interest and sentiments of the community; however, it is important that the people who support the project continue to communicate with the Corps. He said that fundamentally, the permitting decisions are made on a technical basis rather than the amount of letters or phone calls received by the Corps.

Mr. Wyett said, if the Corps prevails and no permit is issued, what happens to the decision to build the reef?

Mr. Dusey responded if the Corps said 'no permit for Reach 7', there would be no reason to build the reef, and that is the reason for attempting to have the decision making for the two projects close together to have less risk when building the mitigation reef which will cost well over $1 million. Mr. Dusey said the recommendation was to reject all the bids this year with the intention of re-bidding next year.

Motion made by Councilman Wyett to reject all bids for the mitigation reef this year and not approve Resolution No. 22-03. The motion was seconded by Councilman McLendon and carried 4-0 as President Brooks was temporarily out of the room.

b. Reach 2 Feasibility Study Findings and Recommendations. [Albert P. Dusey, Director of Public Works]

Mr. Dusey reported that Reaches 2, 5, and 8 are in feasibility studies at the State level and are concluding on their individual schedules; however, Reach 2 is a priority and requires Town Council input to move forward with the permitting and design after hearing the conclusion of the study. He continued that the Comprehensive Coastal Management Plan envisioned for this Reach was a very narrow beach because of the rock out-cropings, anchored with a groin field that would run the length of the project. Mr. Dusey said when the actual project was to be approved by the Town, the actual groin field was removed with the intent to build the project, monitor it, and address the hot spots individually using the adaptive management approach.

Mr. Dusey added that staff has worked with the State to develop a project that will be desirable for the location.

Mike Barnett, Applied Technology and Management, summarized the efforts on the Reach 2 shoreline that extends from approximately 2,400 feet south of the Lake Worth Inlet south jetty and extends 13,500 feet to the south. He said this reach boundary is consistent with the Comprehensive Coastal Management Plan Update prepared by ATM in 1997. Mr. Barnett explained that the southern Reach 2 boundary coincides with the north limit of the recently constructed expanded Midtown renourishment project. He added this is a fairly critical shoreline segment for the Town's maintenance of its beaches, because any sand placed in this zone would serve as a feeder beach to the downdrift shoreline, and the net transport of sand in this section of the Island is north to south. Mr. Barnett said the entire reach boundary has been designated as a critical erosion area by the State of Florida facilitating the need for the study and corrective action.

Mr. Barnett stated the purpose of the study was to attempt to mitigate some of the losses of sand from the shoreline attributable to the Lake Worth Inlet and providing some storm protection and, most importantly, to feed that adjacent Island shoreline to maintain a sandy beach. He said the resource impacts have to be balanced and minimized to the extent practical per State and Federal agency concerns and that would be the near shore rock outcroppings or exposed near shore hard bottom.

Mr. Barnett, after presenting photographs of Reaches 1 and 2, noted that the pictures were taken in the summertime when the beaches are wider, and the beaches are diminished during the winter months.

Mr. Barnett said eight different components were considered during the study: 1) an extended bibliography; 2) acquiring site data; 3) shoreline and characterization of the near shore hard bottom; 4) coastal littoral processes review; 5) environmental resource assessment; 6) identification and prioritization of available sand sources; 7) analysis of fill placement alternatives; and 8) recommend a plan. He said adequate sand is available for at least one or two maintenance cycles after initial restoration with the possibility that the Corps of Engineers could place sand within the zone if appropriate during their maintenance dredging of Lake Worth Inlet.

Mr. Barnett noted the alternatives for Reach 2: no beach fill (not feasible); continuous beach fill continuing over the entire Reach boundary (not feasible because of impact to the near shore hard bottom); feeder beach concept (feasible); and modifications to coastal management (feasible) which primarily involve actions by the Corps of Engineers, the Town, and the County in support of the continued improvements to the Lake Worth Inlet Management Plan. Mr. Barnett said the Lake Worth Inlet Management Plan has been adopted by the State of Florida and actions are being taken to implement the recommendations of that plan.

