TOWN COUNCIL MINUTES OF JUNE 14, 1994

Roll Call

I. CALL TO ORDER AND ROLL CALL - The June 14, 1994 Town Council meeting was called to order by President Wiener at 9:30 AM in the Town Council Chambers. On roll call, all Elected Officials were found to be in attendance: Mayor Ilyinsky, President Wiener, President Pro Tem Weinberg, Councilwomen Smith and Royal and Councilman Shaw. Also attending for all or portions of the meeting were Mr. Doney, Mr. Randolph, Mrs. Peters, Chief Terlizzese, Chief Elmore, Mrs. Martinuzzi, Mrs. Kelly, Mr. Bowser, Mrs. Crozier, Mr. Elwell, Mr. Jakubiak, Mr. Crouse, Mr. Wilson, Mr. Frank, Mr. Moore, Mr. Zimmerman, Mr. Bitzer, and Mr. Ugi.

Invocation

II. INVOCATION AND PLEDGE OF ALLEGIANCE - Invocation was given by Father Lechiara of St. Edward's Church, and Pledge Of Allegiance was led by President Pro Tem Weinberg.

Presentations

III. PRESENTATIONS

A. Retirement of Henry T. Barnes, Streets Supervisor, Public Works Department - 30 Years - Mr. Barnes was given a plaque in recognition of his thirty years of service.

B. Retirement of Gordon A. Buckner, Captain, Fire-Rescue Department - 19 Years - Cpt. Buckner was given a plaque in recognition of his nineteen years of service.

C. Retirement of Bryant H. Culpepper, Firefighter Driver/Operator, Fire-Rescue Department - 21 Years -Firefighter was given a plaque in recognition of his twenty-one years of service.

Comments of the Mayor

IV. COMMENTS OF THE MAYOR - Mayor Ilyinsky commented: "Please join me today in observing Flag Day

recognizing that this is America's fifteen year in the annual pause for the Pledge of Allegiance. The Pledge of Allegiance has become just as enduring a statement about our nation, as the flag it honors. It is an affirmation of our shared beliefs and national spirit. Officially, the pause for Pledge will be celebrated during the nationwide recitation at 7 PM Eastern Daylight Time today. God bless America and all of you. Thank you, Madam President."

Approval of Agenda

V. APPROVAL OF AGENDA

NOTE: Items listed on the "APPROVED AGENDA" will be approved by one motion of the Town Council, unless the Mayor or an individual Council Member requests that certain items be deleted from same and be individually considered.

Approved Agenda

APPROVED AGENDA (ITEMS VI. THROUGH VII.) - Motion was made by Mr. Weinberg, seconded by Mrs. Smith to approve the "Approved Agenda". Motion carried unanimously on roll call.

VI. APPROVAL OF MINUTES - None

Licenses & Permits

VII. LICENSES AND PERMITS

Charitable Solicitations

A. Charitable Solicitations

1. The International Society of Palm Beach, Inc.; No. 232-95.
2. Seagull Industries for the Disabled, Inc.; No. 370-94.

Beverage License

B. Beverage License

1. Application for a Transfer of a 4COPS Alcoholic Beverage License and Name Change from Samuel Lyon Sachs/J.V. Associates d/b/a The Ocean Grand at 2800 South Ocean Boulevard to William Ogilvie Mackay/J.V. Associates d/b/a Four Seasons Ocean Grand.

Regular Agenda

REGULAR AGENDA Motion was made by Mrs. Smith to approve the Regular Agenda with Item X.A.3 to be heard with XIV.B.3. Seconded by Mrs. Royal. On roll call, the motion carried unanimously.

Withdrawal of items

Mr. Doney noted a letter has been received from Attorney James Brindell to withdraw Item VIII.A, an abandonment request. Mrs. Smith requested this be left on the agenda as she had some comments she wished to make on the abandonment.

Motion was made by Mrs. Smith, seconded by Mr. Weinberg to withdraw from the Regular Agenda Item XIV.B.1. Special Exception No. 12-94 with Variance for Barnett Bank. Motion carried unanimously on roll call.

Deferral of item XIV.B.2

Motion was made by Mrs. Smith, seconded by Mr. Shaw to defer to the July 12, 1994 Town Council Meeting Item XIV.B.2, Site Plan Review for proposed restaurant at 3000 South Ocean Blvd. On roll call, the motion carried unanimously.

Motion was made by Mr. Weinberg, seconded by Mrs. Smith to accept the regular agenda with the amendments. Motion carried unanimously on roll call.

Public Hearings

VIII. PUBLIC HEARINGS

Res. 24-94
Res. 25-94

A. Consideration of Request for Abandonment of Ocean Terrace (formerly Albee Avenue) West of North Lake Way - Consideration of Resolution Nos. 24-94 and 25-94 - Deferred from May Meeting. - Letter Dated June 8, 1994, from James Brindell Requesting Withdrawal - Mrs. Smith reported that she looked at this property and currently on this property is a bike path and an access to the Lake, and as part of the Abandonment, the property owners have determined the property lines on 1330 N. Lake Way go to the north side of this entrance, and consequently there is a No Trespassing sign on the lot, with no access to the Lake. She understood similar cases such as this have occurred in Palm Beach County, and there is a provision whereby public use takes precedent over the private property, if there has been an access. She believed the property owners were contemplating building a new home using the Bike Trail access as part of the property. She asked if this is Town property or private property, and if it is Town property, perhaps Mr. Dusey could remove some of the trees and hedging as it is quite overgrown, to make this an access. Mr. Randolph responded if it is an access for public property, and he believed that based on historical precedent, the answer would be yes. He stated the answer to her question as to whether or not it is Town property or not, is "no", as in researching the title to this property, the title does go to the north side of that access. He commented the applicant has the right to set back for construction purposes from the north side, but that doesn't mean that they have the use of it. He commented the mere fact that they own the property does not mean the access is still not there for the public.

Mr. Randolph recalled he has discussed this matter with Mr. Moore and it was agreed that if they came for a building permit to put anything over this area, a permit would not be granted. He advised if they intend to close it off, the Town would take action to keep them from doing so.

Mrs. Smith pointed out there is a "No Trespassing" sign there and a new electrical post standing on the property with wire lines connected to it, at the bike path and she thinks that is wrong. She felt this was a public access and due to the precedent already set, they should not overlook it.

Mr. Randolph explained it is a prescriptive easement and if the owner takes the position that it is not a prescriptive easement, the Town may have to prove that and the interesting thing is that the abandonment was moving forward until it was indicated to the applicant that the position was being taken that the easement needs to remain open for the public

Mrs. Smith believed there was also a concern that they might have to pay for it. Mrs. Wiener felt they needed to do what they needed to do and if someone was asking for a granting of an abandonment, obviously it is not theirs with full control, but they are acting as if it is and she didn't think they could permit that. Mr. Randolph did not believe they were asking for an abandonment in regard to this portion, and we could have put a condition on the abandonment that the bike path remain open and he thought what they should do is attempt to work with the owner and see what his position is with regard to this and if the owner's position is that it is not an accessway for the public, he will, with Town Council direction, pursue with this further.

Mrs. Wiener felt they needed to deal with it to which Mrs. Smith agreed, asking if this access was not on the Comprehensive Plan to which Mr. Moore responded it was. Mrs. Smith knew there were utility easements and storm drain pipes not currently in use, but at some time the Town may want to hook it up again for whatever reason, and they brought this to the attention of the Town by requesting the abandonment, and now it is up to the Town to pursue it.

Mrs. Smith moved that the Building Department, the Town Engineer, the Town Planner, the Town Attorney and Mr. Dusey look into the status of the public access between 1330 and 1334 North Lake Way and the position of the Town in regards to this access be determined. Seconded by Mrs. Royal. Mrs. Wiener asked for an amendment to the motion to accept the withdrawal made by Attorney Brindell which Mrs. Smith and Mrs. Royal accepted as an amendment. On roll call, the motion carried unanimously. Mrs. Royal requested the No Trespassing sign be removed. Mr. Randolph indicated they would pursue that.

B. Consideration of Request for Abandonment and Rededication of Rights-of-Way and Easements at 334 North Woods Road - Consideration of Resolution No. 35-94 - Attorney Paul Prosperi addressed the Mayor and Council on the application. He advised when this property was originally platted in 1958, it was platted as four separate lots. He advised the current owners wishes to use this as a single parcel. He advised there was an easement on the south side of the property when it was originally platted, which allowed access to two other lots and the cul de sac was located west on the property which allowed access to both lots, and there were two ten foot wide utility easements. He advised on the north side of the property there was a cul de sac which was intended to access Lots 10 and 11 and the utility easements were to provide access from the cul de sac to Lots 1, 2 and 11; and later there was a storm water drainage easement which transversed the property. He advised since the property is now going to have one ownership they want to attempt to clean up the easements and eliminate the two ten foot easements and eliminating another easement and on the north side of the property the cul de sac as existing and laid out is changed and is different from that shown on the plat, as the previous owner of the property negotiated with the Town and got permission to move the cul de sac eastward and he wanted to document that move. He added that Public Works has requested a three foot wide easement on the west side of Lake Trail for lighting which they are willing to grant. He stated they are replacing the access easements to the Lake Trail on both the north and south sides of the property and they will pave those and are replacing the drainage easement from 12' to 15' which follows the old drawings, and they will move that at their own expense.

Mr. Prosperi indicated the Unity of Title Agreement will be furnished tieing all the lots together.

Mr. Moore stated the Building Department has no problems with the request. Mr. Doney asked if Mr. Bowser could speak to the application as there are a number of conditions which he would like to have done, if the Town Council is inclined to approve this.

Mr. Bowser advised there were three objections received from:

Helen Bern
Barbara Levinson
Paul Maddock, Jr.

He advised Mr. Maddock felt the elimination of the cul de sac on the south side of the property would eliminate an opportunity for vehicles to go westward across his property. He advised he has discussed this with Attorney Randolph who felt the purpose of the access easement and cul de sac was specifically for the uses of Lots 1 and 2 within the subdivision rather than outside the subdivision.

Mr. Randolph indicated he has researched that matter and sent a letter to Mr. Doney and his opinion is that the adjacent property owner's objection is not valid as there are other accesses to his property and 2, he didn't believe the cul de sac area has been paved and in use and 3, the plat of the properties.

Mr. Bowser felt the Town would be getting a section of the storm drainage line rebuilt, and they have offered to furnish a performance bond to guarantee the work; and they will construct the walkway on North Woods Road.

Mrs. Smith asked Mr. Randolph to expound on his comments on the cul de sac. Mr. Randolph responded he felt strongly that if this area is only for this piece of property and adjacent property owners do not have grounds to object to the abandonment. Mrs. Smith asked if there was any access to the property to the south from this cul de sac to which Mr. Randolph responded there was no access from the south but there is other access to the property and if that person to the south were to to subdivide the property, they could do so and they could have access from other locations. He stated otherwise, they could have a easement by necessity, if he didn't otherwise have access to the property.

Mr. Moore advised the cul de sac has not been built so therefore it is not an issue and this matter has been litigated for almost two years. Mrs. Smith knew it has come up over and over but there is no cul de sac there. Mr. Randolph advised that was not the reason for his opinion as the opinion is based on the plat itself which shows the roads and rights of way were dedicated to the public, but the cul de sac was not, therefore, he doesn't believe the public has any rights to it, nor does the adjacent property owner have a valid objection to the abandonment. He advised the property can be accessed from the south and he believed that was the case here, to which Mr. Moore agreed.

Mr. Weinberg moved Res. No. 35-94 be adopted. Seconded by Mrs. Royal.

Mr. Randolph read the Resolution No. 35-94:

> A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, VACATING AND ABANDONING CERTAIN ROADWAYS, CUL DE SACS AND PUBLIC UTILITY EASEMENTS LOCATED ON PROPERTY COMMONLY KNOWN AS 334 NORTH WOODS ROAD,PALM BEACH, FLORIDA AND DEDICATING NEW ROADWAYS, CUL DE SACS AND EASEMENTS ON PROPERTY COMMONLY KNOWN AS 334 NORTH WOODS ROAD, PALM BEACH, FLORIDA.

Mrs. Wiener called for public comment and there was none.

On roll call, the motion carried unanimously.

C. Landmark Designation for 301 Australian Avenue - Consideration of Resolution No. 31-94 - Mrs. Peters gave the oath to those who will testify. Mr. Frank reported this property meets criteria A, C and D in the Ordinance. He advised the architects are Rosaria Candella and Trainer & Fatio.

Mrs. Day reported the property is known as the Brazilian Court and was built in 1925 and opened on New Year's Day in 1926. She advised Mr. Candella was a New York architect and was extremely well known and has done a number of important buildings on Fifth Avenue in New York which are now listed and protected in New York City. She reported this is the only building they know of his work in the Town of Palm Beach. She stated this building was built in the Mediterranean Revival Style, two stories for the predominant part of the building with towers at the entrances. She stated the building is built around the courtyard. She stated the windows are a predominant feature and some of them are original and other predominant features are stairways and arches, barrel tiles on the roof and in 1936, Trainer and Fatio were hired under new ownership to add an addition to the hotel which faces Australian and has the second courtyard of the property. She stated this building represents the development of a resort and was built in the boom times in the 1920's, survived the 1930's and in the 1980's it was sold as individual units and remodeled in 1986. She stated it presently is marketed by the Hotel Corp and is landmarked as an historic landmark, but does not have local protection nor national protection.

Mrs. Smith wondered why this building was not on the original list for landmarking, as she views it as an absolute natural for landmarking. Mrs. Day responded she did not know, but she thought it should be landmarked.

Mrs. Jane Volk, Chairman of the Landmarks Preservation Commission addressed the Council responded that this was on the list and under consideration but then the building was sold to individual owners and each owner had to be notified, which has now been done and there have been no objections.

Motion was made to accept the Designation Report by Mrs. Smith. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Attorney J. Barry Curtin representing the court appointed receiver for the Brazilian Court Hotel addressed the Council. He advised he has spoken with Owen Management Co., who is the agent representing the RTC. He wished to review some procedural issues which he has spoken with the Town staff about, as well as the Town Attorney. He stated his request is to defer action on this matter until the next meeting, so that the issue of the variance can be considered. He advised in contradistinction to what Mrs. Volk has stated, there is a procedural problem as far as notification is concerned, and this problem he was made aware of last week, and it has created a title problem. He advised his law firm originally represented approximately 122 of the 134 unit owners at the Brazilian Court, which was sold as a syndicated hotel, basically in a condominium format in 1985 with 134 investors. He recalled there were a series of lawsuits all of which were culminated approximately two years ago, when these matters were settled.

He advised a few days ago, the RTC in an effort to have the property sold, has discovered there are three additional units, in addition to the 134 units or 137 units, and those commercial units were conveyed out to the purchasers and when they settled with the RTC, they did not include these commercial units in the recitation, and therefore, the 122 unit owners still have a claim for title and a procedure needs to be followed, whereby the would go back to court and he cannot represent that those people have been notified as they have not been. He stated these 122 people have a .006 of fractional interest in the commercial portions of the hotel and they have not been notified. He stated it is a fundamental procedure which has to be recognized and that is why he requests a deferral.

Mrs. Wiener asked the Town Attorney for his opinion and Mr. Randolph responded based upon Mr. Curtin's representation, it is apparent that due to some technical defect in the transfer of the property and indeed those property owners have not been notified as to their .006 percentage interest in those commercial units, since it was not known they had that interest in the first place. He stated the reason that staff is hesitant to recommend a lengthy deferral is because they do not know how long it will take to rectify that problem. He advised the Town did notify all of the owners on record and they also advertised this hearing, so it is thought that they have given notice, however, if someone came back in a year or so stating that they did not receive notice, they certainly would have some grounds. He stated Mr. Curtin is hopeful that this will be resolved within 30 to 60 days, he thought he should be offered the opportunity to resolve this, before they do anything else on this problem. Mrs. Wiener agreed. Mrs. Smith concurred that if there is any question that proper legal notice has not been given, then it should be and she moved that this matter be deferred to the August meeting to be given ample time for notification to all of the owners, so there is no question. Seconded by Mr. Shaw. Res. 31-94

Mr. Moore advised the Ordinance does require that action be taken within ninety days and Mr. Curtin would have to waive that rule. Mr. Randolph advised staff was correct in the way that everyone was notified. Mrs. Smith announced if the 90 days expires prior to the July Town Council meeting, her motion stands and the applicant would have to waive his rights.

Mr. Curtin offered for the record a copy of two deeds faxed to him by the Title Insurance Co., one represents the deed from the original conveying entity in 1985 and that states they convey an undivided interest in all of the commercial units and appurtenances thereto; and subsequently the deed prepared in 1992 when the case was being settled, there was no conveyance back and that recitation is not contained in the latter deed, therefore, the unit owners conveyed all but their commercial units back to the RTC, so they now hold title to those commercial units. He hoped that through the vehicle of receivership, they could go before the Court on an expedited basis and have them say what should have happened did happen and there be an action to quiet title. He stated he stopped the representation when this case was settled in May, June or July of 1992, so he has not been in touch with the 122 unit owners since that time. He stated he has had no contact with them and many of them do not know this problem exists.

Mrs. Wiener asked if the signatures are not received within the 30 day time period and the 90 day limit runs out, where do they stand? Mr. Randolph noted Mr. Curtin was asked to waive the 90 day rule but if he doesn't represent those property owners, the waiver will do no good, so he recommended they return to the matter at the July meeting before the 90 days are up, as if he were to choose one or the other, he would recommend that the Town Council act before the 90 days expires and go with the situation as it is then. He thought in the meantime, Mr. Curtin furnish all of the information required for notice so an attempt may be made to give notice to these people prior to the July meeting.

Mrs. Royal asked what would be the nature of the variance and would it be affected if the building were landmarked, as if the request is to demolish, the Town Council may not look favorably on that. Mr. Curtin responded it is a variance modification request to clarify some of the conditions that have been put on the Hotel. He stated with the sale of the property, they need to get a variance, as from 1979 there is a provision concerning the days they can advertise for a guest speaker as they can only do that from February 15th through April 1st, so they need to bring the matter forward for today's operation reality. Mr. Moore stated he has informed Mr. Curtin that this is a subject that would not be related to the landmarking of the property.

Mrs. Wiener agreed stating she would like to get back to the issue, as variances should not be discussed at this point, and she underlined that there will not be 132 signatures received back within the 30 day period.

Mr. Randolph pointed out they don't really need the signature, they just need to advise the unit owners. Mr. Randolph thought it behooved the Council to at least give a 30 day deferral to grant the opportunity for this matter to be resolved, as it may well be that it may not be resolved at that point and they will be faced with a choice.

Mrs. Smith was confused and asked Mr. Curtin who he actually represents. Mr. Curtin stated he does not represent the RTC but formally represented the unit owners and that representation stopped when the matter was concluded.

Mrs. Smith amended her motion to defer to the August meeting and now wished to defer to the July meeting and have the representatives of the RTC and the various owners and the matter be heard in July which is within the 90 day time frame. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

D. Landmark Designation for 334 El Vedado Road - Consideration of Resolution No. 32-94 - Mr. Frank reported the Landmark Preservation Commission and staff found the property meets the following criteria: Res. 32-94

C. It embodies distinguishing characteristics and architectural type or is a specimen inherently valuable for the study of a period, style, method of construction, or use of indigenous materials or craftsmanship.

D. It is representative on the notable work of a master builder, designer or architect, whose individual ability has been recognized or who has influenced his age.

He advised the architect/designer was Clarence Mack with additions by Marion, Sims, Wyeth and John Volk.

Mrs. Jane Day of Research Atlantica advised this residence is an excellent example of the Colonial Revival style of architecture, designed by Clarence Mack in 1939 and was popular throughout the United States from 1885 to 1955 and this is an important example in Palm Beach because it was built during the Depression years. She advised this is a house large in scale and Mr. Mack was the architect, designer and builder of this property. She noted there were additions in the 1950's by Marion, Sims, Wyeth and additions by John Volk in the 1980's. She advised it is an L shaped building symetrically in its infenestration and sits on Lake Worth with a nice view and the garage wing is the L-shaped wing to the west of the property. She stated it is a good example of this style and deserves landmarking under the criteria read by Mr. Frank.

Motion was made to accept the Designation Report for 334 El Vedado Road by Mrs. Smith, seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Mrs. Volk advised the owners, Mr. & Mrs. Hunter Marsden are happy to have their home landmarked.

Mr. Weinberg moved that since this residence meets Criteria C and D, he moved for the adoption of Res. No. 32-94. Seconded by Mrs. Smith.

Mr. Randolph read Res. No. 32-94:

Res. 32-94

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY HEREINAFTER DESCRIBED MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER XVI, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH AND DOES HEREBY DESIGNATE SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK,PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER XVI, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

On roll call, the motion carried unanimously.

Res. 33-94

E. Landmark Designation for 1498 North Ocean Way - Consideration of Resolution No. 33-94 - Mr. Frank reported the Landmarks Preservation Commission has found this property meets the following criteria: C (read earlier) and D (read earlier). Mrs. Day reported this is a two story residence of Art Moderne style of house, designed in 1938 by Murray Hoffman. She advised it is a frame construction and it is important for its innovation and unusual character. She stated it has glass blocks on either side of the main entrance, which is typical of the style and also on the second story. She stated the facing is wood which gives the house a predominantly horizontal feeling but a chimney counterbalances that and extends northward. She noted there is a flat roof. She stated this is the only example of Murray Hoffman's work in the Town.

Motion to accept the Designation Report into the record was made by Mrs. Smith, seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Mr. Shaw asked why they wanted to designate the facade only to which Mrs. Day responded there were a number of additions done to other parts of the home.

Mr. Zachary Shipley was given the oath by Mrs. Peters. Mr. Shipley addressed the Council, indicating he was the owner of the house and he appreciates the attractiveness of the Town and he and his wife do their part to maintain their residence. He expressed his objection as to the landmarking of this house because they do not feel it is architecturally worthy and the architect may have been a master craftsman but he didn't think he was a master builder.

He advised the original house was built around 1940 and had no particular style and they had engaged Jeff Smith to build an addition to the house and people in his office thought the house was Art Deco, or Art Moderne, or International Style so he thought it was a debate as to whether or not it was an example of any great style.

Mr. Shipley indicated they have doubled the size of the house since 1990 and they have tried to soften the lines of the house's stark appearance.

He advised the windows are not the original windows, as the old windows were not energy efficient and leaked. He explained one of the design objectives in putting on the addition were actually to change the appearance of the house, which ARCOM approved. He felt the result was that the house which was not attractive enough to command anyone's attention in 1989 is suddenly attractive and now they are bearing the burden of having it landmarked. He did not think it was a noteworthy structure and it is out of the way in an ordinary neighborhood, and is substantial and has been renovated and not in danger of being torn down and he thought the Town's interest in the house did not justify what amounts to an unreimbursed seizure. He stated they feel that the rights they now have will be compromised by the landmarking process, since they will not be able to choose the type of paint they want to paint their house or they would have to repair it with the same or like material, which is something they would probably do anyway, but it is a matter of principle.

He believed as they vote on this, they will be addressing two things, one being if the Landmarks Commission has carried out their duty with undue zeal, and secondly, whether a person's home is their property and whether the public has some interest. He viewed this as an unreimbursed participation of the public in his home where he lives with his wife and his children and he hoped they did not approve the landmarking. He wishes the Council to note that the Landmarks staff has been extremely professional and even though their position is different from his, the Town could not ask for finer people to carry on this activity in this Town.

Mrs. Wiener felt Mr. Shipley has shown an interest in preservation with what he has done to the house and has the best interest of the Town at heart and wondered why he was taking this stand which is different from the actions he has taken? Mr. Shipley responded what he has done has been voluntary and for the benefit of the Town, his neighbors and himself, which is different from being compelled to do it.

Mrs. Wiener pointed out that to make any changes to his home and if it is not landmarked, he would have to go to the Architectural Commission, so the only difference here is that he has to go to another Commission. Mr. Shipley responded he understood that but the criteria they apply are different. He stated everyone in the Town is subject to ARCOM and the ruling they make on his house would be the same as on anyone's house, but a landmarked house would be in a class with Donald Trump.

Mrs. Smith asked why did he buy this house if it was so awful? Mr. Shipley responded it had a half acre of land which made it possible to add on to it substantially and he liked the way it sat on the land.

Mrs. Smith recalled the Architectural Commission during their deliberations of the addition to the house did feel it was an outstanding example of a different architectural style and the architect, Murray Hoffman is very well known and it had nothing to do with the fact that his son, Lindley was Chairman of the Commission at that time and is currently sitting on it again. Res. 33-94

Mrs. Royal asked what percentage of the house is being proposed for landmarking? Mrs. Day responded it is the east facade of the house which she thought would not be 25% of the total structure. She advised the Landmarks Commission felt it as a compromise with Mr. Shipley and Mrs. Barbara Hoffstot testified to the importance of keeping this house as an example of Mr. Murray Hoffman's work.

Mr. Shaw asked if it were not for the entrance section, would she consider the house worthy of designation to which Mrs. Day responded she would, as it is not only the glass block sections, although that is original as well as the front door and the eyebrow, but the fact that it has a lovely chimney which tapers to the top which gives a design balance from the horizontal feeling of the siding, and it is very unique.

Mrs. Royal asked if there were any other architecture of Murray Hoffman other than in Palm Beach, to which Mrs. Day responded she did not know of any others, although he worked with Burrell Hoffman but they don't know what portion of that work he did and that is being studied.

Mrs. Smith moved that Res. No. 33-94 be approved designating the east facade of the property at 1498 North Ocean Way as a landmark on the basis that it meets Criteria C, and D of Section XVI of the Town of Palm Beach Code and the Landmarks Preservation Ordinance No. 2-84. Seconded by Mrs. Royal. On roll call, the motion carried 3-2 with Mr. Weinberg and Mr. Shaw voting against the motion.

Mr. Randolph read the Resolution No. 33-94:

> A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION OF THE PROPERTY HEREINAFTER DESCRIBED MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84 ALSO KNOWN AS CHAPTER XVI, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH AND DOES HEREBY DESIGNATE SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK PURSUANT TO ORDINANCE 2-84 ALSO KNOWN AS CHAPTER XVI, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Mrs. Wiener noted this states they are designating the property and all they want to designate is the east facade. Mr. Randolph noted Section 2 addresses that and states it is the east facade. Mrs. Wiener noted it states the property. Mr. Randolph disagreed, noting it states the property hereinafter described and then it states in Section 2, "the east facade." Mrs. Wiener asked if it could be a little clearer. Mr. Randolph stated he would change it to read: "THE EAST FACADE OF THE PROPERTY HEREINAFTER DESCRIBED".

Mrs. Wiener called for a motion with that change and Mrs. Smith moved that Resolution No. 33-94 be approved designating the east facade of the property at 1498 North Ocean Way as a landmark of the Town based on the Criteria C and D of Section XVI of the Town Code of Ordinances. Seconded by Mrs. Royal. On roll call, the motion carried 3-2 with Mr. Shaw and Mr. Weinberg voting against the motion.

F. Landmark Designation for 225 Seaspray Avenue - Consideration of Resolution No. 34-94 - Mr. Frank reported the Landmarks Preservation Commission has found this house at 225 Seaspray Avenue has met the following criteria for designation: Res. 34-94

A. It exemplifies and reflects the broad cultural political, economic or social history of the nation, state, county, or Town.

Mr. Frank reported it meets Criteria C (read earlier). He advised the architect for this property is unknown.

Mrs. Day of Atlantic Research reported this house is a good example of the bungalow style of architecture which was popular in the United States from 1905 to 1930, spreading from California throughout the country. She advised this house has the main identifying features of this style with a large wrap around porch two stories in height, and has a low pitched gabled roof. She noted this house has oriental influences with the flares on the ridge at the top of the roof line and at the ends of the roof. She indicated the front porch has French Doors, which were newly popularized in the 1920's. She believed it was built between 1910 and 1925 noting the first building permit has not been located. She felt this was a good example of this architecture in the Town.

Mrs. Smith moved to accept the Designation Report as a part of the record. Seconded by Mr. Shaw. On roll call, the motion carried unanimously.

Attorney Randolph read the Resolution No. 34-94:

> A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY HEREINAFTER DESCRIBED MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84 ALSO KNOWN AS CHAPTER XVI, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH AND DOES HEREBY DESIGNATE SAID PROPERTY AS THE TOWN OF PALM BEACH LANDMARK PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER XVI OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Motion was made by Mrs. Smith that Res. No. 34-94 be adopted designating the property at 225 Seaspray Avenue as a Landmark based on the criteria A and C found in the Code of Ordinances under Chapter XVI, Article III. Seconded by Mr. Shaw. On roll call, the motion carried unanimously.

Committee Report

IX. COMMITTEE REPORT

A. Finance and Taxation Committee Meetings of June 1 and June 2, 1994

June 1, 1994 Finance & Tax Comm.

Roll Call

I. CALL TO ORDER AND ROLL CALL: The Finance & Taxation Committee meeting was called to order by Chairman Wiener at 10:05 AM on June 1, 1994. On roll call, Mrs. Wiener, Chairman and Mrs. Smith, Committee member were found to be in attendance. Other Elected Officials attending for all or parts of the meeting were Mayor Ilyinsky, Councilwoman Royal, Councilmen Weinberg and Shaw. Also attending were Mr. Doney, Mrs. Crozier, Mrs. Kelly, Mrs. Peters, Mr. Elwell, Mr. Jakubiak, Chief Terlizzese, Major Croft, Mr. Crouse, Chief Elmore, Assistant Chiefs Koelz and Neal, EMS Coordinator Price, Mr. Bitzer, Mrs. Martinuzzi, Mr. Wilson, Mr. Bowser, Mr. Ugi, Mr. Moore and Mrs. Zamecnik.

II. APPROVAL OF AGENDA: Agenda was approved.

FY95 proposed budgets

III. FY95 PROPOSED BUDGETS:

A. Overview - Comments by Town Manager and Finance Director. Mr. Doney described the FY95 Proposed Budgets, indicating that in his opinion, each of the Department Heads have submitted responsible budgets and revisions have been made after he met with each Department Head, and he believes that proper justification can be provided for the items requested. He reported the proposed FY95 budget has several proposed changes in levels of service, based upon Town Council identified changes; one being beach cleaning, and another being the operation and maintenance charges in the Public Works Department proposed budget for the cost associated with the operation of the Lake Worth Inlet Sand Transfer Plant.

Mr. Doney advised there are exhibits attached to his memorandum dated May 26, 1994 to the Finance & Taxation Committee members and a list of those exhibits is attached to this report. The exhibits can be reviewed in the Town Clerk's Office.

Mr. Doney reported the total "Preliminary" FY95 Proposed General (Operating) Fund Budget is $29,846,832, which would be an increase of $643,407 over the FY94 adopted budget or a 2.2% increase in actual expenditures over the FY94 adopted budget. He handed out Exhibit O which showed the major items substantiating the increase, which were as follows:

	$ Change	% Change
TOTAL	$643,407	
CAPITAL IMPROVEMENT FUNDING INCREASE	(259,000)	
L.W.INLET MANAGEMENT	(160,000)	
BEACH CLEANING PROGRAM	(40,000)	
(541) RESIDENTIAL COLLECTION - 6 YD GARBAGE PACKER	(76,000)	
$ AND % CHANGE BEFORE MAJOR ITEMS OF INCREASE	$108,407	0.37%

Mr. Doney advised that at this point in the budget cycle a proposed general pay increase is not included for FY95, as that issue is addressed during the summer months and a recommendation will be made in late July or August, so the Town Council may consider this item before the budget hearings in September.

Mr. Doney explained Exhibit P identifies the Estimated Ad Valorem Taxes paid by Town property owners based upon the final taxable value of the Town of Palm Beach for 1993-4, which was $4,099,189,783.

Mrs. Crozier explained there are specific line items in the budget where consistent increases were used. An example is a three per cent increase for electricity; however, the anticipated expenditures for electricity are projected to be $16,000 less overall than they were in 1994, due to the energy saving measures implemented by the Public Works Department, including consistent setting of thermostats and window filming. Approximately $23,000 is expected to be saved as a result of those measures in FY94.

Mrs. Crozier advised costs for retirement funding have been redistributed throughout all of the Departments and that was done to more equitably reflect the cost within specific employee group types, with the overall increase being approximately 1% or $27,000. She reported approximately $5000 has been saved by using the Risograph printing machine in house and projections show there will be a higher savings figure. She projected $70,000 in interest will be realized this Fiscal Year as a result of the Investment Management Services Agreement entered into with First Union last December, and next year that figure will be approximately $150,000.

Insurance Overview

B. INSURANCE OVERVIEW - PERSONNEL DIRECTOR AND RISK MANAGER:
Mr. Crouse reported the Health Plan for 1993 was approved by the State of Florida, Office of the Treasurer as actuarially sound. He also advised that the Actuary reported the contribution structure together with reserves for FY94 is actuarially sound. He reported the Medical Claim Cost, which represents over 80% of the total Health Care costs were lower in 1993 than in 1992, due primarily to the Town's adoption of the Preferred Provider Organization, and other actions, which have resulted in savings of over $700,000 or twenty per cent of the cost in 1992 and in 1993, over $210,000 or twelve per cent of the costs, and today it is averaging approximately ten per cent lower. He felt it was important to place this in perspective with the trend that the Federal and State governments continue to mandate changes to the Plan which increase costs; however, he felt the Town has a sound program which will require little or hopefully, no increase for next fiscal year.

Mrs. Barbara Martinuzzi, Risk Manager, then addressed the Liability and Workers' Compensation programs, indicating the Town has a self-insured program which are at retention levels consistent with the sovereign immunity limits provided in State Statutes. She advised there is fifteen million dollars coverage for the general and automobile liability as well as the public officials liability. She noted there is twenty eight million dollars is the total capacity on property; and boiler and machinery coverages in the amount of thirty million. After discussion, it is THE RECOMMENDATION OF THE COMMITTEE TO REDUCE THE LIMITS OF LIABILITY ON THE PUBLIC OFFICIAL AND GENERAL LIABILITY INSURANCE POLICIES FROM FIFTEEN MILLION TO TEN MILLION DOLLARS, AT AN APPROXIMATE ANNUAL PREMIUM SAVINGS OF $55,000.

C. DATA PROCESSING ISSUES OVERVIEW - INFORMATION SYSTEMS MANAGER: Spencer Wilson addressed the Committee giving an overview of his office and noted that meetings were held with all departments to review the current data processing hardware and software requests both on the AS-400 and the PC's, future needs and projects which were being planned, all of which is used as a basis for budgeting. After full discussion, IT IS THE RECOMMENDATION OF THE FINANCE & TAXATION COMMITTEE that authorization be given to purchase a new Advanced System AS/400 Model 300 in the amount of $145,000 over three (3) years, with assurances received from Mr. Wilson that this would accommodate the data processing needs of the Town of Palm Beach for the next five years. The request for hardware purchases totaling approximately $58,000 was not approved and this figure for FY95 was recommended to be reduced to approximately $25,000. Data Processing overview

D. PERSONNEL DEPARTMENT: Mr. Crouse presented the budget for the Personnel Department, noting the salary line items are down due to the fact that one of his key employees has resigned and has not been replaced. He reported another line item which has been reduced is advertising. He noted he will be overexpended in his police recruitment as there have been a number of resignations and retirements. After review and discussion, IT IS THE RECOMMENDATION OF THE FINANCE & TAXATION COMMITTEE THAT THE BUDGET FOR THE PERSONNEL DEPARTMENT BE APPROVED WITH THE ELIMINATION OF $3,800, WHICH REPRESENTS THE COST OF A PORTABLE COMPUTER. Mr. Doney and Mr. Crouse explained there was included in the budget a proposed retirement recognition program of a ring or watch, depending on years of service, (to replace the current plaque presentations), with a total annual estimated additional cost of $2700, to which the COMMITTEE RECOMMENDED APPROVAL. Personnel Dept.

E POLICE DEPARTMENT: Chief Terlizzese and Major Croft presented the budget for the Police Department, noting they have eleven programs and their booklet showed the levels of service in public safety the residents are receiving for their tax dollars. Chief Terlizzese noted in the past three years there has been crime reduction all over the country, with the Town having a three per cent decline in Part 1 and 2 crimes and a 15.29% reduction in the past calendar year in serious crime, whereas the rest of the nation averaged only a two to three per cent decrease. He noted this has been the trend for the past three years. He reported the Patrol Division handled 41,000 calls for service. He advised the Crime Prevention Unit makes this a safer community as the citizens are more aware and educated in ways of safety for their homes and families. He indicated the Detective Bureau is doing a great job in solving crimes. He reported the Beach Rescue Unit had over 100,000 people visiting the Town's beaches and five swimmers were rescued from certain death. He recalled the Parking Patrol Unit issued over 20,000 parking tickets and installed the traffic boots on 123 cars. Chief Terlizzese reported the Police Department budget has increased by .35 of one per cent over last year and that increase is due principally to the $135,000 cost which was reallocated through the departments for retirement line items. After review and discussion, it is THE COMMITTEE'S RECOMMENDATION TO ACCEPT THE POLICE DEPARTMENT BUDGET. The Committee made the request that if between now and July, there are further reductions that can be made, that this be done. Police Dept.
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F. FIRE-RESCUE DEPARTMENT: Chief Elmore and Assistant Chief Koelz addressed the Committee with an overview of the Fire-Rescue Department, noting that their budget is in five programs, and their proposed budget is $5,481,216 which represents an increase of approximately $102,000 over the FY94 Approved Budget, and the retirement reallocation increased their budget by $105,000. Mr. Doney explained the impact of redistributing the retirement charges is more equitable according to the Actuary's report, as previously noted by Mrs. Crozier. Chief Elmore noted their salary line items are down $69,000, which includes a projected merit increase for all eligible employees; Mr. Doney commented that the Town's merit (incentive) program is included in all applicable Departments and programs. Chief Elmore explained the five programs in his Department and after discussion and review, it is THE COMMITTEE'S RECOMMENDATION TO ACCEPT THE BUDGET PROPOSED BY THE FIRE-RESCUE DEPARTMENT. The Committee also made the request of Chief Elmore that in the event there are further reductions which can be made in the Fire-Rescue Department between now and July, that the reductions be made. Fire-Rescue Dept.

G. RECREATION DEPARTMENT: Russ Bitzer, Recreation Director, addressed the Committee noting there are five programs in his Department indicating the overall budget is up $39,000 or five per cent and is primarily due to an air conditioning replacement of $12,000; personnel increases of $15,000 which is due to a reallocation of Public Works maintenance employees; $7,000 for additional programs, which will be offset by revenues; and $5,000 for tile floor replacement. He advised the overall revenues will be increased approximately $10,000 or 3.5% above last year's estimated revenue. He noted there is a recovery percent of revenues at 67% compared to 65% for last year. After further discussion, the COMMITTEE'S RECOMMENDATION FOR THE RECREATION DEPARTMENT IS THAT THE FEE SCHEDULES BE SCRUTINIZED AND INCREASES BE MADE TO THOSE FEES FOR NON-RESIDENTS IN THE TENNIS PROGRAM WHICH HAVE NOT BEEN INCREASED SINCE 1984; ADDITIONALLY THE RESIDENT GREENS FEES BE INCREASED FROM $14.50 TO $15.00, AS WELL AS A POSSIBLE NON-RESIDENT GREENS FEES INCREASE FROM $18.50 TO POSSIBLY $25.00, AND THIS ISSUE SHOULD BE REVISITED AFTER RECONSTRUCTION OF THE GREENS AND TEES PROJECT IS COMPLETED; AND THE REQUEST FOR THE PURCHASE OF AN IBM VALUEPOINT PC IN THE AMOUNT OF $2400 BE ELIMINATED FROM THE RECREATION DEPARTMENT'S BUDGET. Rec.Dept.

H. TOWN CLERK'S OFFICE: Mrs. Peters presented her proposed budget, indicating there is an increase as the salary for an additional person, a Deputy Town Clerk, has been included for a one year period, which has increased all personnel line items. She advised the line item on Codification has been increased as there will be a proposal to reformat the Code of Ordinances, however, there will be an estimated $11,000 recouped from the $14,500 figure budgeted. THE COMMITTEE'S RECOMMENDATION IS TO APPROVE THE TOWN CLERK'S BUDGET WITH THE ELIMINATION OF $1200 UNDER THE DATA PROCESSING LINE ITEM AND MRS. PETERS WAS REQUESTED TO REPORT BACK AS TO POTENTIAL FURTHER ELIMINATIONS ON THIS PARTICULAR LINE ITEM. Town Clerk's office

I. TOWN MANAGER'S OFFICE:

Town Manager's Office

1. LAW AND POLICY REVIEW, LEGISLATION: Mr. Doney presented the budget for this division answering questions with regards to the line item on the proposed 1995 Calendar/Annual Report (48-01), which had an expenditure of $9200 this year (which Mr. Doney noted was a very good quote from the printer) and is proposed to be $18,000 next fiscal year. Mrs. Wiener recalled the conversation last year on the Risograph printer and thought the calendar was going to be able to be produced on the Risograph. Mrs. Crozier explained the Risograph has produced a cost savings, however, the Calendar is not able to be reproduced on it. After discussion, the COMMITTEE RECOMMENDS THE $18,000 PROPOSED FIGURE FOR THE PRINTING OF THE CALENDAR BE REDUCED TO $15,000.