Mr. Barnett said the preferred alternative is the feeder beach optimizing the sand placement, trying to minimize the damage by direct burial of sand, requiring approximately 300,000 cubic yard sand placement from Dolphin Road to Via Marina with the initial beach widths at construction at approximately 125 to 180 feet. He said that material would move to the south to nourish the adjacent shoreline. He said the obvious benefits of the alternative feeder beach are to offset the erosional losses that are present in the placement area, increase the beach width, and indirectly address the erosion problem that exists to the south due to the movement of sand after it is placed. He continued the most obvious impact is the partial burial of a fairly extensive resource in the near shore hard bottom.

Mr. Barnett said the estimated costs total, including a contingency, approximately $7.4 million, subject to final design, with an estimated maintenance interval to renourish that shoreline of approximately five years. He continued that he has met with the Florida Department of Environmental Protection, Bureau of Beaches and Wetland Resources, and the State has conceptually approved the feeder beach concept. He added the document has been sent to the federal resource agencies with a meeting tentatively scheduled for July 31st to move forward with the Corps of Engineers, Fish & Wildlife Services, and the other resource agencies that would have concerns over this project in addition to DEP.

Mr. Barnett said the process would then be preparation and submittal of a joint coastal permit application for processing and approval by the State and the Corps, and in addition because of the resource impacts, the development of a supplemental environmental impact statement that would be followed by final design leading to construction.

Mr. McLendon asked Mr. Barnett if he could compare the results of the proposed Reach 2 project to the Sand Transfer Plant operation?

Mr. Barnett responded that one of the recommendations of the Inlet Management Plan was to extend the discharge point of the sand transfer facility. He noted that a significant point of reversal where material tends to move back to the north in the Inlet exists, and the exact distance required for the extension is subject to further refinement. He said the beach would be significantly wide and would require permitting approvals, and comparing the two options, the results would be either a gradual feeding of the beaches versus a one time shot.

Mr. Dusey replied this project plan is supplemental to the Inlet Management Plan, separate and apart, and the Town would hope to work with the Corps where the Sand Transfer Plant would continue to renourish Reach 2.

Mr. McLendon said the Sand Transfer Plant could do almost the same job for a lot less money.

Mr. Barnett commented that the costs were deliberately conservative at this juncture, because a final approved design by the agencies is not available at this time, and the driving costs would be the unit costs of the fill placement. He said both the borrow areas identified for this project as viable areas are close to the site resulting in lower costs for the sand placement. He continued that if the Corps could implement an extension of the discharge point, a similar approval process to the Town's proposed fill placement would be necessary with similar issues being addressed.

Mr. McLendon said he had a preliminary design and he conjectured that if any project required in excess of 180,000 cubic yards of sand, the Corps may not allow any project to go ahead at that point.

Mr. Barnett replied the State has mandated a by-passing quantity and once a program is in place, a debate could occur regarding whether the Corps would have to continue to fulfill obligations; however, the Corps has maintenance responsibilities for the Palm Beach harbor entrance. He added the logical placement of the sand the Corps had to dredge on a frequent basis is on the shoreline of the beach that has been impacted by the Inlet itself.

Mr. Wyett questioned the existing width of the beach at Reach 2?

Mr. Barnett said the beach is substantially wide, approximately 80 to 100 feet at low tide as shown on a presented photograph, however, the main renourishment would occur south of this location.

Mr. Wyett said he understood if sand was surcharged onto areas shown in the photos Mr. Barnett presented, the expectation was that the natural action of nature was to move the sand south and feed the areas to the south, where the government has objected to directly placing sand because of the hard bottom. He continued that, as he understood the problem, nature once covered the hard bottom with sand that nature has since removed and revealed the bottom making it no longer permissible to refill unless the sand renourishment happens by a natural action.

Mr. Barnett confirmed that assessment.

Responding to a question from Mr. Wyett regarding depending on the extension of the pipe from the Sand Transfer Plant for sand distribution, Mr. Barnett said the Town would be, at the very least, waiting for the Corps time line which has not been established for that particular action. He added that the only action that he was aware of that actually has an assigned schedule is sand tightening of the south jetty, and that contract was recently awarded.