2. INTERGOVERNMENTAL RELATIONS: Mr. Doney presented the budget noting the budget is down 34% and after consideration, it is the COMMITTEE'S RECOMMENDATION TO REDUCE THE LINE ITEM 31-01 FROM $10,000 TO $5,000 FOR "SPECIAL LEGAL" EXPENSES AND APPROVE THE REMAINDER OF THE INTERGOVERNMENTAL RELATIONS' BUDGET.

3. TOWN MANAGER'S OFFICE: Mr. Doney explained the budget for his office is down 5%. After consideration and review, THE COMMITTEE RECOMMENDED THE BUDGET FOR THE TOWN MANAGER'S OFFICE BE APPROVED WITH THE ELIMINATION OF ITEM 64-04 "DATA PROCESSING" WHICH WILL BE REDUCED FROM $2000 to $0.

4. LEGAL COUNSEL: Mr. Doney advised this budget is in line with the legal services which are required and after review, THE FINANCE & TAXATION COMMITTEE RECOMMENDED THE LEGAL SERVICES PROGRAM BE APPROVED.

Office of Information Systems

5. OFFICE OF INFORMATION SYSTEMS: Mr. Doney noted the personnel complement in this office has been reduced from five to four. Mr. Wilson noted one line item has been increased so he can have the opportunity to hire a contract programmer due to the eliminated full time position. He noted the office's salaries are down 28% due to the elimination of one position. THE COMMITTEE RECOMMENDED THE BUDGET FOR THE OFFICE OF INFORMATION SYSTEMS WITH THE PROVISION THAT THE COMMITTEE WILL TAKE ANOTHER LOOK ON JUNE 2ND ON THE LINE ITEM 64-04 DATA PROCESSING ITEMS WITH THE OUTLOOK OF REDUCING THESE LINE ITEMS CONSIDERABLY.

Finance Dept.

J. FINANCE DEPARTMENT: Mrs. Crozier reported her overall budget will be increased by $1800 or less than a quarter of a per cent. She commented on her request for a new printer, which she felt was necessary. Mrs. Wiener recalled for the past three years, she has been suggesting another person is needed in this Department and a machine is not going to take care of the basic problem, especially with a key employee going on maternity leave. She felt the operation of this Department has to be right and timely and she again requested Mrs. Crozier and Mr. Doney to look into the possibility of adding an additional person. The budget of the Finance Department was revisited by the Committee on June 2nd.

Planning, Zoning & Building

K. PLANNING, ZONING AND BUILDING: Mr. Moore presented the budget for his department, noting that the Budget has been reduced approximately 3.5% and he has eliminated $5000 for the data processing equipment requested. He advised computer equipment has allowed his department to handle increased paper work and managing/retrieving data without increased personnel and he hoped to be able to reduce (through attrition) on some personnel with a voice activated inspection system. He noted the revenue has been increased by approximately $50,000 which is partially attributed to the changes in fees now allowed for occupational licenses. THE COMMITTEE RECOMMENDED APPROVAL OF THE BUDGET OF THE PLANNING, ZONING AND BUILDING DEPARTMENT WITH THE REDUCTION OF THE DATA PROCESSING EQUIPMENT IN THE AMOUNT OF $5000, REQUESTING IF FURTHER REDUCTIONS CAN BE MADE IN OTHER AREAS, THE REDUCTIONS SHOULD BE MADE.

Adjournment

Meeting adjourned at 4:20 PM.

<u>JUNE 2, 1994</u>

Finance & Tax Comm. June 2, 1994

Meeting of the Finance & Taxation Committee was called to order at 10 AM by the Chairperson. In attendance were Chairperson Wiener and Council Member Smith, Committee Member. Other Elected Officials in attendance for all or part of the meeting were Mayor Ilyinsky, Councilmen Weinberg and Shaw; and Councilwoman Royal. Also attending were Mr. Doney, Mrs. Crozier, Mrs. Peters, Mrs. Kelly, Mr. Bowser, Mr. Wilson, Mr. Moore, Mr. Elwell, Mrs. Martinuzzi and Mr. Ugi.

Summary of Data Processing Line Items

SUMMARY OF DATA PROCESSING LINE ITEMS: Mr. Wilson reported he has had met with each Department Head and the figure for data processing hardware of approximately $58,000 has been reduced to $25,615 for Town-wide hardware proposed purchases for FY95. THE COMMITTEE APPROVED THE REDUCTION IN THE DATA PROCESSING HARDWARE (TOWN-WIDE) FROM APPROXIMATELY $58,000 TO $25,615, AND IF FURTHER REDUCTIONS CAN BE MADE, THAT THIS BE DONE.

Revenues

REVENUES: Mr. Doney advised the estimate of taxable value for the 1994 Tax Roll has been received from the County Property Appraiser and that estimate is $4,262,670,031 and this is higher by approximately $163,000,000 or 3.9% more than the 1993 taxable value. Mr. Doney advised that he believes that it is premature to prepare estimates with regards to millage as the preliminary certification of taxable value will be delivered on approximately July 1, and estimates and calculations will be made at that time to be advanced to the Finance & Taxation Committee.

Mrs. Crozier reported the proposed non-ad-valorem revenues for FY95 are projected to be $450,000 higher than FY94, which is due to $100,000 projected increase in interest on all funds; with the electrical franchise charges projected to increase $100,000; utility taxes $40,000; occupational license fees $15,000; licenses and permits $67,000, State shared revenues $15,000 and recreational fees $21,000.

Record of Town Attorney phone calls received from public

TOWN ATTORNEY LETTER OF MARCH 18, 1994 in response to request of Finance & Taxation Committee meetings of June 9th and 10th, 1993 kept a record of all calls made to him which were not initiated by the Town Council or staff. Mrs. Wiener felt that it was not appropriate for people to use a Town Department, such as the Town Attorney, and having the time billed to the Town. Mrs. Wiener thought the people calling should be charged a minimum charge. Mr. Doney was asked to have Attorney Randolph be prepared to address this subject at the Town Council meeting of June 14, 1994.

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FINANCE DEPARTMENT: Mrs. Crozier asked for the opportunity to review the organizational structure of her Department to make a decision on bringing the personnel complement in the Finance Department to an appropriate level, and advise the Committee what the decision should be, at the June 14th Town Council Meeting. Mrs. Wiener expressed her desire to have something definitive on this today.

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Mrs. Smith hoped that every Department has an adequate back-up in the event the first and second people in charge are not available.

PUBLIC WORKS DEPARTMENT: Mr. Doney presented the Public Works Department budget, indicating the budget is less than last year by approximately $49,899. He advised there are 29 programs in the Public Works Department and there is a new program being proposed which is the Worth Avenue Palm Tree Maintenance Program which will add $4300 to the median maintenance program. He advised there has been $39,341 added for the Beach Cleaning Program and under Coastal Management the operational and maintenance cost for the Lake Worth Inlet Sand Transfer Plant is $160,000, which is an additional cost for FY95. Public Works Dept.

Mr. Doney advised there is a request for a six cubic yard garbage packer which is approximately $70,000 and he advised the sanitary sewage treatment and disposal charges will depend on the determined charges by the City of West Palm Beach, and also the City of Lake Worth's charges; also, the Town is awaiting more definitive information on the proposed solid waste charges from the Solid Waste Authority, and these are the major highlights.

Mrs. Wiener questioned the outside contracting line item, which Mrs. Crozier recalled was sidewalk repair in the amount of $32,965. Mr. Bowser explained one position has been eliminated in that Division and it is a cost saving to contract this work on the outside. He advised there is bicycle path sweeping for $10,000, sidewalk maintenance at $12,000, as outside contractors can be used more efficiently for this matter, and the other is $6,000 for beach cleaning at the Par 3 Golf Course.

Discussion occurred on the lethal yellowing program and the water rate increases. Mr. Bowser explained on the water, there was a rate increase due to the inverted rate structure and for FY95, they have budgeted a 25% increase for water, due to the proposed surcharge by the City of West Palm Beach. Mrs. Smith did not understand that as they are conserving water, and xeriscape plantings have been planted in the medians. Mr. Bowser explained there have been questions about the billing of the water and they are also now undergoing various water audits, as the quantities are being investigated as they do not appear to be accurate.

Mr. Ugi was called to the meeting to answer the question on the water and he advised they plan to change the median planting twice a year using some annuals, with perennials remaining for possibly three to four years, and the medians are watered twice a week, except with new plantings, then it is three or four times a week.

Mrs. Smith requested a reduction in supplies, line item 52-12 in Program 523 from $19,300 to $15,000. Mrs. Smith asked about the increases on the outside contractual services in every program. Mrs. Wiener noted there is also a question on the increase in the water rates. Mrs. Smith noted on Program 551, there is a 38% increase in vehicle maintenance and wondered about that item. Mrs. Wiener noted the maintenance costs on the Public Works facility has increased.

Mrs. Smith asked about a replacement Cushman vehicle and Mr. Bowser responded they have assessed the condition of the vehicle and it is now time to replace that vehicle, and that is why the request has been made. He advised the external maintenance line item would increase if the vehicle is not purchased.

Due to the fact that Mr. Dusey was not able to be at the meeting due to a death in his immediate family, to answer these questions, THE COMMITTEE REQUESTED THAT UPON HIS RETURN, MR. DUSEY SUBMIT WRITTEN COMMENTS AND RESPONSES TO THE QUESTIONS BEING ASKED TODAY BY THE COMMITTEE AND THIS BE A PART OF THE BACK-UP FOR THE TOWN COUNCIL MEETING OF JUNE 14.

WORTH AVENUE PALM TREE MAINTENANCE: After discussion, it IS THE RECOMMENDATION OF THE FINANCE & TAXATION COMMITTEE THAT THE MAINTENANCE OF THE PALM TREES ON WORTH AVENUE BE ADDED TO THE BUDGET ($4300). Worth Ave. Tree Maintenance

SOUTH COUNTY ROAD MAINTENANCE: Mr. Doney recalled the representative from the South County Merchants Association came before the Council last year and made the request to have the area along South County Road beautified with trees, informing the Mayor and Council that the State Department of Transportation was willing to furnish grates to go around the trees, which are now in storage, and this item is in the Capital Improvement Program in the amount of $75,000. THE FINANCE AND TAXATION COMMITTEE RECOMMENDED THE MONEY BUDGETED FOR THIS PROJECT SHOULD BE THE SAME AS THAT RECOMMENDED FOR THE WORTH AVENUE PALM TREE MAINTENANCE AND THAT AMOUNT WOULD BE $4300. Mr. Bowser explained the area covered on South County Road is from approximately Seaview Avenue to Hammon Avenue. Mrs. Smith suggested since this area does encompass the Town Hall Historic District, they could apply for a grant. Mrs. Smith noted that in her opinion, the Town would be willing to help maintain this area after the project is completed, but she wouldn't want to spend more for the South County Road to maintain the trees than is budgeted for the Worth Avenue project. Mr. Shaw pointed out the $4300 suggested may not be able to maintain the trees on County Road, as it covers a larger area than Worth Avenue. Mrs. Wiener recalled when a representative from the South County Merchants Association was before the Council asking that the grates be shipped to the Town by the DOT, and stored, she asked the question as to what would happen in the event the Finance & Taxation Committee saw fit to not recommend approval of the work (and the Town Council does not approve same). The answer was the grates can always be returned to the State. Mrs. Smith thought the $4300 should not be budgeted this year as the trees are not there and this Committee is not saying they can't install the grates and the trees, as they can do it and it may be that the property owners in the particular blocks along South County Road may decide to go ahead with the project in a small way. South County Road Maintenance

M. CAPITAL IMPROVEMENT FUND: Mr. Doney and Mr. Bowser presented the funding requirements needed for the Capital Improvement Program. Mrs. Wiener asked if there was insurance on the oceanfront roadway protective seawalls to which Mrs. Martinuzzi responded there is no insurance on these seawalls or the abutting roadways, and the insurance covers only the parapet walls. She advised she would furnish premium costs for these oceanfront roadway protective seawalls and abutting roadways. After full review and discussion, IT IS THE RECOMMENDATION OF THE FINANCE & TAXATION COMMITTEE THAT THE CAPITAL IMPROVEMENT FUND BE APPROVED WITH THE ELIMINATION OF $75,000 FOR THE PROPOSED SOUTH COUNTY ROAD BEAUTIFICATION PROJECT. Capital Improvement Fund

N. OTHER FUNDS:

Marina Fund

1. MARINA FUND: Mr. Doney explained this is an Enterprise Fund and currently the Brazilian Dock replacement is under construction. He advised the bottom line of this budget is proposed to decrease by approximately 38%. He stated any expenditures are solely underwritten by dockage fees and marina revenue. Revenues were discussed and Mr. Doney referred to the memorandum dated May 5, 1994 submitted by the Dockmaster, Ms. Lane to Mr. Ugi, noting the recommendation is to increase the dock rates which would generate approximately $104,000 additionally each year. Ms. Lane's memorandum indicated the annual contracts be increased from 40¢ per foot to 45¢ per foot; seasonal contracts from 75¢ per foot to 85¢ per foot and the transient contracts from $1.25 per foot to $1.30 per foot. Mayor Ilyinsky suggested that if the rates are increased, there should be personnel available on Friday afternoons to help tie up the boats as they dock AND THE COMMITTEE REQUESTED THAT THERE SHOULD BE SOMEONE AVAILABLE AT THE DOCKS ON THE WEEKENDS. After further review and discussion, it is the RECOMMENDATION OF THE COMMITTEE TO APPROVE THE PROPOSED BUDGET OF THE MARINA FUND AND THE RECOMMENDATIONS TO INCREASE THE DOCKING RATES FOR THE ANNUAL AND SEASONAL CONTRACTS BE APPROVED AS REQUESTED BY THE DOCKMASTER, HOWEVER THE TRANSIENT CONTRACTS BE INCREASED FROM $1.25 PER FOOT TO $1.35 PER FOOT.

Parking Fund

2. PARKING FUND: Mrs. Crozier gave an overview of the Parking Fund, noting the Parking Fund's budget has increased by $28,000 due to $10,000 needed to replace two flat roofs at the Phipps Ocean Park rest rooms and $15,275 for improvements to insure compliance with the Americans With Disabilities Act. Mrs. Crozier explained the revenues are down $21,600 as reflected by the historic usage of the meters in Town, which projects the revenue anticipated for FY95. THE COMMITTEE RECOMMENDED APPROVAL OF THE BUDGET OF THE PARKING FUND.

Debt Service Fund

3. DEBT SERVICE FUND: Mrs. Crozier noted $2,345,630 is needed to provide for debt service payments required in FY95 and the payment comes from the Debt Service assessed millage. THE COMMITTEE RECOMMENDED APPROVAL OF THE DEBT SERVICE FUND BUDGET.

Self Insurance Fund

4. SELF INSURANCE FUND: Mr. Doney explained this fund includes the health, liability, worker's compensation and self-insurance programs. Mrs. Crozier noted it has increased by $107,000 due in part to the increase in insurance funding. She advised the revenues have increased by $274,000 in FY95 and a large part of that funding will come from interest earnings of $125,000. THE COMMITTEE RECOMMENDS THE APPROVAL OF THE BUDGET FOR THE SELF-INSURANCE FUND.

Retirement Fund

5. RETIREMENT FUND: Mrs. Crozier explained this is a Fiduciary Fund held in trust by the Town, and expenditures have increased approximately $250,000. She reported there are two investment managers and there is a laddered bond fund for ten million dollars managed by the First Union Bank which this year has increased to fifteen million dollars. She indicated the experience on the revenues appear to be good and they will increase, based on the first seven months of this year which has been in excess of one million dollars. She noted the total fund is valued in excess of sixty million dollars. THE COMMITTEE RECOMMENDS THE APPROVAL OF THE RETIREMENT FUND BUDGET.

Finance Dept.

FINANCE DEPARTMENT: Mrs. Wiener recalled it has been her recommendation over the past three years that this Department have additional personnel as she felt it was essential to the operations of this department. Mrs. Crozier announced she has given this a lot of thought and now requests the Committee to make the recommendation to authorize the creation of a position of an Account Clerk III in the Finance Department, who will be assigned more technical related functions to include budget analysis, technical audit schedules and more complex reconciliation work, which will bring the Finance Department to an adequate personnel complement. After further discussion, it is the RECOMMENDATION OF THE FINANCE AND TAXATION COMMITTEE THAT A NEW POSITION, ACCOUNT CLERK III POSITION BE CREATED IMMEDIATELY THIS FISCAL YEAR FOR THE FINANCE DEPARTMENT AND THAT SALARY LINE ITEMS BE INCREASED $29,000 PLUS BENEFITS IN THE FY95 BUDGET.

Any Other Matters

IV. ANY OTHER MATTERS: The next meeting of the Finance & Taxation Committee was set for Wednesday, July 6, 1994, at 10 AM and the Special Town Council meeting to set the "tentative" operating millage rate for FY95 and to set the date, time and place for the first of two State required public hearings was confirmed for Thursday, August 4, 1994 at 10 AM.

Adjournment

V. ADJOURNMENT: Meeting was adjourned at 2:30 PM.

signed by Hermine L. Wiener, Chairperson and Lesly S. Smith, Committee Member.

Limits of lisbility insurance

Mr. Weinberg moved that the recommendation of the Committee to reduce the limits of liability on the public official and general liability insurance policies from fifteen million to ten million dollars, at an approximate annual premium savings of $55,000 be approved. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Information Systems

Mr. Shaw moved that the recommendation of the Finance & Taxation Committee that authorization be granted to purchase a new Advanced System AS/400 Model 300 in the amount of $145,000 over three years, with the assurances received from Mr. Wilson, the Information Systems Manager, that this equipment would accommodate the data processing needs of the Town of Palm Beach for the next five years and the requests for hardware purchases totaling approximately $58,000 was not approved and the figure for FY95 was reduced to approximately $25,000. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Personnel Dept.

Mr. Shaw moved that the recommendation of the Finance & Taxation Committee that the budget for the Personnel Department be approved with the elimination of $3,800 which represents the cost of a portable computer; and the recommendation that there be instituted a retirement recognition program of a ring or watch, depending on the years of service, to replace the current plaque presentations with a total annual estimated additional cost of $2700. Seconded by Mrs. Royal. On roll call, the motion carried unanimously.

Police Dept.

Mr. Weinberg moved that the recommendation of the Finance & Taxation Committee that the Police Department's budget be accepted with the request that if between now and July, there are further reductions in the budget which can be made, that this be done. Seconded by Mr. Shaw. On roll call, the motion carried unanimously.

Fire-Rescue Dept.

Motion was made by Mr. Weinberg to approve the recommendation of the Finance & Taxation Committee with regard to the Fire-Rescue Department to approve their proposed budget with the request that if between now and July, there are further reductions in the budget which can be made, that this be done. Seconded by Mrs. Royal. On roll call, the motion carried unanimously.

Motion was made by Mrs. Royal that the recommendation of the Finance & Taxation Committee be approved with regard to the Recreation Department in that the fee schedules be scrutinized and increases be made to those fees for non-residents in the Tennis Program, which have not been increased since 1984; that the Resident Greens Fees be increased from $14.50 to $15.00 as well as a possible non-resident greens fees increase from $18.50 to possibly $25.00 and this issue should be revisited after reconstruction to the greens and tees; and the request for the purchase of an IBM Valuepoint Personal Computer in the amount of $2400 be eliminated from the Recreation Budget. Seconded by Mrs. Smith. On roll call, the motion carried unanimously. Recreation Dept.

Motion was made by Mr. Shaw, seconded by Mrs. Royal, the recommendation of the Committee with regards to the Town Clerk's budget be approved with the elimination of $1200 for the Data Processing line item and Mrs. Peters was requested to report back at to further eliminations on the Data Processing line items. On roll call, the motion carried unanimously. Town Clerk's office

Motion was made by Mr. Shaw, seconded by Mr. Weinberg, that the Finance & Taxation's recommendation for printing of the calendar be in an amount not to exceed $15,000. On roll call, the motion carried unanimously. Calendar

Motion was made by Mr. Shaw to adopt the Finance & Taxation Committee's recommendation with regards to Intergovernmental Relations to reduce line item 31-01 from $10,000 to $5,000 for Special Legal expenses and approve the remainder of the budget. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Motion was made by Mr. Shaw, seconded by Mrs. Smith to approve the recommendation of the Finance & Taxation Committee with regards to the Town Manager's office be approved with the elimination of Item 64-04 "Data Processing" which will be reduced from $2000 to zero. On roll call, the motion carried unanimously. Town Manager's office

Mr. Doney recalled the Mayor and Council requested the Town Attorney to keep a special tracking of the calls he received which were not initiated by the Mayor, Town Council or staff and it is a policy issue which the Committee recommended the Town Council address. Town Attorney phone calls

Mrs. Wiener recalled there are a number of calls which are made to the Town Attorney's office, which are from residents or from other attorneys and above and beyond their actual relationship with the Town on certain matters, and Mr. Randolph was asked about eight months ago to keep a record of all the calls he received of this type. Mr. Randolph responded he did keep a record and it was eighteen hours or $2700 worth of calls of this type over an eight month period.