Mr. Elwell, referring to the State regulation of the maximum amount of sand that can be transferred so as not to deplete the north side of the Inlet, said the intent of the improved Sand Transfer Plant is to replicate nature and move the appropriate annual amount of sand past the Inlet to maintain the health of the beaches, but the sand transfer is not intended to build up the beaches of the Town.

Mayor Smith questioned why Mr. Barnett chose Reach 2 as the most needy beach after the Midtown and Phipps Park renourishment projects?

Mr. Barnett responded the Comprehensive Coastal Management Plan Update did establish both identification of need and priority order, and Reach 2 was the highest priority of the three shoreline segments currently under study. He added Town staff, the State, and ATM concurred mutually that Reach 2 was the next project, because the shoreline has suffered from chronic, long-term erosion losses due to the lack of material moving through this area naturally. He added sand from the Sand Transfer Plan is locked up south of the Inlet and is not feeding the beaches to the south.

Mayor Smith questioned the beaches in the hard bottom area that were in need of renourishment where owners of larger homes would be complaining of no sand on the beaches.

Mr. Elwell responded that based strictly on environmental concerns what otherwise would have been a full scale beach restoration project has been scaled back to a feeder beach concept;

otherwise that area would have been included. Referring to the ranking of importance of the three remaining reaches, he continued that Reach 5, immediately south of the Midtown Beach, benefits from the southerly movement of sand out of the beach area; Reach 8, immediately south of the Phipps project, will benefit from the Phipps Beach restoration once that is completed; and Reach 2 project is ranked the highest of the three projects.

Mayor Smith asked Mr. Barnett if there was severe erosion at the north end of the Midtown project?

Mr. Barnett said he was not able to comment on that.

Coastal Management Coordinator Sandy Tate replied some scarp formations have been noted on the north end of the Midtown project and by Clarke Avenue; however, that is typical for the time of the year and the weather conditions. She said the intention is never for the sand to stay exactly where it is placed, and the idea is to feed the entire system and make up for the deficits that have been created over a long period of time by the Inlet. She continued that Midtown is performing to the predictions for the project, and nothing can be done by the Town to interfere with the scarping. She added that the Town's permit conditions require that during sea turtle nesting season, DEP be notified along with other regulatory agencies, but without permission from them, the scarp issue cannot be addressed. Ms. Tate said that, prior to turtle nesting season, the Town had a piece of heavy duty equipment on standby that reduced the scarps on one occasion.

Mr. Elwell reiterated the Town would take whatever action was directed under the permits.

Ms. Tate said the Town does report to the State on a daily basis when the scarp formations occur, and notification has occurred twice relative to the Midtown project.

Responding to Mayor Smith's question regarding turtle monitoring, Ms. Tate replied the Town has a contract with DB Ecological, Christine Pereta, who monitors the sea turtle nesting throughout the Midtown area and does the scarp monitoring as well as lighting surveys. Ms. Tate said the sea turtle numbers at Midtown are comparable to adjacent beach areas that were not within the beach renourishment for Midtown.

Mayor Smith requested Ms. Tate procure the sea turtle information for the Midtown Beach.

Councilman McLendon asked Mr. Barnett where the Corps will place sand in the area and how far south?

Mr. Barnett replied sand can be placed, as the result of authorization of their maintenance activities in the Inlet, in the area south to Onondaga Avenue.

Mr. Goldblum questioned the stakes that were north of the Breakers past Wells Road that looked like surveyors stakes.

Ms. Tate explained that the sea turtle nesting stakes usually were marked with a date and initials representing the species of the sea turtle. The leatherback nests included perimeter marking, which involved multiple stakes.

Town Manager Elwell commented that the scaling back of the project was disappointing, but was a necessity, and some of the pros and cons discussed today about the cost/benefit impact of the project were worthy concerns. He noted that the Town Council was being asked to consider whether the Town should continue to move forward with the development of the concept – to do the design, and continue with the formal permitting process. He recommended that the Town Council authorize that. He explained that as the project was refined through the permitting process many of the concerns discussed today could be further addressed. The $7 million estimated price tag for the project would be split equally between the Town and the State of Florida, under the arrangements that had been agreed to for these projects.

Councilman Wyett suggested that the decision be deferred, and that he was disappointed that some of the sand piled up south of the jetty had not moved, and that surplus sand cannot be physically moved downward.

Ms. Tate responded that the permitting process for this particular area would open the door to the Army Corps of Engineers to designate the area for the maintenance dredging disposal area. Currently the Corps was using the area immediately south of the inlet for dredge disposal. A tremendous amount of that sand was recirculating right back into the inlet, and the Town was not getting the benefit of that sand, nor the sand that was transferred from the Sand Transfer Plant. In permitting Reach 2, regardless of whether or not the amount of sand placed in Reach 2 would need to be minimized, the Town and/or the Corps could designate it as a disposal for all of the maintenance material that comes out of the inlet. The beach was a key feeder beach area for the downdrift locations – any sand placed north would move southerly. She provided a rough estimate of $500,000 for design and permitting.

President Pro-Tem Goldblum moved approval of the Town moving forward with the development of the concept; doing the design; continuing into the formal permitting process; and to continue to study the project as permitting progresses. The motion was seconded by Councilman Wyett. On roll call the motion carried unanimously.

5. Appointments to the Building Board of Adjustments and Appeals. [Veronica B. Close, Assistant Director of Planning, Zoning, and Building]

President Brooks announced that Ames Bennett and John Nora were re-appointed to the Building Board of Adjustments and Appeals.

6. Consideration of Town Attorney Randolph Monitoring the Litigation Regarding Attorneys from Dade/Broward Counties Objecting to the Requirement for Occupational Licenses. On roll call the motion carried unanimously.

Councilman McDonald commented that there had been a case filed in Miami by attorneys who are alleging that they could not be charged an occupational license fee because they are regulated by the Florida Bar. It was based on a Georgia case, where it was found that the occupational license fee was found to be invalid. He suggested that the Town should be aware of this, and follow the procedures, as it could impact the Town budget.

XI. ORDINANCES

A. Second Reading

1. Ordinance No. 12-03 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, amending Chapter 118 by adding Article VI, Division 160, "Speed Regulations" to establish the default speed limit on Town Streets and to provide for future speed limit alterations; providing for codification; providing for repeal of any ordinance in conflict; providing for severability; providing an effective date.

Town Attorney Randolph read Ordinance No. 12-03 by title.

President Pro-Tem Goldblum moved approval of Ordinance No. 12-03 on second reading. The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

B. First Reading

1. Ordinance 13-03 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 2, Administration, of the Town Code of Ordinances, at Article IV, Boards and Commissions, so as to change the name of the Zoning Commission to the Planning and Zoning Commission; providing for severability; providing for repeal of ordinances in conflict; providing for codification; providing an effective date. [Peter B. Elwell, Town Manager]

Town Attorney Randolph read Ordinance No. 13-03 by title.

Councilman Wyett moved approval of Ordinance No. 13-03 on first reading. The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

XII. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

Councilman McDonald questioned an ethics issue, as presented in the minutes from the Landmarks Commission, regarding a member who recused himself in one meeting and not at another meeting in what appeared to be a related issue.

Attorney Randolph advised that he would investigate the issue.

Councilman Wyett noted that all Town Council members had attended the most recent Finance and Taxation Committee meeting, and suggested the annual Finance & Taxation Committee meeting should be changed to a full Mayor/Council meeting, so that the decisions would not have to be reviewed at the following Town Council meeting by the same five people.

Town Manager Elwell advised that the issue could be discussed in September, when the budget was finalized, and the structure of the meetings for next year could be decided at that time.

XIII. DEVELOPMENT REVIEWS

A. Time Extensions

1. None.

Town Clerk Pollitt administered the oath to all those who would be addressing Development Review matters.