Mrs. Smith recalled the Committee felt that individuals calling the Town Attorney for free legal advice should be billed in the same fashion as they would be if they called their own attorney, and it was not felt that the taxpayers of the Town should be paying for free legal advice. Mrs. Wiener recalled they did ask Mr. Randolph to use his own judgment to categorize the calls.

Mr. Randolph responded this all came about after a call that he made to an attorney in Cincinnati who advised him he could not talk to him since it was a policy of that Council that they did not want to pay for that kind of advice, so he has kept track of the calls and has used discretion as to those which should be put on the list and those which should not. He reported he very seldom gets a call asking for his legal advice and the call is usually related to an item which will be on the agenda and someone wanting to know what are the staff recommendations or some questions as to that, and sometimes it is difficult to assess those types of calls. He indicated sometimes a Town resident calls him as to an item on the agenda, and usually it is not for advice, but to figure out what is actually going on and he tells them. He believed also matters are referred to him from the Town Manager's Office where it does involve perhaps legal implications. He thought it will be a matter of policy as to what the Town Council wishes to do as to whether or not the Council wants him to take those calls as he could not charge those people directly, but just inform them that a policy has been instituted and he can no longer talk with them.

Mrs. Wiener stated when people call the Town Attorney, the meter is running and that is what is the Town Council's concern. Mrs. Smith felt if the residents are calling him because they have a problem with something on the agenda and if they didn't feel they could call the Town attorney, they would be calling their own attorney. She noted there was a call the Town Attorney took which is listed and it is from the Globe talking about Mar-a-Lago and she didn't want the Town citizens to be paying for things like that. Mrs. Wiener thought it was a matter of there is staff here which can speak to them and there is no meter running for that. Mr. Randolph stated he treats the press all the same way, which would include the Palm Beach Daily News. Mrs. Smith noted they were not on the list. Attorney Randolph responded he has kept them off the list. Mrs. Smith noted the Post is not listed either, so obviously the Town Attorney felt the Globe was a different type of journalistic publication and they should be put on the list. Mr. Randolph recalled when this discussion was had almost a year ago, the Town Council decided to not put the Daily News on the list, as that was Town related.

Mrs. Royal asked the Town Attorney if he would tell someone who calls that he could only speak to them if he can bill them to which Mr. Randolph responded he would not say that, but depending upon the decision made today, he would tell them he was not permitted to discuss the matter with them and if they needed to discuss the matter, it would have to go through the Town Manager's office, and he would have to reimburse the Town for the time involved. He stated he could not directly bill them, as that would be a conflict.

Mr. Shaw asked if the Town Manager or Building Department recommends that the Town Attorney be contacted, it be added onto the variance fee and that is where it would come from. He realized that there would be some calls that would not be a variance but once it is found what the majority of the calls are for, and it is found that they are with regards to Building Department items, that may be a solution. Mr. Randolph responded a lot of these calls are that type of call, however, he did not think he could distinguish between the person who wants to resolve it or a person who wants a meeting with Mr. Moore and Mr. Zimmerman and himself in preparation for a particular item, as that happens all the time, and then he bills the Town for those services. Mr. Shaw thought it may then be up to Mr. Moore to ensure that the costs are billed back to the individual and the burden of the billing goes to those who initiated the request.

Mr. Doney reported when an individual or resident or an attorney are referred to the Town Attorney from his office is when an issue is with regard to on-going litigation and requires the

Town Attorney Phone Calls

Town Attorney's specific opinion. He advised any issue which is being litigated, it is inappropriate for the Town staff to comment on and sometimes the press will contact the Town Attorney, but that is done at their own initiative. He thought the difficult issue is when someone has an interpretational question about the Town Code or Zoning Ordinance which the staff cannot answer and a staff member would need Mr. Randolph to intercede to preclude some problem for the Town and where his advice will provide a resolution of the issue and that is done on a discretionary basis.

Mrs. Wiener felt they could not continue to accept the billing for these calls which Mr. Randolph has outlined and the fact is they are talking about a formula and based on where they are, she thought the policy should go into effect that the Town will no longer accept the billing for these particular types of calls.

Mr. Doney responded that to implement such action, they would need a motion which would outline what the Council actually wants in this matter. Mrs. Wiener responded they are passing along the fee, and if Mr. Randolph is charging a certain amount, they are simply passing it along and instead of the Town paying for it, it would be the resident who used the service should pay for it, based on the kind of calls which Mr. Randolph has outlined. Mr. Doney believed that if Mr. Randolph concurs, they will implement a charge-back to those who may call the Town Attorney.

Motion was made by Mrs. Smith, seconded by Mr. Weinberg to approve the recommendation of the Finance & Taxation Committee with regards to the legal services program and that budget be approved. On roll call, the motion carried unanimously.

Mrs. Smith moved that the recommendation of the Council today that the fees for telephone calls made to the Town Attorney be passed on by Mr. Randolph to the Town for billing. Mrs. Royal asked if this would be at the discretion of the Town Attorney to which Mrs. Smith responded it would have to be as the decision has been made by the attorney as to what he considers phone calls are outside of the purview of his Town attorney's role. Seconded by Mr. Shaw. Mrs. Royal asked if the Town Attorney was comfortable at having this at his discretion to which Mr. Randolph responded he is not entirely comfortable since it creates a problem in trying to distinguish each call he received if it is really Town-related or something related to the interest of that particular person calling and he will have to deal with it as directed.

Mrs. Smith felt he already did it when he submitted the list of the calls he has been receiving over the last eight months.

Mr. Shaw thought the method of notating the amount of time spent is fine as presented, however, he believed the discretion should be by the Building Department who generally initiate most of the dialogue and that is where it should lie as to whether or not it gets tacked on to the fee.

Mr. Shaw advised what he is saying is if the applicant creates costs by contacting the attorney to continually review an item which will be on the agenda, that cost can be billed as a supplement billing onto the applicant's cost for the application.

Mr. Randolph advised there will be times when he has to receive direction from the Building Department as to whether or not it is considered that this is Town business which should be billed, however, he thought the Building Department should advise applicants that if they are going to use the services of the Town Attorney, they should be advised of this policy, which may eliminate some of the phone calls he might receive.

On roll call, the motion carried 4-1 with Mrs. Royal voting against the motion.

Planning, Zoning & Bldg.

Motion was made by Mrs. Smith, seconded by Mr. Shaw to approve the recommendation of the Finance & Taxation Committee approving the budget of the Planning, Zoning, & Building Department with a reduction of the data processing equipment in the amount of $5000 and with the request if further reductions can be made in other areas, that it be done. On roll call, the motion carried unanimously.

Data Processing

Motion was made by Mr. Shaw, seconded by Mrs. Royal that the recommendation of the Finance & Taxation Committee with regards to further reductions in the Data Processing budget be approved for hardware (town-wide) from $58,000 to $25,615 and if further reductions can be made, that this be done. On roll call, the motion carried unanimously.

Luncheon break was taken. President Wiener reconvened the meeting after the break.

Finance Dept.

Mrs. Wiener recalled for the past few years in the Finance Department, there have been serious problems as to time and now the second in command to Mrs. Crozier is about to take a maternity leave and the Council has recommended there be an additional position added.

Mr. Shaw moved that the recommendation of the Finance & Taxation Committee with regard to the Finance Department that a new position, Account Clerk III, be created immediately this fiscal year for the Finance Department and that salary line items be increased $29,000 plus benefits in the FY95 Budget. Seconded. On roll call, the motion carried unanimously.

Public Works

Mrs. Wiener reported Mr. Dusey was not able to meet with the Committee due to a death in his family and was asked to submit a written response to the questions asked by the Committee. Mr. Dusey addressed the Council noting there was a question on the Street and Repair and Maintenance or Other Contracted Services and how it related to the elimination of one laborer position. He explained the elimination of the position was not primarily made as a cost saving item although it does have that effect. He advised those items they attempted to do in-house were not working out with their own personnel and that was the sweeping of the Bike Path, replacement of sidewalks and an additional $5000 was requested for work on the sanitary and drainage systems.

He stated on the Beach Cleaning Program, there was a question as to whether or not it would be hand cleaning and it is, as that is what the Council directed.

He reported on the Parks and Maintenance contracted service, noting it is important that the Mayor and Council know there was a $1600 expenditure for the removal of the house at the Nursery on Palmo Way and to relandscape that area.

He commented on the median maintenance and there was a question on the vehicle maintenance external repairs and in the 551 program, they are painting a truck which will cost $450 and in the 552 program, the vehicle is rusting badly and they would like to have an aluminum protector and do some touch up painting. He understood the Committee wished to cut $6000 out of the budget on median maintenance and they could save $3200 by leaving certain plantings in the Royal Palm median on a perennial basis, but the remainder of that item is a concern as it makes a difference on how the medians are maintained, and a cut of that nature may have an impact on their beautification efforts in the medians and he wanted them to know that. Mrs. Wiener felt it was wise to give it a try and if it is found to be unsatisfactory, he may come back. Mrs. Smith felt also that perhaps the Town residents may be concerned enough to make a donation.

Mr. Dusey advised on the lethal yellowing program noting there are 4300 of the original Cocoanut palms remaining and they inoculate about 5300 disease susceptible palms at least three times a year.

Mr. Shaw moved that the items one through seven as presented by Mr. Dusey be approved. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Mrs. Wiener indicated they would now be discussing the Worth Avenue Palm Tree Maintenance, which has been discussed with the Worth Avenue Association that the Town would do a certain amount of maintenance on the palm trees which the merchants have been doing for many years. She recalled the Committee recommended that the maintenance of Palm Trees on Worth Avenue be added to the budget, at a cost of $4,300.

Tania Neff from the Worth Avenue Association addressed the Council asked if this meant only the palm trees and not the plantings underneath or the lighting? Mrs. Wiener responded it does include only the palm tree maintenance. Mr. Dusey further expanded that the program would be fertilizing the palm trees three times a year and removing dead palms and general trimming on a continuous as needed basis and they would replace up to ten palms per year. He advised there would be no maintenance for the hibiscus, or flowers that are planted there. Mrs. Wiener recalled it was basically recognizing what the merchants on the Avenue have done over the years and the Council felt this was a small opening.

Mr. Weinberg made a motion that the Finance & Taxation Committee recommendation with regards to the Worth Avenue Palm Tree Maintenance be approved in the amount of $4300. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

South County Road Assoc. Palm Tree Project

SOUTH COUNTY ROAD ASSOCIATION PALM TREE PROJECT. Mrs. Wiener noted the original request for the South County Road maintenance was for $75,000, however it is the recommendation of the Committee that the same amount as authorized for Worth Avenue be approved. Mrs. Wiener called for public comments and there were none. Mr. Dusey advised the plan was to install the trees next year and that has been cut, but there would be no need to maintain the trees in the next fiscal year as they would just be planted if the merchants elect to go ahead with the program. Mrs. Wiener asked if the gratings for the trees were being stored by the Town for the DOT to which Mr. Dusey responded the gratings have never been received as the State required they enter into an agreement to construct them if they would have accepted the gratings for storage and he couldn't do that until it was budgeted, however, the State will provide the gratings if the Council chooses to move forward with this project. Mrs. Royal asked if all the grates had to be accepted at one time or could they go ahead incrementally.

Mrs. Wiener felt they should still include the $4300 in the budget for them and if that fund is developed over a period of time, and they can always go ahead with installing the palm trees themselves. Mrs. Smith recalled there was also discussion about the Town applying for grants as part of the Historic District and/or individual property owners or blocks can put in the grates themselves. Mr. Dusey stated with the Town's assistance, they could do it on a block by block basis but the DOT requires there be a sponsoring body who will be responsible for the trees forever, and that would have to be the Town as DOT would not accept the Association to be that sponsor. Mrs. Smith felt the Association could still work out the paper work and logistics of the planting schedule and securing the grates.

Mary Ann Kollmer, President of the South County Road Assoc. addressed the Council, indicating her Board would like to go ahead with the appropriate approvals as they have donated trees so they would appreciate the Town's assistance. Mrs. Smith advised the grates must go in first. Mrs. Kollmer agreed indicating what they wanted to do was if possible, use pavers until the State hands over the grates. Mr. Dusey stated he has not heard that proposal before. Mrs. Kollmer responded it was just adopted by her Board this morning. Mrs. Wiener suggested Mrs. Kollmer get together with Mr. Dusey and discuss the feasibility and report back to the Council, however, in the meantime she would like a motion to set aside the $4300 for the South County Road Association to which Mrs. Smith agreed.

Mrs. Smith moved that that Finance & Taxation Committee recommendation that the money budgeted for the South County Road Association palm tree project be in the amount of $4300, the same amount recommended for the Worth Avenue Palm Tree maintenance. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Marina Electricity

Mr. Shaw believed that the electrical service is included in the rate charged and other marinas in the area charge extra for electricity. He noted the bill for electricity is $130,000 and they only take in $16,000 so he thought the rates should be increased or the threshold for free electricity be reduced and they would be able to have more revenue. Mr. Ugi addressed the Council noting what they actually budgeted for is $105,000 which covers the transient and the 200 amp service and the parking lot lighting and that means there is $80,000 expended for all the vessels. Mr. Dusey advised it is a fine line they walk on the rate structure and if they lose one vessel, they may lose everything they have gained by increasing the rates. Mr. Shaw did not believe the rates should be raised as the issue is how much electricity is being furnished. Mr. Shaw believed there should also be cable tv available as other marinas do, and money can be made off of that also, and he believed they are looking to make it more profitable.

Mayor Ilyinsky thought they were reaching the max here as they do call on the telephone and ask what the Town's rates are for docking, and it means a lot. He thought the reason they come here is because we are fairly priced and in some cases, they are lower and there are a lot of transients. Mrs. Royal believed they were dealing with luxuries and she would like to see these people pay luxuriously for their electricity, to which Mayor Ilyinsky did not agree.

Motion was made by Mrs. Smith that the recommendation of the Finance & Taxation Committee that someone be available at the docks on the weekends; and to approve the proposed budget of the Marina Fund and the recommendation to increase the docking rates for the annual and season contracts as requested by the dockmaster, however the transient contracts be increased from $1.25 per foot to $1.35 per foot. Seconded by Mr. Weinberg on the basis that the docks are not in service right now and customers may be lost. On roll call, the motion carried 3-2, with Mrs. Royal and Mr. Shaw voting against the motion.

Mrs. Smith suggested they look at increases for telephone and cable and electricity during next year's budget hearings.

Parking Fund Budget

Motion was made by Mr. Weinberg, seconded by Mrs. Smith, to approve the recommendation to approve the Parking Fund Budget. On roll call, the motion carried unanimously.

Debt Service Fund Budget

Motion was made by Mrs. Smith, seconded by Mr. Shaw to approve the recommendation of the Committee to approve the Debt Service Fund budget. On roll call, the motion carried unanimously.

Self-Insurance Fund Budget

Motion was made by Mrs. Smith, seconded by Mr. Shaw to approve the Self Insurance Fund budget. On roll call, the motion carried unanimously.

Retirement Fund Budget

Motion was made by Mr. Shaw, seconded by Mrs. Smith to approve the Retirement Fund Budget. On roll call, the motion carried unanimously.

Mrs. Wiener announced that the next meeting of the Finance & Taxation Committee will be on July 6, 1994 at 10 AM and a Special Town Council meeting is scheduled on August 4, 1994 to set the tentative operating millage rate and the public hearings to adopt the budget.

Old Business

X. OLD BUSINESS

A. Other

Potable Water

1. Discussion of Potential Alternative Sources of Potable Water - Update by Town Staff and Town Attorney - Mr. Dusey addressed the Council, indicating an official reply has been received from Riviera Beach advising they have five million gallons per day available, however there was little information regarding pricing. He hoped within 30 days to be able to report to the Town Council on the status of what was available from Lake Worth and the County.

Mr. Dusey reported the investigation on the C-51 Canal as a potential source of nonpotable water went well, and he talked with South Florida Water Management District staff and they thought it was possible, however, they did warn us there is a number of entities who draw out of that canal and when there are drought restrictions, there is a restriction on withdrawal. He noted the preliminary cost estimating indicates if they constructed a three million gallon a day plant, with treatment through filters and chlorinated, and with the storage and distribution systems provided from Southern Blvd. to the South Town limits, it would cost approximately 6.3 million dollars. He stated annual operating costs are estimated to be between five and six hundred thousand dollars. He reported that this would be less than what the average consumer pays West Palm Beach at the present time, without the surcharge.

Mr. Dusey felt it was feasible although the availability during drought conditions might be a problem. He thought they might be able to get past that but will study that further. He indicated if they choose to go forward with an independent water system for the Town, it should be explored further as it would be beneficial.

Mr. Dusey reported Mr. Moore, Mr. Randolph and himself met with the South Florida Water Management District and they are pursuing the reuse of waters out of the Regional Sewage Treatment Plant and primarily were interested in selling the Town on that idea and he thought it might be a good idea if it is reasonably priced. He advised the SFWMD is also pursuing that with other entities and it may come to a fruition in the future but now it is in the thought process.

Mrs. Royal asked who takes from the C-51 Canal at the present time to which Mr. Dusey responded Acme Improvement District in Wellington, the Lake Worth Drainage District, West Palm Beach Country Club and anyone who lives on the canal may pull water out. Mrs. Royal asked if any of these entities had a back up plan in the event there is not enough water in the C-51? Mr. Dusey responded their use of the C-51 water is not as important as their daily use. He knew Lake Worth Drainage District was very reliant upon it to keep their canal elevations higher and when it is not there, their canal levels drop. He stated none of them use x number of gallon per day as he didn't think they had to have a certain amount of gallonage each day.

Mr. Shaw understood there was a large amount of water deposited in the Intracoastal from the C-51 Canal and if the Town took ten million gallons per day, it should not make a difference to the other users of the Canal. Mr. Dusey responded that would be handled by SLWMD and they would tell us we could or we couldn't. Mr. Shaw believed there were various agencies who would be interested in helping to fund the building of the proper facilities which the Town would be able to use as a nonpotable source? Mr. Dusey stated one of those would be the SFWMD itself as they have funding available for this type of innovative system, and also there is low cost funding available at the State level.

Mr. Shaw commented that in spite of the fact that this is not something that has to be done now, he felt they needed to take a pro active approach rather than reactive in waiting until other governmental bodies will use gray and re-use water, and he understood that regardless of what is done, the gray water will have to come through a separate distribution system as they would not mix potable drinking water with nonpotable irrigation water. He felt it was to the Town's advantage to take affirmative action and go forward with the proposals and give extra credibility in the fact that the Town is very serious in the future water use and where it will come from and establish a water department within the Public Works Department and a water superintendent who is going to be able to go out into the community and work as an active force to put this information together as it makes it clear that the Town wishes to work with all of the agencies to develop a proper water program and are looking towards reuse and go after the C-51 Canal and understand its limitations and continuing to work with the residents of the Town to create the use of nonpotable for the entire island and be a leader in this program. He thought if the numbers as given are correct and it will be less costly, it is based on the actual gallonage usage and may not affect the inverse rate, which would cost the Town more, and we would save considerably as they would not be working with a surcharge, so all will benefit and the Town would have pioneered something in South Florida and he would like to make a motion. Potable Water

Mrs. Wiener suggested before a motion is made, that this be discussed further.

Mr. Weinberg asked if they decided to purchase water from other sources, would they not have to build new distribution systems throughout the Town? Mr. Dusey responded they would have to provide a backbone system and it would depend on where the water came from, there may have to be some main replacements.

Mr. Weinberg asked if the Town would have to purchase the infrastructure from West Palm Beach to which Mr. Dusey responded the Town would have to purchase that, recalling they did some speculation on that some years ago and there were some preliminary numbers. Mr. Doney noted it never went further than the preliminaries. Mrs. Wiener asked what the state was of the infrastructure to which Mr. Dusey responded the basis of the purchase normally is replacement cost less appreciation and many of the pipes are fully depreciated so that it would cost the Town nothing. He knew the system was not in great shape. Mrs. Wiener asked what would lead them to believe that West Palm Beach would agree with us as we don't have the best situation with them as far as water is concerned, and the pricing they wish to institute. She didn't believe they would be sitting down at a table and agree on what the value of these pipes were. Mr. Dusey responded they would probably agree on the method of determining that value. Mr. Randolph reported there is no guaranty as to whether they would come to an agreement with the City of West Palm Beach as to either the manner of valuation or the price, as it might ultimately have to go before an arbitrator or the court.

Mrs. Royal asked if the Town owned the right-of-way? Mr. Randolph responded they did and they would have the right to buy the infrastructure. Mrs. Royal asked if the Town would have the right to install their pipes in the right-of-way to which Mr. Randolph responded the Town would have the right to buy the system. Mrs. Royal asked if the Town would have the right to install its pipes in the right-of-way to which Mr. Randolph responded they could, but it would be extremely expensive.