B. Variances, Special Exceptions, and Site Plan Reviews

1. New Business

a. VARIANCE #24-2003 The application of Rod Stewart relative to property described as lengthy legal description on file; commonly known as 1435 South Ocean Boulevard; located in the R-AA Zoning District. To allow replacement of front yard driveway gates at the existing height of 13.24 feet (north gate) and 13.46 feet (south gate) in lieu of the 8 foot maximum gate height allowed from the crown of the road.

Ex-parte communication was not declared by any member of the Town Council.

Attorney Reginald Stambaugh, on behalf of the applicant, addressed the Town Council, stating that the applicant was requesting a variance to replace the already existing gates at the exact same height.

Zoning Administrator Paul Castro reported that the hardship was that all of the houses in the neighborhood were along the dune, and there was a substantial difference in elevation as related to the gates. If the property was at street level, the gates would meet code. He explained that when the gates had originally been installed there had not been a variance request made.

Councilman Wyett moved approval of Variance No. 24-2003. The motion was seconded by President Pro-Tem Goldblum. On roll call the motion carried unanimously.

b. SPECIAL EXCEPTION #12-2003 The application of Stephen G. Vogelsang, Trustee relative to property described as lengthy legal description on file; commonly known as 210 Via Del Mar; located in the R-A Zoning District. To locate two sliding driveway gates with a 5 foot setback (east gate) and 1 foot setback (west gate) in lieu of the 18 foot minimum setback required.

Ex-parte communication was not declared by any member of the Town Council.

Attorney James Brindell, on behalf of the applicant, addressed the Town Council, providing photographs of the property in question. He stated that the homeowners had experienced people driving through their driveway, as part of the turn-around at the end of the street, and were requesting driveway gates.

Assistant Director of Planning, Zoning & Building Veronica Close reported that staff had no objections to the request.

Councilman Wyett moved approval of Special Exception No. 13-2003. The motion was seconded by President Pro-Tem Goldblum. On roll call the motion carried unanimously.

c. SPECIAL EXCEPTION #13-2003 The application of The Palm Beach Day School Inc. relative to property described as lengthy legal description on file; commonly known as 241 and 246 Seaview Avenue; located in the R-B Zoning District. Requesting modification to previously approved Special Exception Use Condition of approval to allow continued use of one temporary portable classroom for three additional years until the end of the 2006-2007 school years. If approved, the existing portable classroom will be replaced with a new portable that meets current wind-load requirements.

Ex-parte communication was declared by President Pro-Tem Goldblum..

Attorney James Brindell, on behalf of the applicant, requested use of the existing portable classroom for an additional three school years, through school year 2006-2007. He recalled that when the main approval for all renovations had been received, there had been a new west play field created. The applicant had been required to put in 13 new parking spaces on the north side of the street. As a result, the kindergarten classroom had been demolished, and the portable classroom was put into use. Due to a variety of circumstances the portable had been in place longer than originally anticipated, and the applicant was now requesting an additional extension.

Zoning Administrator Paul Castro commented that the applicant had requested and received approval for portable classrooms in 1998, and subsequently the applicant had been granted three extensions. Staff had met with the applicant on several occasions regarding the most recent extension request, and staff had requested that, if approved, the portable classroom be replaced with a new portable that would current wind-load requirements.

Mr. Marty List, construction manager for Palm Beach Day School, reported that part of the issue was the construction redevelopment of the Palm Beach Public School site, and the applicant had not wanted to construct the Matthews Auditorium at the same time. He noted that all of the dollars raised at the annual auction went to the actual operation of the school; none of it went back to capital improvements or endowment, so the actual need to redevelop the Matthews Auditorium was a $2 - $2.5 million project.

Councilman McDonald recommended a one-year extension, with no more extensions granted.

Mayor Smith commented that the Town Council obviously supported schools and the children, however, the extension for only a year would provide the Town Council the opportunity to hear progress on a yearly basis, rather than waiting until 2007.