Mrs. Wiener asked what the Council's thinking was on Mr. Shaw's idea about having a water department with a manager and staff. Mr. Weinberg asked if the Town didn't have a water department now headed by Mr. Dusey to which Mrs. Wiener responded that was her impression. Mrs. Wiener was not sure that whether having another person on staff and having a department throwing money at this problem would make any difference as to the effectiveness of getting information. Mr. Shaw agreed that Mr. Dusey was doing a great job and part of the reason he is making this suggestion is not to create another department but rather to create more of a unity of a staff where it would be known it was coming from the direction of a water department as a start, and he felt confident of where they were going, and he felt ultimately there will be a fully staffed water department, and he would like to see that if it is just on paper, the fact be established that this does exist and if it is a matter of people going out as part of that system and they would collect information and data and it would give the Town more credibility if there was a water department. He thought that this individual would be used to find out the cost of buying or acquiring the infrastructure. He viewed it as a repositioning rather than a re-creation.

Mrs. Wiener knew everyone was working hard over the last few years to try and tighten up and reduce and as long as someone is doing the job, she didn't know who they were impressing by starting a new department and putting someone else on staff. She didn't know who they needed the credibility with and she was not certain she agreed with this theory. Mrs. Smith stated as head of the Public Works Committee, she thought a water department implies the Town has a Water System and we really don't, so if they didn't have a system and the Town's supply of water is West Palm Beach, and they are not billing the resident of the Town through the Town Council. She felt a water department tells her Al Dusey is not doing his job and he is accummulating information on the water systems right now and the Town Council must then direct him to find out about nonpotable water and she didn't think another person was needed to do that. She felt also they are very distinctly headed into the direction of a dual system for the entire Town, and one of the conditions that West Palm Beach attempted to impose upon the Town is the fact that we would get our nonpotable water from them exclusively and in addition to the surcharge, that was not acceptable and they stated they would not negotiate on it.

She thought if the Town does exercise its rights to find other sources of nonpotable water, which does seem to be the feeling of the Council, how would that affect any further possible discussions the Town might have with West Palm Beach. Mr. Randolph responded he didn't know the answer to that as it is important to West Palm Beach to serve the Town with nonpotable water and the position they took in the past is that they are exploring the ability to provide gray water throughout South Florida and the position may be taken that in order for them to enter into a Franchise Agreement, they may want to provide the Town with both potable and nonpotable, and that is the type of position that has been taken in the past and he did not know if that is the way they were going to go in the future.

Mrs. Smith wondered if they needed a Water Department if they didn't have a water system to which Mr. Shaw responded they usually rent the shop before the business is opened. Mrs. Smith felt if there is no money, they don't get the shop.

Alan Wyett addressed the Council noting that so far the Town has little leverage in dealing with West Palm Beach and the nonpotable water threat which would be used for gardening, sprinkling, etc., and if the Town was successful in installing a nonpotable system, the City of West Palm Beach's revenue would drop more than half as well as the surcharge and that would be a tremendous blow to the City of West Palm Beach. He felt the Town could go back to them with the request to eliminate the surcharge or this Town would create a nonpotable system and will continue to buy the potable water from the City of West Palm Beach, which they are obligated to supply.

Mr. Wyett explained there is another benefit of having a long term nonpotable system and that is conservation. He knows the water mains are not in good shape, however, if they were only being used for half the water or less, they could probably install a water liner which would be less expensive than having to rebuild the system. He didn't believe a lot of money needed to be spent to create a water commissioner, as Mr. Shaw has suggested, and they might get one for $1.00 a year as there are many people in this Town who understand water and might be willing to donate their services to the Town.

Potable Water

Mrs. Wiener asked Mr. Dusey about the water liners mentioned by Mr. Wyett. Mr. Dusey responded this is a method of rehabilitation and they have used that method in the sanitary system, and it is an effective method. He advised the pipes are badly encrusted and would have to be cleaned before they could be lined, but it could be done. Mr. Shaw asked what were the advantages to that if they go to a dual distribution system and if a new one needed to be installed, the old pipes could be used with the liners for the nonpotable water, and it would be a conservation effort and not a duplication of services.

Mrs. Smith asked what would the time frame be for the installation of a nonpotable system and wondered if it would be many years? Mr. Dusey responded it is a time consuming process and it would take several years at least. Mrs. Smith commented this was a concern of hers about having a water commissioner, as it would have to be someone appointed and it could come from in-house or hired outside and this becomes a finance matter and she doesn't want to waste anymore time on this and would like to see it ongoing starting today.

Mr. Shaw made a motion that a Water Coordinator be established, within the Department of Public Works, which will be able to sort out the details to reckon with whatever the obstacles or tasks or steps are going to be, and to be able to go forward aggressively from today on and pursue this to the point that it will meet all of their satisfactions. Mrs. Wiener pointed out they were talking about a Water Department earlier and now there is mention of a Water Coordinator and she reminded all the Council does not involve itself in the running of a Department and if Mr. Dusey is going to spend a large part of his time on this or whether he determines that someone working with him will spend time on it, the Council doesn't micro-manage those things and she thought as a policy matter, the Town Charter would not allow the Council to do so, and she urged that they not get into a situation where they are telling Department Heads how to manage their departments. Mrs. Royal pointed out they have been micro-managing the budget. Mrs. Wiener responded that is the Council's responsibility, which is entirely different.

Mr. Shaw responded he doesn't want to create more obstacles but wants to move forward and ensure that if it comes down to the point where the Public Works Department states they already are maxed out with personnel and time, he wants them to know they have Council's support, if need be. He recalled $5000 has been allocated as to looking into where they are going with water and he wants to show a stand of support to go forward, and whether they call it a Water Department or a Water Committee, the end result is the Council agrees and is moving forward with a cap.

Mayor Ilyinsky was not quite clear as to what Mr. Shaw was getting at, and he would be opposed to hiring more people at this point, and he asked if Mr. Shaw was saying that Mr. Dusey couldn't handle this to which Mr. Shaw responded he would like to see one person who will be responsible for focusing on water. Mayor Ilyinsky asked if this was not being done at this time? Mr. Shaw responded it is being done, but it is being done by the people who are heads of the Department and have other responsibilities and what he would like to see is one person to be responsible for the coordinating of all of the water discussions and he so moved. Mrs. Smith wondered if that was presently Mr. Dusey? Mrs. Royal thought Mr. Dusey has so many other responsibilities and if this is delegated to someone within his department who could focus on this important water issue. The motion was seconded by Mrs. Smith.

Mayor Ilyinsky asked if Mr. Dusey was having a problem with this? Mr. Dusey responded he and Mr. Bowser are currently handling this at the pace the Town Council wishes them to move on this matter. Mrs. Smith stated that is why she seconded the motion since Mr. Shaw stated appoint somebody and that to her would be Al Dusey. Mrs. Wiener thought they were talking about creating something else. Mrs. Smith did not agree. Mr. Shaw commented that Mr. Dusey has stated at this level, Mr. Dusey has the time to do this but Mr. Shaw's concern was if this level were accelerated, he may not have the time. Mrs. Smith noted in this discussion, there has been no mention about exploring the possibility of asking the residents to dig their own wells. Mrs. Wiener wished to clarify the motion, and Mrs. Peters read the motion. Mrs. Wiener referred the Council back to the Town Charter, noting that the only person who can hire in this Town is the Town Manager and every year he brings to the Council his recommendations for Department Heads and the Council approves them. She reiterated the Town Charter has a specific part which advises the Council they may not interfere in the operation of the Departments, and she considers this motion an interference in the operation of a Department and she thought it was up to Mr. Dusey to determine if he wants to do this or wants seven other people to do it, but that it is his decision and then he comes back to the Council with the information in a timely fashion, and she could not support the motion as she viewed it as a conflict with the Town Charter. Mrs. Smith did not agree as it states there shall be someone in charge of water and that has been Mr. Dusey from the very beginning.

Mrs. Wiener did not understand why this Council would advise Mr. Dusey of his duties when he has been performing them and if it is determined that there should be someone else in the Public Works Department to spend time on it, it is Mr. Dusey's business and he is in control.

Mrs. Smith stated she seconded the motion on the basis that Mr. Dusey was the man who would be handling the water and if that it is not acceptable, she would withdraw her second. Mr. Shaw reiterated he doesn't care who it is as long as they agree that they will move forward. Mrs. Smith asked if the motion was to endorse Mr. Dusey's actions in regard to water. Mrs. Royal did not believe that was the motion. Mrs. Smith withdrew her second of the motion. Mrs. Royal seconded the motion. On roll call, the motion failed to carry 3-2 with three negative votes cast by Mrs. Smith, Mr. Weinberg and Mrs. Smith.

Public Service Tax

a. Consideration of Letter Dated May 20, 1994 from City of West Palm Beach Regarding Town's Advice on Whether Public Service Tax Should be Charged on the Proposed 25% Surcharge. Attorney Randolph advised the recommendation from staff is because the staff does not feel the surcharge is appropriate and because it is felt for a ten per cent tax to be assessed on the surcharge may be an acknowledgement of some appropriateness, the staff recommends the City of West Palm Beach be contacted and advised that the ten per cent tax will not be assessed on the 25% surcharge. Motion was made by Mr. Shaw that the City of West Palm Beach be contacted and advised that the ten per cent tax will not be assessed on the 25% proposed surcharge. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Mr. Doney advised the staff will report back to the Town Council on a monthly basis with the progress made on this subject.

2. Update on Proposed Restoration of the Lake Worth Inlet Sand Transfer Plant

a. Proposed Interlocal Agreement Between the Town and Palm Beach County - Mr. Doney advised this is an ongoing process and they are working with Palm Beach County and it is recommended several actions, one of which is that they identify the permitting process as it is anticipated within the next few months to conclude the process with the State and with Palm Beach County, as they are working on the restoration. He advised the second item would be since the Interlocal Agreement defines the duties of the Town and the County, and the County has submitted an estimated cost for the project of not to exceed $715,152 of which $624,340 is the physical construction cost with a ten per cent contingency which amounts to approximately $90,800 and in addition to the physical restoration of the sand transfer plant and the pumps on the north jetty, the major project is to replace the lines which go under the Lake Worth Inlet in order to provide the discharge lines on the south side of the south jetty to benefit the beaches south of the Lake Worth Inlet, it is estimated the cost for the pipe replacement project to be $510,000 and because this will be a sealed bid item, the Town staff will be working with County Staff and County Engineering to expedite the bidding of the project and authorization is needed for an appropriation from the Undesignated General Fund Balance of $365,152 and further details will be provided as the project evolves. Interlocal Agreement

Mr. Bob Klinger of Palm Beach County reported he planned to put this on the consent agenda for the County Commission meeting upcoming and he sees no problem with it as it has been reviewed preliminarily by the County Attorney's office and it should move forward.

Motion was made by Mrs. Smith that $365,162 be authorized to be expended from the Undesignated General Fund Balance for the repair of the Lake Worth Inlet Sand Transfer Plant. Seconded by Mr. Shaw. On roll call, the motion carried unanimously.

Motion was made by Mrs. Smith to authorize the approval of the Interlocal Agreement between Palm Beach County and the Town of Palm Beach for the restoration of the Lake Worth Inlet Sand Transfer Plant, with the Mayor being given authorization to execute same. Seconded by Mr. Shaw who noted it will be immediate and also this is a temporary measure until the further studies are received later in the year.

On roll call, the motion carried unanimously.

b. Consideration of Donation by Mr. Abraham Gosman for Beach Restoration - Deferred from May Meeting - Mr. Gerald Goldsmith addressed the Mayor and Council on behalf of Mr. Gosman who could not be here today. He advised Mr. Gosman will make his first contribution of $50,000 since the Interlocal Agreement has now be authorized, toward his commitment waiting for other studies which are likely to come on how the sand will be restored and the beaches be maintained. Donation by Abraham Gosman

3. Consideration of Updated Report by Police Department Regarding Complaints of Noise at E.R. Bradley's, 111 Bradley Place - Continuation from May Meeting (See Item XIV.B.3.) - Deferred to later in the meeting. Noise at E.R.Bradley's

4. Reconsideration of Results of Accounting Review of FCC Form 393 to Establish Basic Tier Rates and Associated Equipment Charges for Comcast Cablevision - Continuation from April Meeting - Mr. Doney reported the accountant is reviewing Form 393 and Attorney Randolph has been involved from the legal perspective. He noted a memorandum has been sent dated June 10, 1994 from Mr. Jakubiak to the Mayor and Town Council with three specific recommendations: Comcast

Prior to approving FCC Form 393, staff recommends the following be authorized by the Town Council:

(1) Request that Comcast staff meet with Town staff and Town Attorney prior to the July 12, 1994 Town Council meeting to resolve outstanding issues relating to FCC Form 393, including any action which will be required by the accounting order issued by the Town Council at the 4-12-94 Meeting.

(2) Authorize up to $5000 from the General Fund Budget, Account No. 001-112-512-49-10 to be utilized for the second phase of cable rate analysis for the review of FCC Form 1200.

(3) Authorize that the firm of Divine & Blalock, Martin, Sellari, PA continue to be utilized for cable rate reviews.

Mrs. Smith asked Mr. Randolph how is the litigation filed by the State of Florida affect the Town's negotiations? Mr. Randolph responded he doesn't think it has a direct effect, however, he would like to investigate that before the next Town Council meeting, before a final decision is made.

David Jakubiak addressed the Council clarifying the reason for the request for additional monies is because the FCC amended its rules and now requires a second analysis be done and that was not anticipated. Mrs. Wiener felt they were in a bottomless pit and there was nothing that would prevent FCC from coming back and asking for a third or more analyses.

Mr. Doney noted there were exhibits attached to Mr. Jakubiak's memorandum identify the issues within the Town Council's jurisdiction, however, all are frustrated as we react to the ever changing sets of rules. He reported there are new emerging technologies which will come along down the line, which may bring into the picture a competitor to Comcast, other opportunities, but the best action which potentially can be taken by the Town Council is to try to control to the degree possible the rates which can be controlled and as authorized by the FCC.

After further discussion, a motion was made by Mrs. Smith to authorize the $5000. Seconded by Mr. Shaw. On roll call, the motion carried unanimously.

Mrs. Smith made a motion to request the Town Staff and the Town Attorney to meet with Comcast prior to July 12, 1994 and authorize the firm of Divine, Blalock and Sellari to continue to be utilized for cable rate reviews, as recommended. Seconded by Mr. Shaw. On roll call, the motion carried unanimously.

New Business

XI. NEW BUSINESS

A. Ordinance - First Reading

Ord. 11-94

1. Ordinance No. 11-94 - Standards Applicable to Public Rights-of-Way and Easements Within the Town of Palm Beach - Attorney Randolph read the Ordinance No. 11-94 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA AMENDING CHAPTER 19 OF THE TOWN'S CODE RELATING TO STREETS AND SIDEWALKS SOAS TO PROVIDE A NEW ARTICLE RELATING TO WORK WITHIN THE ROAD RIGHTS-OF-WAY AND EASEMENTS; PROVIDING FOR THE CREATION OF A MANUAL ENTITLED "STANDARDS APPLICABLE TO PUBLIC RIGHTS-OF-WAY AND EASEMENTS WITHIN THE TOWN OF PALM BEACH"; PROVIDING FOR SEVERABILITY; PROVIDING FOR APPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Mr. Doney advised a draft manual has been prepared by Mr. Dusey and Mr. Bowser on this and the approval of the Town Council will be sought at the next meeting of the Council, as it is an extensive manual.

Motion was made by Mr. Weinberg, seconded by Mr. Shaw that Ordinance No. 11-94 be approved on first reading. On roll call, the motion carried unanimously.

Bid Awards

B. Bid Awards

Sealed Bid 93-009

1. Sealed Bid No. 93-009 - Reconsideration of Award for Contract for Janitorial Services - Recommend Coral Building Services in the Annual Amount of $55,080 Per Memorandum Dated May 18, 1994 from Mr. Dusey - Mr. Dusey explained the contractor to which this bid was awarded was unable to perform the services and he would like the Council to reconsider the award and his recommendation is that it be awarded to Coral Building Services, who has been providing the service on a temporary basis until it could be reconsidered and who are doing a commendable job. Motion was made by Mr. Weinberg to approve the recommendation of Mr. Dusey to award the contract to Coral Building Services in the amount of $55,080. Seconded by Mr. Shaw. On roll call, the motion carried unanimously.

Sealed Bid 94-013

2. Sealed Bid No. 94-013 - Police Records and Communications Expansion - Recommend A.P. Junior, Inc. in the Amount of $97,000 Per Memorandum Dated June 3, 1994 from Mr. Dusey - Consideration of Resolution No. 37-94 - Attorney Randolph read Res. No. 37-94 by title:

Res. 37-94

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING A CONTRACT TO A. P. JUNIOR, INC. FOR THE POLICE DEPARTMENT COMMUNICATIONS AND RECORDS ROOM EXPANSION.

Mr. Shaw moved for approval of Res. No. 37-94 to award the contract to A. P. Junior, Inc. Seconded by Mrs. Royal. On roll call, the motion carried unanimously.

Appointment

C. Appointment

Code Enforcement Board

1. Code Enforcement Board - Balance of One Term to Expire April 1995 - Mr. Weinberg moved that Scott Sloan be reappointed to the Code Enforcement Board. Seconded by Mrs. Royal. Mr. Weinberg thought that Mr. Sloan should not be penalized as he resigned from this Board to put his name in nomination for another Board to which he was not appointed. Mrs. Wiener thought when someone resigns from a Board, expecting to be appointed to something else, and then doesn't get that appointment and then wants to go back to the Board from which he resigned, she didn't know if that was the kind of precedent the Council wished to set for the future. She realized he has done a good job for the Town and they are grateful to have them, but she suggested the Council think about this. On roll call, the motion carried unanimously.

Other

D. Other

Royal Poinciana Theatre

1. Royal Poinciana Theatre - Request for Additional One (1) Year Extension of Lease Agreement to Continue Wednesday Matinee Program from November 15, 1994 to April 1, 1995 - Attorney Phil O'Connell, Jr. representing the Theatre addressed the Council requested the eleventh annual renewal. He indicated he has submitted information on the parking mitigation program, which has been in effect for several years and has been very successful to deal with the matinee situation. Mr. Doney reported the conditions are set forth in the letter from Mr. O'Connell dated May 18, 1994 to the Town Council President and he recommended approval, providing the conditions are fulfilled, which are:

1. A special mailing to the Wed. matinees subscribers will be mailed to serve as an early notice to the subscribers of the Park and Ride Program.

2. The contract with the City of West Palm Beach to use their municipal parking lot has been received and the lot of Temple Israel will also be used.

3. Bus-Shuttle service will be provided between the parking lots and the theatre by Marie's Charter Bus Co.

4. Off-duty policemen and Prestige Valet service will be on hand for traffic control and valet parking services.

5. Announcements will be made from the theatre stage prior to each performance reinforcing the necessity of subscriber participation in the program.

6. Box-office will inform persons buying tickets of the requirements of the Park and Ride program.

7. Employees working shows will have off-site parking and will voluntarily participate in the Park and Ride program.

8. Handicapped patrons will be able to utilize the parking lot in the rear operated by the Hibel Museum of Art for Wed. matinee performances.

Motion was made by Mr. Shaw, seconded by Mr. Weinberg to extend the contract with the conditions. On roll call, the motion carried unanimously.

Planting of Slash Pine Trees

2. Consideration of Appeal of Public Works Director's Decision by Preservation Foundation of Palm Beach to Not Allow Planting of Slash Pine Trees on Right-of-Way Adjacent to Pan's Garden - Mr. Dusey addressed the Council indicating he has written a memo to Mr. Doney recommending against allowing the planting of slash pines in the right-of-way on Chilian Avenue and Hibiscus Avenue, as requested by the Preservation Foundation with regard to the development of Pan's Garden. He stated his reasons are he didn't think it was an appropriate planting of the slash pines in the parkway as they are filthy trees, constantly dropping needles, pine cones and small branches; and they have a surface root system which is likely to heave the sidewalks and curbs; and the large branches are brittle; the trees grow tall and would interfere with electrical wires; the trees are susceptible to pine borers; they perform poorly in high winds; there are no other slash pines planted in the rights-of-way and perhaps in the entire Town.

Jorge A. Sanchez, Architect, addressed the Council for the Preservation Foundation, indicating he has made two requests, one for the slash pines and the other was the situation as to the green space. Mr. Doney advised it will be addressed as a related subject.

Mr. Sanchez noted he has been in contact with Gene Joyner, an expert in plants, Mike Greenstein from the Palm Beach Forestry Department and Kevin Callahan from the City of Boynton Beach, all who have had the opportunity to review Mr. Dusey's memorandum and all agree the position of the Town is unfounded. He advised one told him that he felt the Town had taken an overzealous position. Mr. Sanchez felt it might not be appropriate to plant these trees near a swimming pool, however where he has proposed should be no problem.

Mr. Sanchez went over the objections, noting the statement that slash pines are filthy trees with constant droppings and would create a hazard to the pedestrians and he asked each of the three individuals this question and their response was they never heard of such a thing.

He referred to the second objection which stated the root system is likely to heave sidewalks, curbs or the street pavement and he posed this to the three people and again, they were in total disagreement.

He noted on the third point about large branches are brittle and would break off in high wind gusts and he thought that most trees in a hurricane, would lose limbs and this would hold true for number six, which state that pine trees perform poorly in hurricanes.

Mr. Sanchez referred to the fact that the trees will grow tall and interfere with electrical wiring and one of the people he talked to agreed with that. He agreed that a cabbage palm could not be pruned and would grow into the wires but so would other palm trees be in this category and this Town has many of them.

He agreed with the statement that the trees would be susceptible to pine borers, but it is only when the tree is under stress and not when it is being taken care of.

He agreed also that there were no slash pines planted in any of the Town's rights-of-way but there are also no magnolia and other types of trees. He advised he is trying to create an illusion of depth and framing for this garden.

Mrs. Smith asked if he had considered not putting any trees under the powerlines to which Mr. Sanchez responded he has considered that, however, the two story buildings across the road would be quite evident and steal the show. Mrs. Smith asked if they had considered other trees for planting in the right-of-way and Mr. Sanchez responded when they get to the natives, there are not many to choose from as they have other problems and are hard to come by. Mrs. Smith asked how many trees did they wish to plant to which Mr. Sanchez responded if they are allowed to extend onto Hibiscus as well as Chilian, it would be around twenty trees they wish to plant.

Mrs. Smith asked about the extension onto Hibiscus. Mr. Sanchez responded this is the second item he wished to address and that is to continue the green space onto Hibiscus for safety and aesthetic reasons, so that everything matches and is better balanced. Mr. Dusey expounded on that statement, noting that half of that property is zoned differently than the other half.

Mr. Sanchez recalled the "Pines of Rome" are similar to slash pines and have the same length pine needle and are magnificent trees.

Mrs. Wiener stated her concern about not having anything in writing from the gentlemen that Mr. Sanchez has spoken to, and she would like to see that, but asked if the Preservation Foundation would consider, if the Council granted them the right to plant the slash pines, to enter into an Agreement that if these problems did develop, that the cost of maintenance would be the Foundations'. Mrs. Smith asked if they would accept the liability for anything that would happen on the sidewalk outside of Pan's Garden to which Mrs. Earl advised the Board has not considered

Planting of Slash Pines

this question, but the Preservation Foundation does intend to take care of its plantings, property and maintain the Garden in a way that they have always maintained their property, however, if the pine causes a heaving of the sidewalk, they may not want to be responsible for that, but does not want to get into a situation where they have a blanket responsibility to maintain the public sidewalk, as there are certain things that are Town's responsibility, but they will take care of the pine trees and whatever problem they may cause.

Mrs. Smith asked if there was any other type of tree they may wish to plant in the right-of-way and asked if it were slash pines or what? Mr. Sanchez responded slash pines. He advised he has spent hours to find a replacement and it is not that it is the only thing he would put there, but he is creating a native garden and that should not be broken, so he wouldn't want to put anything else there except a certain type of tree, which would have no meaning in the wintertime.

Mrs. Wiener understood it thoroughly and it is a matter of whether or not they will uphold the decision of the Public Works Director. Mrs. Smith asked about the extension of the right-of-way to the south to which Mr. Dusey responded the concept is good but there are concerns about loss of parking or perhaps increased parking and also sight distance at the intersection. Mrs. Smith thought if the strip of grass and green space were increased close to the intersection, it would be a benefit. Mrs. Wiener agreed but asked for the Council to settle the tree issue first, and then they could go on to this item.

Mr. Shaw moved that the decision of the Public Works Director be upheld. Seconded by Mr. Weinberg. Mrs. Royal asked if there was any discussion about burying the power lines to which Mr. Sanchez responded he believed that was going to be done shortly along that roadway. Mr. Dusey interjected there was no plan that he knew of to bury the lines.

On roll call, the motion carried 4-1 with Mrs. Smith voting against the motion.

Mrs. Smith made a motion to extend the right-of-way and the green space on the condition that it meets with the approval of Mr. Dusey, the Public Works Director. Seconded by Mr. Shaw. Mrs. Royal asked if trees could be planted in that area also. On roll call, the motion carried unanimously.

Solid Waste Bill - LeMonegasque Restaurant

3. Consideration of Appeal of Public Works Director's Decision Regarding Solid Waste Bill by Mr. Raymond Maistri, Le Monegasque Restaurant, 2505 South Ocean Boulevard - Mr. Raymond Maistri addressed the Council noting he is in receipt of a bill in the amount of $110 per month for removal of garbage in the past six months. He noted he has been on the premises six years and never had a bill of this type before. He doesn't refuse to pay, however, he wished to point out that the restaurant operates from October to May and then is closed for approximately five months and he questioned why he has to pay for services he does not receive. Mr. Dusey advised the new system bills the owner of the property for solid waste disposal based on the type of use and the square footage, and they do not track the occupancy as they have no effective way of doing so, and they bill whether it is occupied or not.

Mr. Shaw believed they should change the rules for cases of this kind, but until that is done, the Council has to abide by them. Mrs. Smith moved to uphold the decision of the Public Works Director. Seconded by Mr. Shaw. On roll call, the motion carried unanimously.

Mr. Shaw requested that the Council look into this situation when there is no occupancy and no use for the entire structure, that the Town does not charge accordingly. Mrs. Wiener suggested he see Mr. Dusey who will explain the complexities to which Mr. Shaw agreed.

Seaview Park Fund Raiser

4. Consideration of Request by Seaview Park Commission to Serve Alcoholic Beverages at Proposed Fund Raising Event at Recreation Center - Mr. Doney advised Mr. Ochstein who is Chairman of the Seaview Park Commission will address this and there are several related issues which will be commented on by the Town Attorney and the Risk Manager.

Larry Ochstein addressed the Council, Chairman of the Seaview Park Commission, indicating they wish to have a fund raising event to help with the payment of the capital needs of Seaview Park, such as planting trees to provide shade and they would like to have a fund raiser and serve alcoholic beverages once a year. He advised this would be done in the evening when there would be no children in attendance. Mrs. Wiener noted this is not allowed by the Town Code of Ordinances, so if this is granted, the Ordinances would have to be changed. Mr. Doney reported he is quite grateful for the Seaview Park Commission's desire to have a fund raiser in order to raise friends to defray expenses, however, the Town Attorney and the Risk Manager will have to address it, as serving of alcoholic beverages is prohibited on Town property, as identified in the Code, and would require an Ordinance amendment, if the Town Council were inclined to grant this.

Mr. Ochstein suggested the Ordinance be changed to allow one fundraiser per year by the Town of Palm Beach. Mrs. Wiener thought it could be discussed, however, ordinances are not specifically for just one item but a general policy of the Town and if they disapprove the request, the Seaview Park Commission must realize the Town Council is appreciative of their efforts and the idea to have a fund raiser. Mr. Ochstein pointed out there is beer served at the Par 3. Mrs. Wiener asked if he would be willing to settle for beer to which Mr. Ochstein responded they will settle for whatever the Council will give them. Mr. Doney pointed out that issue is addressed in the Code for the Par 3.

Attorney Randolph reported the Ordinance is quite specific with regard to alcoholic consumption in parks, however, the letter is to whether or not the Council would give consideration to amending the Ordinance and have an exception for Seaview Park in the same manner the Par 3 is exempted. He stated it is up to the Council as to whether or not they wish to allow this exception and whether or not they would be taking on any liability in doing so.

Mrs. Smith stated she had a problem with this as they wish to hold it at the Recreation Center which is a name synonymous with children. Mr. Shaw commented the section of the Code referring to the Palm Beach Golf Course stipulates they may serve beer. He felt they would be putting a standard on the Rec Center which they wouldn't be put on anyone else.

Mrs. Royal thought if they could drink beer at the Golf Course twelve months a year and children do play golf, so they would see that, and what they are requesting here is one night per year for a fund raiser and she didn't think that should be a problem. Mrs. Smith pointed out they would have to change the Ordinance for every Town properties. Mrs. Smith did not see how they could do it for the Rec Center and they couldn't do it for the restoration of Town Hall. She felt that if they did it for one they would have to do it for all. Mr. Ochstein felt that same argument could apply to the beer on the golf course. Mayor Ilyinsky felt they should try it once and see what happens as he could understand them wanting a fund raiser. Mrs. Wiener suggested perhaps they needed to have this fund raiser in a private home. Mr. Ochstein noted this is a Halloween Time and part of the haunted house was going to be part of the party.

Mr. Randolph advised there are different ways of amending the Ordinance as it could be amended to allow an exception for Town-sponsored event, once a year, at Seaview Park or at Par 3, so there are a lot of ways to attack the problem.

Mrs. Smith asked if they could come back next month with another location for a Haunted House Party other than town property. Mrs. Royal reminded the plan was to take advantage of the wonderful Haunted House which is on the premises.

Mr. Ochstein thought they could try and have this fund raiser without alcohol. Mrs. Wiener advised if they could grant this without changing the Ordinance, perhaps they would be more willing but somehow they have managed raising funds for a long period of time without serving alcohol in the various public buildings of the Town.

Mrs. Smith moved this matter be deferred until next month which will give them the opportunity to find another place. Seconded by Mr. Shaw. The motion was withdrawn by the maker and the seconder.

Mrs. Royal moved that the Council authorize the amendment of Section 3-17 to allow one per annum event, with alcohol, to be held at the Recreation Center. There was no second to the motion and it died for lack of a second.

Mr. Shaw made a motion that the Council authorize the amendment of Section 3-17 which states that each public facility may have a fundraiser for the benefit of the Town and may serve alcoholic beverages. Seconded by Mrs. Royal. On roll call, the motion failed to carry 3-2 with Mrs. Smith, Mr. Weinberg and Mrs. Wiener voting against the motion.

5. Consideration of Complaints Regarding Surfers at the North End - Sari Wilkey of Reef Road addressed the Council, informing the Mayor and Council they have a concern that the No Parking is not being enforced in the area and feel that cars should be ticketed and towed away. She reported she has been threatened by some of the people who come to their street as the character of the surfers is changing and many of the tags are from Dade and Broward Counties and the young men have no respect for their private property. She reported there has been damage to her Beach House on Dolphin Road and they dress and undress in front of their houses and litter the area. She stated her primary concern is if they continue to use their private property, they will feel they are invitees and will sue the Town and the private property owners. She asked them to enforce the No Parking ordinance.

Complaints re: surfers at the North End

Nancy Elliot, Reef Road addressed the Council indicating the last time the surf was up, all of the No Parking signs were removed and there were no signs on the street for four days. She advised two boys were parked in front of her house and she informed them there was a fine of $20 and he stated it was cheaper than his ski lift ticket, so the money is no problem to them. She suggested it be ticketed every hour or the cars should be towed away.

Mrs. Smith asked if the police had a record of those streets which have no parking signs to which Chief Terlizzese responded they do have a record but the problem with enforcement is that if they ticket and wind up in court, the judges won't enforce it if there is no sign.

Mrs. Wiener asked for the Chief's report and his recommendations on how the Council should deal with this. Chief Terlizzese responded he is a little surprised they are talking about this in the month of June, as major problems with the surfing usually occurs in October or November and January, when the surf is up. He agreed that it was a problem as people come here to surf in response to national advertising in national surfing magazines. He agrees that they don't respect the private property rights of the residents. He stated when the resident calls them, his people do respond immediately and appropriate measures are taken, but the problem is a lot of the residents do not call the police right away and these horror stories occur. He advised what he has done is have the patrol officers be more aware of the problems and the residents should call immediately when there is a problem to which they will respond. Mrs. Wiener asked there be a closer liaison between all of the people on Reef Road and the Chief of Police.

6. Consideration of Recommendation from Banking Services Selection Team for Banking Services and Certain Investment Management Services - Mr. Doney noted a memorandum has been circulated by Mrs. Wiener, the Chair of the Banking Services Selection Team which consisted of Mrs. Wiener, himself, Mrs. Crozier, Mrs. Kelly and Mr. Elwell unanimously recommend to the Town Council that First Union National Bank be selected to provide the daily banking services and Investment Management Services to the Town of Palm Beach. He advised there were seven responses, and of these four submitted proposals relating only to Investment Management Services and Full Service proposals were received from Barnett Bank, First Union National Bank and Sun Bank.

Banking & Investment Services

He advised the Selection Team met on May 16, 1994 and short listed the most qualified institutions and after review, the Selection Team reaffirmed that it would be in the best interest to have one institution provide both the daily banking services and investment management services to the Town. He reported it was concluded that the Sun Bank proposal was not competitive with the other two full service proposals based upon the substance of the proposals and their higher fee.

Mr. Doney advised there was a follow-up meeting on May 24, 1994 and the two "short-listed" institutions were heard and the following two actions are recommended:

(1) Officially select First Union National Bank as the top ranked institution for providing daily banking services and investment management services to the Town; and

(2) Authorize the Town Manager to enter into agreements with First Union National Bank and to initiate any related actions which may be necessary in order to implement the Town Council's second decision with the agreements to be effective July 1, 1994 for a period of three years with options for a maximum of two extensions of two years each.

Mr. Doney reported the total annual fee for First Union is $8,421 for Banking Services; $28,462.50 for the Investment Management or a total of $36,883.50. He advised Barnett's fee was $12,909.60 for Banking Services and Investment Management was $25,300 or a total annual fee of $38,209.60.

Mrs. Smith asked Mrs. Crozier for her comments, noting there was another mistake in the First Union report last month. Mrs. Crozier responded there was an addition error in the March report and what they have done is agree to forgive the fees for March and April which equates to approximately $4700.

An unidentified man asked to be heard and Mrs. Wiener felt it was not appropriate for the Council to hear anyone on this matter at this point in time. Mr. Doney advised while he understood there would be no presentations received today, he thought if brief comments were desired to be made as the Council considered this award, that that could be done. He advised it was not a presentation but a brief comment. Mrs. Wiener asked if the members of the Council were not satisfied with the process and wanted to hear conversation, that was one thing, but she had strong feelings about the bidding process and how it was done. The unidentified man indicated he wanted to give a presentation to which President Wiener did not agree.

Mrs. Smith asked Mr. Morgan for his comments that would give her comfort there would be no continuing mistakes and who will be in charge of this account. Mr. Morgan responded that the reason was due to the fact that the reporting form was not their standard computerized reporting form and it was done by hand and there were two mistakes. He advised the mistakes were made on the report sheets but not on the investments and the portfolio's value has been enhanced by approximately $50,000. He advised to eliminate the recurrence of mistakes, they are devising a program which will take the human element out of the calculation and in the future, these errors will not occur. Mrs. Wiener asked if there were errors in the future, will the Bank respond in the same way as it did this time with a fee reduction to which Mr. Morgan agreed.

Mr. Shaw moved that the Council recommend that First Union National Bank provide the daily banking services and investment management services as outlined in the memorandum sent by Mrs Wiener to the Mayor and Town Council. Seconded by Mr. Weinberg. On roll call, the motion carried 4-1 with Mrs. Royal voting against the motion.

PEP Reef Monitoring - Agreement w/ U of F and FDEP

7. Consideration of Request for Authorization for Town Council President to Execute Amendment No. 2 to Agreement with University of Florida and Florida Department of Environmental Protection for PEP Reef Monitoring - Mr. Dusey recalled Council did authorize two expenditures, one for $70,000 to monitor the sand that was dredged by the Corps of Engineers form the Lake Worth Inlet and the second was to do a study of the derelict structures within the confines of the PEP Reef and this will be a formal agreement which will allow all of that to happen, and approval is recommended. He advised the Town Council President is the one who is authorized to sign off on this matter.

Mr. Shaw moved that the Town Council authorize the Town Council President to execute Amendment No. 2 to the DNR Contract Number C-753 for the PEP Monitoring. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Lake Okeechobee

8. Consideration of U.S. Army Corps of Engineers' Lake Okeechobee Regulation Schedule - Mr. Doney reported the matter is before the Mayor and Council by way of a memorandum dated June 9, 1994. He advised there was a letter sent to Mayor Ilyinsky by Mayor Perry of Clewiston dated 5-25-94 which indicated the Army Corps of Engineers is studying the water levels in Lake Okeechobee and from a Town water supply perspective, this is an issue of concern to the Town, indicating the Corps may consider adopting a lowered standard water level to protect and enhance the marshy areas on the edge of Lake Okeechobee and the Corps rationale is that too much water makes these areas poor nesting and feeding sites for birds and aquatic life, however, there is a competing environmental public purpose which is the Everglades regulation will depend in part on Lake Okeechobee being able to store more water for release during periods of drought.

Mr. Doney stated of more direct concern to the Town is the management of Lake Okeechobee as a reserve source of potable water. He reported if the Corps were to require less water to be stored in the Lake, future dry periods would have an immediate significant impact than historical droughts have had on developed areas of South Florida. He advised the agricultural interests in western Palm Beach, Broward and Dade Counties will also suffer if the Lake is required to be maintained at a lower level, therefore Mayor Perry has requested and the Town staff recommends that the Town Council consider sending a letter to the Corps expressing the Town's official opposition to lowering the regulated water level in Lake Okeechobee by sending a letter over Mrs. Wiener's signature on this matter.

Mr. Shaw made a motion that the letter be sent to the U. S. Army Corps of Engineer over Mrs. Wiener's signature with the comments as stated by Mr. Doney. Mr. Weinberg seconded the motion. On roll call, the motion carried unanimously.

Peanut Island Park

9. Consideration of Master Plan for Proposed Peanut Island Park - Mr. Doney reported the issue of the Master Plan for Proposed Peanut Island Park Master Plan was made available to the Town through the Fl. Inland Navigation District and also the Port of Palm Beach and Palm Beach County, all who are working together to develop an implementation plan for the Peanut Island Park. He advised a meeting is being held this evening and Mr. Elwell will attend on behalf of the Town. He has proposed the Town submit comments in the form of a statement and from the staff perspective, there is an outline of the concern and interest which will best protect the Town's interest:

1. The Town is concerned about the proposed observation tower and requests it not be included in the final park plans. If it is included, they request it be made short

enough to preclude onto the residential properties at the north end of the Town of Palm Beach.

2. The Town requests that the vegetation plan for the eastern and southern sides of Peanut Island be as dense as possible providing a visual buffer and noise muffler between park activities and residential properties at the north end of the Island. Peanut Island Park

3. Relating to the noise concern, the Town requests that the areas designated for potentially noisy activities be located on the north and west sides of Peanut Island, so as to limit their impact upon residential areas. This appears to be accomplished by the current conceptual master plan for the Park, and they would request that the Park planners remain sensitive to this concern as the Plans are being refined.

Mr. Doney explained the time is short but he felt that this is an opportunity that they may want to exercise. Mrs. Wiener agreed that they should and if these things were not considered, she hesitated to think what might happen to the residents in the north part of the Island and she would like to see steps taken to do whatever it takes to see there is some protection.

Mrs. Smith asked what was the dredge material management area? Mr. Doney responded the Port of Palm Beach has a turning basin and inner channel dredgings which occur from time to time and the materials which are dredged which would be of good quality will be stored and reserved in certain defined areas. He indicated if it is beach quality material, they have asked that it be given consideration to be placed on the beaches. He advised the dredge material management area will be sightscreened. Mrs. Smith wondered how this material will be gotten to the center of the Island? Mr. Elwell explained it would occur by pipeline from the dredge vessel.

Mrs. Smith suggested they move the Tower to the west and put it closer to the primary dredge material area and reduce the height. Mr. Elwell responded they do not know how high it will be and that is why the Town staff suggested it not be included at all, but if it must be included for some reason, then the secondary request would be that it be as low as possible to serve whatever function they have in mind for it.

Mrs. Smith hoped that it would not endanger the privacy of the residents at the north end of the Island and there should be a height limitation. Mr. Doney stated they will try and do that.

Mrs. Wiener suggested the statements be made stronger. Mr. Shaw pointed out the Port is billing an area as a major navigational entrance and now they are promoting an area as a swimming and snorkeling area is not a wise move, as there already is a problem with boat congestion and now they want to enhance this park and put more people into it and allow people to be swimming in the middle of a inlet.

Mrs. Smith asked if it will closed at night to which Mr. Doney responded it is not known at this point.

Mr. Shaw thought if people are going to be out there swimming and they are not boaters, they are not mixing the right groups of people. Mrs. Wiener thought a determination needed to be made as to whether or not they want Mr. Elwell to go to this meeting and make the comments as prepared and let them know the Town Council is quite displeased with a number of these things and how they will affect the people in this Town.