After further discussion, Councilman Wyett moved approval of Special Exception No. 13-2003. The motion was seconded by President Pro-Tem Goldblum. On roll call the motion carried 3/2, with Councilman Wyett, President Pro-Tem Goldblum, and Councilman McLendon casting affirmative votes; Councilman McDonald and President Brooks casting dissenting votes.

President Brooks commented that the request for three additional years was exceptionally pushing the envelope, and that he would have voted for a one year extension.

d. SPECIAL EXCEPTION #14-2003 The application of Philip Steinberg relative to property described as Corley Beach Estates, Lots 4 & 4A; commonly known as 1640 South Ocean Boulevard; located in the R-A Zoning District. Special Exception to allow two driveway gates located on a dead-end street to be setback 7'3" from the street pavement in lieu of the 18 foot minimum required.

Ex-parte communication was declared by Councilman McLendon via a telephone conversation with Attorney Maura Ziska.

Attorney Maura Ziska, on behalf of the applicant, addressed the Town Council, stating that there were currently two driveway entrances on the property, which would be connected into a circular driveway. The property owner would like to install sliding gates at the existing gateposts, which were approximately 7' from the street pavement. The gates would be solely for the use of the owner and there would not be a keypad. The proposed location of the gates would not hinder traffic flow or create a dangerous traffic situation, and would not adversely affect the neighborhood.

Zoning Administrator Paul Castro reported that staff had safety concerns with the gate closest to South Ocean Blvd., as it was only 24' from the right-of-way; if the gate was an entry gate, vehicles would have to stop and wait for the gate to open, and traffic may be backed up on South Ocean Blvd.

Attorney Ziska responded that two gates were needed to secure the entire parking area; there would not be a keypad, so cars would not be stopping to get in, and the owner would have an automatic remote. She noted that she had taken a picture from South Ocean Blvd. to show that there was plenty of room for cars to go around the area.

Councilman McDonald moved approval of Special Exception No. 14-2003, based on the following reasons: there were only three owners on the street, the road was a private road, and the owners would pay to replace the road surface. He explained that if the access was restricted to the owner, no one else could access the gate.

The motion died for lack of a second.

After further discussion, Councilman McDonald moved deferral of Special Exception No. 14-2003 to the August 12, 2003, Town Council Meeting, in order to allow the applicant to redesign the location of the gates. The motion was seconded by Councilman Wyett. On roll call the motion carried unanimously.

e. SITE PLAN REVIEW #4-2003 The application of Dennis McKenzie, Building Manager of 300 South Ocean Boulevard Apartment, Inc. relative to property described as Lot 29 (less the North 75 feet of the West 100 feet) and Lot 15, Block F, Royal Park Addition; commonly known as 300 South Ocean Boulevard; located in the RD-2 Zoning District. Site Plan Review to relocate trash receptors to a fenced area, restripe south parking area, and revise garden walls and pool deck in the pool area.

Councilman McLendon, explained that he had filed a Conflict of Interest form with Town Clerk Pollitt, as his wife was one of the unit owners of the property in question.

Architect Gene Lawrence addressed the Town Council, stating that the dumpsters on the property were on the pool deck and visible from the street. It was proposed to move the dumpsters, put a fence around them so they would not be visible, and increase the area around the pool deck. It would improve the use of the property for the residents.

Zoning Administrator Paul Castro reported that staff was concerned with traffic circulation, and the conflict of the new dumpster location with access/egress from the parking lot. Staff recommended studying the possibility of relocating the curb cut, possible relocation of a Palm tree, and provision of a segregated dumpster location, which would require another, more appropriate, variance. He pointed out the locations on a site plan of the property.

Mr. Dennis McKenzie, Building Manager, 300 South Ocean Boulevard Apartment, Inc., commented that most of the residents did not park in the parking lot in question. It was mainly used by service people, and employees. He maintained that there was plenty of room for a car to park in the area.

After further discussion, Councilman Wyett moved deferral of Site Plan Approval No. 4-2003. The motion was seconded by President Pro-Tem Goldblum. After further discussion, the motion was withdrawn by both the maker and the seconder of the motion.