Mr. Shaw moved that Mr. Elwell attend the meeting and make the sentiments of this Council well known that the Council would like to see specific limitations on what they are doing on the items that have been discussed, such as the elimination of the Tower; the visual buffer and noise muffler between the park activities and residential properties at the north end; shield the Town residents from noise as much as possible; and the hours of use; and all beach quality dredging material be put on the beaches of the Town of Palm Beach. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

10. Consideration of City of West Palm Beach's Revised Downtown Master Plan - Proposed Comments and Objections by Town Staff and Town Attorney - Mr. Doney stated this addresses the area in West Palm Beach from Palm Beach Lakes Blvd. to Okeechobee Blvd. and from Lake Mangonia to Lake Worth. He advised it does affect the property from El Campion formerly known as Loftin Street and as identified in Mr. Frank's memorandum dated May 17, 1994 and June 13, 1994, there is not a lot of detail available in the Plan, and presents serious concerns and restriction of the Town's development potential as previously allowed under the Downtown Master Plan, as previously the Town owned property were in the least restricted commercial zoning district in the City's Zoning Code, and likewise had a similar land use classification in their Comprehensive Plan. West Palm Beach Downtown Master Plan

He advised the request is to have Mr. Frank attend the public hearing which will be held this evening and express the Town's previously noted concerns and that the Town of Palm Beach officially request specific identification on the development restrictions and potential of the Town owned properties and subsequently, at the meeting on June 29, 1994, there is supposed to be a Special City Commission meeting to consider the entire Plan and at that time it would be meaningful if the Town Attorney and a Town Elected Official were authorized to convey and represent the Town's objections and comments.

Mr. Frank advised the meeting tonight is a continuation of an earlier meeting and comments have already been put into the record. He noted at tonight's meeting they will not be taking any further comments from the public or landowners but will be debating the issue and sending their recommendations onto the City Council. He commented they have been invited however, to submit their written comments. He mentioned the most serious concern is the lack of data they had in their original report and he summarized that there are certain high rise developments which might be developed at or near the bridges of the Town, and the staff had no data in the Plan which has been presented on this matter, with regards to generated trips, etc., and that is the type of data which usually accompanies this type of Plan, so that is one concern.

He reported another concern is the buildings that the Town owns were in the least restricted zones and now they will be put in a zone restricted to medium density, which will be five stories in height and another zone will allow buildings to be developed at a fifteen story height and construction practice tells him that those would be less expensive per square footage, so most of the development potential would gravitate towards those areas.

Mr. Moore suggested they summarize that the potential plan would have an effect of placing the Town in a category where they would have a net loss development potential on the Town's properties of ten stories, which translates to dollar investment of what the Town owns. Mrs. Wiener suggested they be there to make the objections every time there is an opportunity to do so and hope that eventually there will be some good will.

Mr. Doney suggested the Council authorize an elected official send a letter of objections. Mr. Randolph agreed they should go ahead and continue to make the objections.

Mrs. Royal asked if there were any other landowners who have received an exemption of the type of building height restrictions as yet? Mr. Frank responded the only owner he knows of was Channel 5 which were granted a fifteen story Type One zoning. Mrs. Royal recalled that was to be low stories and suggested the Town object and get an exemption. Mrs. Smith asked why has the Town not applied for an exemption and done the same thing as Channel 5 for the Loftin Street building. Mr. Frank responded he has been told the reason the exemption was granted was because of the litigation involved on the Channel 5 site. Mrs. Smith did not think that Palm Beach has ever backed away from litigation and thought this should be pursued. Mrs. Smith asked how many properties were effected by this to which Mr. Doney responded it is the piece of Town owned property between Olive and Dixie on the north side of El Campeon and the building which is located on the west side of Dixie Highway and the piece north of Sixth Street west of Dixie Highway, so it would be those three pieces in particular. Mrs. Smith suggested they pursue getting the exemption and she so moved. Seconded by Mrs. Royal. On roll call, the motion carried unanimously.

Mr. Doney asked that a Town elected official and the Town Attorney attend the June 29, 1994 City of West Palm Beach Council meeting.

Approval of Warrants

XII. APPROVAL OF WARRANT REGISTERS AND FUNDS EXPENDITURES REPORT FOR MAY 1994 - Motion was made by Mr. Weinberg, seconded by Mrs. Smith to approve the Warrant Registered and Funds Expenditures Report for May, 1994. On roll call, the motion carried unanimously.

Communications from Citizens

XIII. COMMUNICATIONS FROM CITIZENS - 3-MINUTE LIMIT PLEASE - There were no communications from citizens.

Development Reviews

XIV. DEVELOPMENT REVIEWS

A. Major Matters Previously Considered by the Architectural Commission at Its Meeting of May 25, 1994 - Excerpt Available in Town Manager's Office - Mrs. Smith moved the major matters previously considered by the Architectural Commission at its meeting of May 25, 1994 be approved. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Major Matters - Arch. Comm.

The major matters were:

B10-94 - Revisions to residence of Dr. Ross and Wendy Stone, at 230 Clark Ave. Deferred.
B11-94 - New residence for Picchio, Ltd., 210 Eden Rd. Approved landscaping.
B64-93 - Revisions to residence of Gay Cinque, 9 Golfview Rd. - Deferred.
B15-93 - Remodel facade for Cook International, 350 Royal Palm Way. Deferred.
B21-94 - New residence for George S. Kantor, 765 Hi Mount Rd. - Approved conditionally.
B24-94 - Demolish old residence and construct new two family dwellings for Barry Boyce, 353 Chilian Ave. - Approved conditionally.
B63-93 - Landscape Plan for Dr. Michael and Virginia Longo, 1109 N. Ocean Blvd. - Deferred.
B89-93 - Modifications to exterior elevation for Mr. 7 Mrs. Robb Allan, 300 Tangier Ave. Approved conditionally.
B76-93 - Modifications to residence of Mr. & Mrs. Irwin Kramer, 1295 S. Ocean Blvd. - Approved.
B28-94 - New residence for Mr. & Mrs. Joe Jack Merriman, 11 South Lake Trail Circle. Approved conditionally.
B29-94 - Demolition of residence of Mr. & Mrs. John Schuler, 200 Jungle Rd. Approved conditionally.
B30-94 - New residence for Michael Burrows, 1340 S. Ocean Blvd. - Deferred.
B31-94 - Remodeling for Charles Caronia, 760 Island Drive. Approved.
B32-94 - Addition to residence for Maya Langes-Swarovski, 1676 S. Ocean Blvd. - Approved.
B33-94 - New residence for Nita S. Fogg, 146 Via Del Lago - Approved.
B34-94 - New residence and guest house for 38 East Corp., 1330 S. Ocean Blvd. - Deferred.
B35-94 - Addition to residence of Dr. Daniel and Elaine Tucker, 202 Manana Lane. - Approved conditionally.
B36-94 - Demolition of residence of Max M. Fisher, 931 N. Lake Way - Approved conditionally.
B37-94 - New residence for Kenn Karakul, 132 El Brillo - Deferred.
B38-94 - Cabana for Ron Schram, 1420 N. Ocean Blvd. - Deferred
B39-94 - Facade Renovations for Jo's of Palm Beach, 375 S. County Rd., - Approved.
B40-94 - New residence for U. S. Trust Co., Trustee for Ann Fisher, 334 N. Woods Rd., - Deferred.

Variances, Spec. Exceps. & Site Plan Reviews

B. Variances, Special Exceptions and Site Plan Reviews

Old Business

Old Business

Spec. Excep. 12-94

1. Special Exception No. 12-94 With Variance - Barnett Bank, 220 Sunrise Avenue; to allow an expansion of bank and financial use by locating trust office facilities in an additional 920 square feet. Variance: required off-street parking is provided with the exception of one parking space. C-TS District. Deferred from May Meeting. Letter Dated June 6, 1994 from Robert Deziel Requesting Withdrawal - This was withdrawn.

Site Plan Review - Var. 56-93

2. Site Plan Review in conjunction with Zoning Variance No. 56-93 to authorize substitution of a restaurant on the site of an existing radio station at 3000 South Ocean Boulevard by H. Loy Anderson, applicant. R-D(1) District. Letter Dated June 10, 1994 from A. Paul Prosperi Requesting Deferral to July 12, 1994 Meeting.

New Business

New Business

New Business

Var. 17-94

3. Variance No. 17-94 - E.R. Bradley's Saloon, 111 Bradley Place; to allow enclosure of awning covered patio area; said glass enclosure constitutes an expansion of a nonconforming structure, prohibited by Section 8.20 of the Town Zoning Ordinance. C-TS District. (See Item X.A.3.) - Mrs. Wiener noted as part of this variance request, the noise complaints will be discussed.

Brooks Ricca, Attorney for the applicant, addressed the Council, exhibited drawings which showed on the north side of the building, there is an outdoor dining area with roll up flaps in place which are lowered in inclement weather. He reported what is proposed is to enclose with French-style doors. He advised the roof of the area has an awning type covering on the top and they propose to remove it and install a barrel tile roof similar to what is on the rest of the building. He commented the doors will be open with planters installed around the area so people would not be able to access the restaurant from this area.

Mr. Ricca knew there have been problems with noise in this area and they wish to respond to the needs of the people in the community and the noise complaints seem to be due to the fact that the flaps are usually lowered during inclement weather and they wish to install the doors and if there is a problem with noise, the doors can be closed.

Mr. Moore reported the matter has been brought before them at the staff's request in an effort to mitigate some of the problems in the neighborhood regarding patrons and noise associated with the operation of E. R. Bradley's. He recalled in 1977, a canopy was permitted to be installed over the open area, and in 1979, side curtains were approved. He noted in 1982, a request was denied by the Town Council for an aluminum and glass enclosure which would surround the three sides of the open area. He recalled in 1988, a similar request was denied based on the past history of the property.

Mr. Moore advised noise readings have been taken at various times which have not violated the decibel levels of the Town, the staff felt it would be appropriate for the owners of E. R. Bradley's to come to the Town requesting an enclosure to mitigate the noise problem and that is why they are here today.

Mr. Moore gave the staff comments: No opposition from the staff but the issues regarding hardship should be addressed by the applicant. Mr. Shaw asked if the request would change what is actually there, which is a covered patio to an enclosed structure. Mr. Moore responded it is a zoning issue and the covered awning and a hard roof would be treated the same way. Mr. Shaw thought if the planters were installed, they may be lending themselves to too much cross traffic, and one of the complaints is the patrons jumping over the planters to get into the patio area, and he thought it should be made higher so that access is not possible. Mr. Ricca responded the wall will not be there and that is being eliminated for aesthetic purposes as they are trying to make it as attractive as possible.

Mrs. Wiener felt in order to mitigate the noise, the doors needed to be permanently closed so people are no longer running in and out of that area and there is no entrance and exit in that part of the building. Mr. Ricca responded they do not disagree with that and now they lower the flaps and that, together with the canvass awning is not the best way to contain the noise and what they would like to do is have the ability to control that and can do so if the doors area are allowed to be installed as they can be shut and with a solid roof and the new air conditioning, this can be done. Mrs. Wiener believed he was saying the doors can be shut but what she is saying is that the doors should be shut and never opened, as it is the going back and forth which creates the noise.

Mr. Ricca responded the concept is not to enclose the room but to have open air seating, but in response to suggestions by the Town Officials and in trying to be a good neighbor, they will be able to close the area when appropriate, in the event of inclement weather and at night and if there is any noise there, they can then close the doors. Mrs. Wiener did not agree emphasizing the variance is based on no noise, and not the weather, and the fact is there is a problem of noise and there cannot be any opening of the doors at night. Mr. Weinberg believed there shouldn't be doors. Mr. Ricca referred to the report of Chief Terlizzese on the noise, which showed that 70% were anonymous and 60% were unfounded and the actual complaints were not that serious. He stated they are trying to provide a vehicle so that the area can be controlled by this type of a structure, or a walled in room....to which the Council and the Mayor did not agree, the Mayor stating it should be windows with no access to the area from the street. Mr. Ricca asked if this meant windows that could be opened? Mr. Shaw believed what they will find that if they used the doors, that at ten o'clock at night, they would have to ask everyone to move so the doors can be closed. He thought if the issue of the doors were to be considered, there would have to be a commitment that the doors will be closed at a certain time, and perhaps they could be opened for an afternoon luncheon, but there would have to be a time period volunteered in the evening when the doors would be closed and they would stay closed for the balance of the day or night.

Mrs. Wiener recalled when they talk about a variance, there is a certain amount of trading which goes on, and what she is hearing that this area will have to be closed at night, or else the Council will not consider it.

Mrs. Royal asked if they could open this area during the daytime? Mr. Weinberg believed they could keep them open during the day but at a certain time in the evening, they would be closed.

Mr. Ricca did not believe the actual closure of the doors will not affect the patrons or require them to do anything, so it would not be disruptive in any fashion. He believed that they had to appear before the Landmarks Preservation Commission tomorrow and the idea of sliding windows and a wall would be less aesthetically pleasing and the doors would be similar to the rest of the style of the building.

Mrs. Smith commented when she reviewed the noise complaints, she did not see any prior to 10:15 PM and wondered if they ever thought about doing the arched windows similar to what is on the existing building as opposed to the doors, which could be opened. She asked if they wished to use the doors as a second entrance and egress required under the Code?

Mr. Jeff Smith, Architect, responded one of the doors would have to be used for egress. Mrs. Smith asked if the rest could be windows, as she believed the Council was having a problem with seven sets of French Doors, as if this is being done only for the noise, does the Council not wish the windows or doors to open on a nice day, as she thought that was not a reasonable request. Mrs. Wiener commented she had no problem with the doors being open at lunch time, as it was night time

when there was a problem. Mrs. Smith believed it was the late night noises that were causing the problem, noting this is a commercial establishment and she saw no complaints prior to 10:15 PM. She did not believe there was any control of what happens after the patrons leave Bradleys. Mrs.
Var. 17-94 Wiener felt in return for the granting of the variance, she was comfortable in the applicant giving certain assurances to the neighbors that after 7:30 PM in the evening, they would not be disturbed by noise. Mrs. Smith asked if she meant even in the summertime when it was still light to which Mrs. Wiener responded affirmatively.

Mr. Ricca suggested they review the police reports and it will be seen that the police have concluded that most of the problems are external to Bradley when patrons have left the establishment and are going to their cars, and his client has little control of that. He noted most of the complaints have been unfounded and made anonymously, and it was his feeling that the whole issue on the noise is really something that should be a determinant as to whether or not the variance is granted. Mrs. Wiener recalled that is why the Council asked the applicant to apply for the variance and that is why they are hearing it, so they all needed to understand where they are coming from.

Attorney Gary Brandenberg, addressed the Council, representing the owners of the Royal Poinciana South apartments, which has 86 families and to those families the noise is a real issue and has been for many years and they would like to thank the Council for seeking a permanent solution to this issue. He advised his clients, as well as the Homeowners Association for the Biltmore support the concept of enclosing the patio area in a permanent fashion which will keep the noise contained within that area. He agreed with the suggestion made by the Council that any doors or opening should be closed at a reasonable time in the evening hours and was not suggesting the doors not be open in the daytime, but in the evening after the dinner hour and when the music starts to play for the bar patrons. He suggested they also consider the security issue, and have a security guard during the peak season at 3 AM when patrons are leaving the establishment. He also requested the Town to consider the elimination of parking along Sunset Avenue after 10 PM, and this would be the portion of the street that is in front of his clients' apartment house.

Mrs. Wiener asked if he had any problem with the area being left open for the lunch hour and early evening hours to which Mr. Brandenberg responded he did not.

Mrs. Smith asked if this would be after the dinner hour to which Mr. Brandenberg agreed.

Bob Montgomery from the Biltmore addressed the Council, indicating he endorsed and concurred with what has been said and there are no objections to the restaurant making money and staying open late, but they should insulate the enclosure with air conditioning so it would contain the noise.

Mr. Ricca reiterated the documents show there is no noise coming out of Bradley's at 3 AM and the noise comes from the patrons going to their cars, as there is a situation there where claims of problems are not supported by the evidence.

Mrs. Wiener believed the neighbors are being nonconfrontational as she recalled there have been serious problems on this matter in the past and the feeling was not the same.

Gail Coniglio, the applicant, addressed the Council asking to respond to one issue, and wants the Council to know food is served until three o'clock in the morning, and she would be willing to work with her architect and install windows as opposed to doors, but wanted them to know her patrons want the open dining and she is happy to work within the limits of the noise and will close them, however wanted them to know food is served until 3 AM.

Mrs. Smith noted the major complaints on the noise come from the neighbors to the west, and wondered if the only windows that were allowed to be opened be the windows on the east side of the area and this be until around midnight. Mrs. Wiener believed noise would travel. Mrs. Smith felt the idea of being hermetically sealed was not an attractive idea, as she enjoys the fresh air especially during the winter season. Mrs. Wiener did not agree the windows should be closed around midnight, but more like around 9 or 9:30 PM. Mrs. Smith suggested 10 PM. Mr. Shaw stated his concern about the hour as if they are going to be closed during the middle of an evening, they would be creating ill will with their own diners. He suggested perhaps a solution would be to experiment with the times, and with the understanding that if there is a complaint, then the windows need to be closed earlier. Mrs. Wiener felt it had to be a valid substantiated complaint. Mr. Shaw believed the residents were trying to work this out and supportive of what they are trying to accomplish and he thought Bradley's has gone beyond what they had suggested as there are doing a major rebuilding of this area. Mrs. Smith reminded all this is landmarked building and they have to. Mr. Shaw was not sure how it would be controlled and he thought it would have to be closed at an early hour as it is an imposition to make it later, and he would like to see the enclosure be done with windows.

Mr. Shaw moved that the applicant be allowed to move forward with the enclosure of the patio with windows or doors and the windows or doors would be closed at 10 PM and in the event there is a noise problem, it will be revisited. Mrs. Smith suggested it be reviewed within a year. Mr. Shaw suggested it be revisited in six months rather than a year. Mrs. Smith thought it should be through the winter season and asked if there are complaints made to the police, they should not be anonymous. Mrs. Wiener felt it should be revisited if there is a problem to which the Council agreed. Mr. Weinberg seconded the motion. On roll call, the motion carried unanimously.

Mrs. Wiener asked Chief Terlizzese to address the legality of not allowing parking in front of the apartment house after a certain hour? Chief Terlizzese responded legally parking could be restricted from 10 PM to 6 AM. Mrs. Wiener believed if that was instituted, it would mean there would be more cars parked at the Publix Lot and asked if that was a plus or minus? Chief Terlizzese thought it would be a plus for those apartment owners on Sunset Avenue, noting there were only seven parking spots they are talking about. Mrs. Wiener didn't believe that was going to help and suggested it be dropped. Attorney Brandenberg pointed out they would like parking to be eliminated on both sides of the street, so it would involve fourteen parking spaces and asked the Council to consider eliminating the parking there after 10 PM.

Mr. Weinberg recalled there was some conversation about there being a security guard at the door but he questioned the effectiveness of that, as the officer would not be following the patrons to see whether or not they were making noise. Chief Terlizzese responded a lot of the calls are after midnight, and what they are trying to do is keep the disorderly conduct under control and the police officer could caution them to be quiet and if it is found they are intoxicated, they could be arrested for disorderly intoxication.

Mrs. Wiener asked if there were any actions the Council wished to take with regards to the parking and there were none.

4. Variance No. 18-94 - Chesterfield Hotel, 363 Cocoanut Row; to allow installation of a 6' diameter rooftop dish antenna in variance to Section 5.51(f). R-C District. - Ted Dabbs, Chief Engineer at the Chesterfield Hotel, addressed the Council on behalf of the applicant. He advised the guests at the Chesterfield are supplied with in-room movies originating from six tape decks and a satellite dish would allow them to supply the guests with a larger library of movies. Var. 18-94

Mr. Moore advised the staff has no objection providing the dish is sight-screened from all of the neighbors. Mr. Dabbs responded the roof has a three foot parapet wall and it may be visible from some points. Mr. Moore believed that the sight screening can be done, although it may be that an enclosure would have to be built to screen it.

Dan Melvin, the contractor, addressed the Council, noting the structure will be placed against the side of the building and will be the same color as the building. He advised there is screening provided on the south from the penthouse, on the north from the elevator room and from the east west, it is back from the center of the building and other than being above three stories, there would be no view of the dish itself.

Mrs. Smith asked how many stores and how high was the building? Mr. Dabbs responded it is 38' and three stories, plus the penthouse which covers 1/8th of the floor plan.

Ruth Taylor, Manager of the Island House Condominium, which is located next to the house next to the Chesterfield on the south and her building is six stories, with 34 units and there are least nine of those units which will have the view and they oppose it.

Mr. Moore reported there are methods of sightscreening the dish from the neighbors on the roof, which means the dish should be set up with sightscreening so that anybody looking at it would not see the dish. Mrs. Wiener agreed the fact of the matter was that it had to be sightscreened. Mrs. Smith asked how high was the elevator shaft to which they are proposing to attach the dish to? Mr. Dabbs responded they are not putting this on top of the elevator room as it is a side mount. Mrs. Smith thought they may have to continue the wall of the elevator room as the three foot parapet will not sightscreen it. She pointed out it had to be totally sightscreened from any surrounding buildings.