Zoning Administrator Castro commented that there was a possibility for the applicant to pick up the landscaped open space somewhere else on the property, and the Town Council could approve the Site Plan with the new curb cut and the new location for the dumpster, predicated upon the applicant meeting the landscape tradeoff somewhere else on the property.

Town Attorney Randolph advised that the Site Plan could be approved as amended, and if it was found that a variance was required, the applicant would be required to return to the Town Council.

Councilman McDonald moved approval of the amended Site Plan No. 4-2003, contingent upon the applicant meeting the greenspace requirement. The motion was seconded by President Pro-Tem Goldblum. On roll call the motion carried unanimously.

2. Other

a. Consideration of Changing the Schedule for First and Second Reading of the Zoning Ordinance for the 2003-2004 Zoning Season. [Paul Castro, Zoning Administrator]

Zoning Administrator Paul Castro reported that staff was requesting that the Town Council meetings scheduled to be held to consider first and second readings of the proposed Zoning Ordinance No. 1-04, occur on regularly scheduled meetings, rather than the previously approved special meetings of Tuesday, February 17, 2004, and Wednesday, March 3, 2004. Staff was also proposing to move the first meeting date from 9:30 a.m. to 5:01 p.m., in order to meet the statutory requirements. The new proposed date for first reading of the Zoning Ordinance: 5:01 p.m., Tuesday, February 10, 2004. The new proposed date for adoption of the ordinance on second reading: Tuesday, March 9, 2004.

President Pro-Tem Goldblum moved approval of the change in the schedule for the first and second reading of the Zoning Ordinance (No. 1-04) for the 2003-2004 Zoning Season. (First reading of the Zoning Ordinance: 5:01 p.m., Tuesday, February 10, 2004; adoption of the ordinance on second reading: Tuesday, March 9, 2004). The motion was seconded by Councilman McDonald. On roll call the motion carried unanimously.

XIV. ANY OTHER MATTERS

Recreation Director Russ Bitzer reported that the tennis fees had been revised, as directed by the Town Council. He presented a revised fee schedule.

After discussion, President Pro-Tem Goldblum moved approval of the revised tennis fee schedule as presented. The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

Town Manager Elwell commented that there would be a resolution adopting the rates that would come before the Town Council at the August 12, 2003, Town Council Meeting. He clarified that there were three elements of the Leisure Services Fund that were intended to at least break even, and hopefully, make a profit – the golf, the adult programs, and the marina. There were two elements that were recognized as non-profit centers – the tennis and youth programs. He noted that staff would focus on the service program and not profitability for the tennis programs.

XV. ADJOURNMENT

There being no further business, the regular Town Council Meeting of July 8, 2003, was adjourned at 3:30 p.m.

William J. Brooks
Town Council President

Mary A. Pollitt
Town Clerk

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME McLendon Samuel C.	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Town of Palm Beach Town Council
MAILING ADDRESS 300 South Ocean Blvd	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☐ CITY Town ☐ COUNTY ☐ OTHER LOCAL AGENCY
CITY Palm Beach FL COUNTY Palm Beach	NAME OF POLITICAL SUBDIVISION: Town
DATE ON WHICH VOTE OCCURRED 7-8-03	MY POSITION IS: ☒ ELECTIVE ☐ APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office MUST ABSTAIN from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

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ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

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APPOINTED OFFICERS:

You must abstain from voting and disclose the conflict in the situations described above and in the manner described for elected officers. In order to participate in these matters, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes.
- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Samuel C. McLendon hereby disclose that on ____________, 19___:

(a) A measure came or will come before my agency which (check one)

____ inured to my special private gain or loss;

____ inured to the special gain or loss of my business associate, ____________;

✓ inured to the special gain or loss of my relative, ____________;

____ inured to the special gain or loss of ____________, by whom I am retained; or

____ inured to the special gain or loss of ____________, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

My wife is an owner of one of the dwelling units and the proposed project may affect the value of the unit.

7-8-03
Date Filed

[signature]
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED $10,000.