Mrs. Royal asked what the diameter was of the dish to which Mr. Dabbs responded it was six feet. Mrs. Royal asked what else was installed on the roof to which Mr. Dabbs responded they have two square upblasts of ventilation units for the kitchen; and two condensers for air conditioning units.

Mrs. Wiener believed if this is approved, Mr. Moore should ensure the Council's wishes are carried out. Mr. Melvin responded he would be pleased to work with the Building Department on the required screening.

Mr. Shaw moved that the application be approved subject to the proper sightscreening being provided, as determined by the Building Department. Mrs. Smith noted it would have to be approved by the Architectural Commission also. Seconded by Mrs. Royal. On roll call, the motion carried 4-1 with Mrs. Smith voting against the motion.

5. Variance No. 19-94 - Dr. & Mrs. Kaye, 302 Eden Road; to allow construction of a two-story garage addition that encroaches the west 15' minimum side yard setback by 4.93'. R-B District. - Rise Kay addressed the Council on her own behalf indicating they want to install a garage with a second story and the variance is five feet on the west portion, to which the neighbor to the west has no objection. She stated there is a raised wall on the west and this addition would not be easily seen by the neighbor to the west. She advised the reason the variance is needed is in order to allow both cars to be parked in the garage. Var. 19-94

Mr. Moore advised there is no apparent hardship other than the double frontage lot, and it is a matter of Council's discretion to allow the two story addition line up with the existing two story residence.

Mrs. Wiener noted this addition will be on the alleyway with a high wall and since the neighbor to the west who would be most affected is not complaining about it she had no problem with this variance.

Mrs. Smith noted that only 22% of this addition is in need of a variance and asked if they had tried to design this addition so a variance would not be needed to which Dr. Kaye responded they did.

Mr. Shaw asked about the width of the double garage door to which Mr. Moore responded they come in 16 and 18 and 20 feet. Mr. Shaw thought if they put in an 18', it may eliminate the need of a variance. Mrs. Wiener did not think that would work and Mrs. Smith did not believe the turn could be made into an 18' opening.

Motion was made by Mrs. Smith to approve Variance No. 19-94. Seconded by Mr. Weinberg. On roll call, the motion carried 3-2 with Mrs. Royal and Mr. Shaw voting against the motion.

6. Variance No. 20-94 - Jerry Poklepovic, 1161 North Ocean Way; to allow construction of an addition providing an 11' side yard setback in lieu of 12'6" required. R-B District. - Robert Bell, Architect addressed the Council on behalf of the applicant, indicating the residence is a small cottage on the east side of North Ocean Way and currently has 3 bedrooms and currently is a rental unit but in several years, the owners wish to retire and live there as a permanent residence. He wished to add a bedroom addition with renovated bath facilities. Var. 20-94

Mr. Moore reported this is a narrow lot and the staff has no objection.

Motion was made by Mr. Weinberg to approve Variance 20-94. Seconded by Mrs. Royal. On roll call, the motion carried unanimously 4-0 as Mr. Shaw was out of the room and did not vote on this application.

Var. 21-94

7. Variance No. 21-94 - Frank T. Noska, 221 Onondaga Avenue; to allow construction of a pool in the street side yard providing a 9' setback in lieu of 25' required. R-B District. - Mr. Noska addressed the Council on his own behalf, requested permission to put a pool in the side yard with a nine foot setback in lieu of the 25' required.

Mr. Zimmerman reported the staff comments are: Mr. Frank does not believe the pool meets the criteria for a variance, but should it be approved, the screening should be provided and maintained. He stated they should also consider reducing the size of the pool so the size of the variance can be decreased.

Mr. Zimmerman advised the Public Works Department wishes the hedging required should remain away and out of the utility easements. He recalled there was a previous approval on a pool by Mr. Noska in 1991 at that location and it was never constructed.

Mrs. Smith noted it is a huge pool. Mr. Noska stated he didn't want to reduce the size of the pool. Mr. Zimmerman agreed the length of the pool is quite long, but the variance is for the width of the pool which is at 15'. Mr. Noska remarked he has staked it out and it is not as overpowering as it looks on paper. Mrs. Smith suggested the hedge be removed around the house, then the pool could be closer to the house and the variance could be reduced.

Mr. Noska advised that side of the house needs a hedge and the border floral arrangement, and the hardship is that where he wishes to locate the pool is the only place on the property where it can be put. Mrs. Wiener advised Mr. Noska he is hearing that this is too much of a variance and it needs to be reduced from 16' downwards and she would like to see where they could meet.

Mrs. Smith noted there is a wide planter area and she is having trouble finding the hardship and she thought the pool width needed to be reduced, however, Mr. Noska states he wants to maintain the terrace area and she asked Mr. Noska what is the hardship and what can he do to reduce the variance or eliminate it completely.

Mr. Noska felt if he reduced the pool, it would end up as a narrow lap pool, where there are other pools in the neighborhood are not like that. Mrs. Wiener asked if the other pools were only 9' from the property line? Mr. Noska stated they are located in the rear yards and he doesn't have one.

Mrs. Wiener asked if Mr. Noska could review this and work it out and seeing how he can figure out a request for a smaller variance.

Motion was made by Mr. Shaw that Variance No. 21-94 be deferred to the July Town Council meeting and in the meantime, the positioning of the pool will be reworked. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Var. 22-94

8. Variance No. 22-94 - Julie C. McConnell, 128 Seabreeze Avenue; to allow construction of a freestanding canopy; said awning covers approximately 120 square feet increasing the lot coverage from 34.4% to 36.4%, exceeding the 30% allowed. R-B District. - Kristen Lacey, representing the applicant addressed the Council. She distributed a survey which shows an existing concrete pad and they would like to install a free standing awning which would only be used when the applicant is in residence and it would be removed when she goes north.

Mr. Moore reported it is a small fifty foot lot and has more lot coverage than is allowed by the Ordinance, and there is no hardship been demonstrated. Ms. Lacey advised the purpose of the awning is Mrs. McConnell would like to be able to entertain outside when the weather is good or bad. Mrs. Smith noted the awning is separated from the main house and she would have to go through the bad weather in order to reach the awning. Ms. Lacey stated the reason she didn't request attachment to the house is the concrete pad is already there and if they attached it to the house, they would have to be more lot coverage. She advised it could not be seen as there is an enclosed concrete wall around the property.

Mrs. Royal moved that the Variance No. 22-94 not be granted and be denied on the grounds there has been no hardship demonstrated. Seconded by Mrs. Smith. On roll call, the motion carried unanimously for denial.

Var. 23-94

9. Variance No. 23-94 - Cook International, Inc., 350 Royal Palm Way; to allow installation of decorative columns of a new entrance portico setback 8" from the property line in lieu of 7.5'. C-OPI District. - James Stance with Gordon Mark Architects addressed the Council for the applicant and indicated they have designed an entry portico to give a new design for the building and the columns proposed would be placed on the existing planters on the property line.

Mrs. Wiener left the meeting for a short time and turned over the gavel to President Pro Tem Weinberg to chair the meeting.

Mr. Moore explained staff has no objection other than Mr. Frank who states it should have aesthetic approval and doesn't meet his criteria for a hardship and Mr. Doney also requested further information on the hardship, however, the face of the building is already non-conforming and Building Department has no objection as it will be a great improvement.

Mrs. Smith asked if the new portico could line up with the planters. Mr. Stance responded the planters now define the entrance to the building and they are in the center of the building which lines up with the lobby space. Mrs. Smith thought anything that could be done to the building would be an improvement.

Mr. Shaw made a motion to approve Variance No. 23-94. Seconded by Mrs. Royal. On roll call, the motion carried 4-0 with Mrs. Wiener out of the room at the time of the roll call.

Var. 24-94

10. Variance No. 24-94 - Palm V Associates, 238/240 Worth Avenue; to allow expansion of a nonconforming structure by adding 170 square feet to the sw corner, thereby

increasing lot coverage by 0.8%. C-WA District. - Attorney Peter Broberg addressed the Council on behalf of the applicant. He requested the Council to approve the variance, noting there is 170 square feet on the second floor which is basically unusable which they would like to square off the front portion of this via and put 170 square feet in there. He showed a drawing which showed the section on the second floor which will be removed and the addition on the ground floor of the 170 square feet. He advised the only opening is on the east side which allows them to take out the windows and doors on the south side which is the kitchen for Nature's Way and it will not be an expansion of the kitchen but will be closed off and be separate. He added the function will be retail space. Var. 24-94

Mr. Moore stated the staff had a concern that this may be an expansion of the Nature's Way kitchen, which Mr. Broberg has addressed and if Mr. Broberg will so stipulate that this will not be an expansion for the kitchen, he would have no objection to the application for variance.

Mr. Broberg stated he would be willing to so stipulate, however, if the Nature's Way square footage does not exceed the 2000 square feet, would they not have the right to expand to the 2000? Mrs. Wiener stated that was not the question. Mr. Broberg responded the answer to the question is yes and he will so stipulate in writing.

Mrs. Smith asked why the addition was not being squared off on the east side and why do they have a cut out there? Mr. Broberg responded that is a walk through and there are two sets of doors to Natures's Way currently and they will be closing up one of the doors on the south side and the cutback is to allow green space.

Mrs. Smith noted they state they are removing the second floor of the proposed addition and asked where it was on the Plan which the architect showed that there is a section which will be removed, however, they felt they would like to maintain the wall for screening as there is a power line back there with transformers, so basically, as they stand in the courtyard, they would still see what they see now. Mrs. Smith believed there would still be the appearance of a two story even the second story is being removed as they will retain the wall. The architect responded they wanted to retain the wall to hide what is in back of it from the courtyard.

Mrs. Royal made a motion that Variance No. 24-94 be approved with the stipulation that the newly acquired space on the ground floor not be linked to Nature's Way and it be separated entirely. Mrs. Smith asked if that stipulation would be recorded in writing to which Mr. Broberg agreed. Seconded by Mrs. Smith. On roll call, the motion carried 4-1 with Mr. Shaw voting against the motion.

Var. 25-94

11. Variance No. 25-94 - Cathleen McFarlane, 456 and part of 458 Worth Avenue; applicant proposes to purchase a portion of 458 Worth Avenue creating a west side yard setback of 0 in lieu of 15' required. To allow the cubicle content to be 5.28 in lieu of 4.25 required, and to allow 8' high property line wall to match existing in lieu of 7' allowed. R-B District. - Attorney Robert Deziel addressed the Council on behalf of the applicant. He knows the numbers sound staggering but there is an existing residence there which greatly exceeds the zoning requirements. He advised Mrs. McFarlane owns the property two doors to the east of the Myers property and there is a property in the middle which is owned by the Sue Whitmore Estate and what the two surrounding property owners are proposing to do is to buy the property in the middle and split it between the two of them, and this would reduce density by one dwelling unit, and reduce lot coverage and mass, which is the cubical content. He advised it would increase green space and side yard setbacks which are currently zero on one side and three feet on the other side. He commented they would stay at zero on the one side and go from three to the conforming setback number all the way around of fifteen feet. He advised it will eliminate one curb cut as currently between the Myers and the Whitmore property, there are four curb cuts.

He advised most importantly it will return the property at 458 Worth Avenue to its original use. He recalled in the twenties this was built as one single family residence and the second owner in the fifties owned it as a single family residence but then it was chopped up into five different properties. He advised the property at 458 was the staff quarters for the entire residence and once this is split, this will be the staff quarters for the respective residences.

He distributed drawings which showed all three properties and on the top is the McFarlane residence and on the bottom is the Myers residence and in the cross hatched section is the Whitmore property with the proposed split.

He advised the McFarlane property complies with the lot coverage requirements as she is in the neighborhood of between 25 and 26 percent. He advised Mr. Myers has a lot coverage of 41%, however, it will be reduced to 35%.

Mr. Deziel stated the variance for Mrs. McFarlane is to split the property and maintain the existing zero setback; and replace the current wall which is at 8' and replace it with a duplicate on the new property line.

Mr. Moore advised both of these applications are intertwined with a landmarked property and the applicant must come to the Council for the variances and special exceptions or site plan review, prior to going before the Architectural Commission. He advised staff does recommend that the Council consider referring this matter to the Landmarks Commission and deferring this variance request to a date certain, and after the Landmarks Commission has made their determination, it will be brought back to the Council for their review.

Mrs. Wiener believed that the demolition they would need would only be allowed if the Landmarks Preservation Commission allows it, and she thought this should be deferred until that happens.

Mr. Shaw made a motion that Variance No. 25-94 be deferred until such time as the Landmarks Preservation Commission has the opportunity to review this application.

Mr. Moore asked if it could be deferred until a date certain, such as the July Town Council meeting.

Mr. Shaw amended his motion to defer this Variance No. 25-94 until the July Town Council meeting. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously for deferral.

Var. 26-94

12. Variance No. 26-94 - Stephen Myers, 460 and part of 458 Worth Avenue; applicant proposes to purchase a part of 458 Worth in adding this parcel to 460 Worth an angle of vision of 122 degrees in lieu of 100 degrees will be created. Additionally, applicant proposes to construct a guest house at a lot coverage of 43.4% in lieu of 30% maximum allowed with a cubic content of 7.45 in lieu of 4.5' allowed. To allow an 8' high property line wall to match existing in lieu of 7' allowed. R-B District. - Mr. Shaw noted there was a mistake in the documents on the angle of view and believed it was corrected from 122 to 103 feet to which Mr. Deziel agreed. This variance was deferred to the July Town Council Meeting after it is considered by the Landmarks Preservation Commission, on motion of Shaw/Weinberg. On roll call, the motion carried unanimously.

Spec. Excep. 16-94

13. Special Exception No. 16-94 With Variance - Saks Fifth Avenue, Esplanade, 150 Worth Avenue; to allow applicant to combine first floor spaces 137, 139, 145, 151, and second floor spaces 235 and 243A, totaling 6,579 square feet, exceeding the 2,000 square foot limit, with variance to relocate the Men's Store from the present Saks location to 230' to the east thereby allowing two Saks stores within 1,500 feet. C-WA District. Attorney James Brindell addressed the Council on behalf of Saks Fifth Avenue. He reported the business has increased and over eighty per cent of the customers are Townpersons, and it is difficult to see things and avoid bumping into people and they would like to relocate the men's sections. He stated they wish to expand the space as some of the areas are not adequate and the request is to grant the Special Exception and he will provide the appropriate affidavit on the Town-serving. He noted the 1500 foot limitation from which they are seeking a variance has to do with the fact that this expansion is within the Esplanade and is 230 feet away. He advised there would be no additional outside entrances to the street, and will allow Saks to provide the type of access necessary for the customers.

Mr. Moore advised the staff has no objection as long as the documentation on the Town-serving is submitted.

Motion was made by Mr. Shaw to approve Special Exception No. 16-94 with variance. Seconded by Mrs. Royal. On roll call, the motion carried unanimously. Mr. Weinberg reminded the applicant's attorney that documentation must be provided on the Town-serving on an annual basis to which Mr. Brindell agreed.

Other

C. Other

Phipps Estate Subdivision

1. Consideration of Proposed Phipps Estate Subdivision - Request for Approval of Plat and Replat, Agreement to Construct Improvements in Subdivision, and Related Matters - Attorney Paul Prosperi addressed the Council on behalf of the applicant and Mr. Dan Swanson of Addison Development Group. He stated Mr. Eigelberger has his counsel, Mr. Atterbury, and there are architects, engineers, land use planners, and consultants to answer any questions. He noted this is a proposal to subdivide the property known as 450 North County Road, with ten platted lots in the so called Blenheim subdivision that runs along Kawama Lane, with 100 by 100 foot platted buildable lots, and there are at least seven structures on the property, which are occasionally used as guest houses. He indicated some of the other structures are rented and some are used by family members.

He reported the property consists of just under twenty (20) real acres, or 21.6 Palm Beach zoning acres, and the proposed subdivision is to divide this property into 33 lots, with the smallest lot at 19,000 square feet, and the largest lot at 37,000 square feet, so we have lots that range in size from roughly a half acre to an acre, from a minimum width of 100 feet to a maximum width of about 170 feet of street frontage.

He advised this is a Site Plan Review and the applicant proposes to create a new entrance lining up with Casa Bendita, then create a "y" shape so that there would be a lot on each side of the road, and there would be an exit on North Lake Way in two places.

He commented it is proposed the entrance feature on North County Road opposite Casa Bendita which is an homage to the El Mirasol gate located approximately half a mile away on the other side of the street. He indicated the concept here is that the passerby will think that this property remained in one ownership, with the parameter wall on North County Road remaining, and they would agree to that in a recordable document. He explained there are two landmarked trees, or historic trees which will remain, and there are additional large trees which exist which will remain and every tree that touches that wall will remain so that the property will look the same, and there will only be one entrance from North County Road.

He explained he will agree to a stipulation which will create a limited access easement so that the properties that have other accesses to a street whether it be Kawama, North County or North Lake will not exit onto North Lake with the single exception of the existing main house which will remain in the ownership of the current owners on a minimum of four lots and possibly up to ten lots.

He commented as one approaches this main gate, one would reach this entrance feature with a fountain in front of it, and then a pergola with vines growing over it, an example of which is across the street at the park.

Mr. Prosperi exhibited a rendering of what the gated exit on North Lake Way would look like and a rendering of a small pedestrian gate to a park which they propose to give to the Town. He explained the park is located under an historic tree. He advised at the entrance it would be under the canopy of a tree, there would be a little court yard with a fountain and a bench, and this would be a passive public park which they also propose to donate to the Town, by Susan Phipps Cochran and Mr. Eigelberger in memory of Mr. Michael Phipps.

Phipps Estate Subdivision

He advised there would also be, in that location, a triangular piece of property which would line up with the existing Town owned park at the foot of Tangier. He stated they are proposing to give two parcels which total about 16,400 square feet to the Town.

He indicated that at the Public Works Department's request, they will build a new lift station on the existing Town lift station site on the northwest corner of the property, and provide a pump which is necessary because this station services properties to the east of County Road.

Mr. Prosperi reported this property, because it is 21.5 Palm Beach acres could be subdivided, as it's in the RB zone, where the minimum lot size is 10,000 square feet, and this property could be developed at 60 dwelling units, whereas this proposal is for less than half of permitted density, and each lot is twice the size of a minimum lot. He believed the Council will find they are respectful of neighbors by maintaining the wall on North County Road, keeping a high hedge on North Lake Way and with respect to the neighbors to the north which are the lots on Miraflores, we will have an 18 inch or a 2 foot elevation difference between the property, and will build a 4' wall which will be 2'8" from the property line on the Miraflores side, and will install a 6 foot Ficus hedge and Ficus trees that will bring up the canopy to a total of 18 feet which will offer complete sightscreening. He noted this area is the rear of their land and the neighbors on Miraflores share a property line with us.

Mr. Prosperi remarked that on the south side of the property is Kawama Lane, and their property comes up to Kawama Lane, and he pointed out, according to the Blenheim plot, there could be 10 houses with 10 garage doors, and 10 drive ways on Kawama, and what they propose is to create a 3 foot wide easement which would prohibit crossing, and install a 6 foot high wall, and behind the 6 foot high wall there would be a 10 foot Ficus hedge, so that from Kawama there will be a uniform 10 foot Ficus hedge, a 6 foot wall behind it, and then palm trees behind that, and there will not be a single drive way or access onto Kawama from this property.

Mr. Prosperi noted they are also very sensitive to the environmental consideration, noting this property is not natural in the sense that it has been undisturbed, but in fact it's been worked over as it has drainage systems which run through it. He knew it has some designated historic trees on the property, but it also has just shy of 6 acres of Brazilian Pepper which is a nuisance plant and they propose to remove all of the nuisance plants.

Mr. Prosperi noted there are 1.7 acres, which includes the canopy of protected trees and if this is approved, there would still be 1.7 acres of protected trees. He pointed out there are three and one quarter acres of natives existing and they propose to stock pile two and one quarter acres of those natives on the property in a nursery at the north west corner and as development proceeds, they will be relocated on the property. He pointed out in addition the entrance feature would have 1.6 additional acres, and there would be added four tenths of an acre of park. He reported there are existing about 4.75 acres of mixed trees and lawn and they would add in the worse case 5 acres of mixed trees and lawn. He reiterated because of the fact that current owners are going to keep the house on 8 lots, for the time being, there would be 6 acres of mixed trees and lawn and they would be adding three-fourths of an acre of buffer landscaping. He noted there is existing 2-1/2 acres of open lawn and they will add 2-1/2 acres of open lawn. He advised there is 5.75 acres in nuisance and this will become zero acres in nuisance. He advise there is now about one acre in houses and structures, there will be initially 3 acres, and in a worse case scenario at the maximum lot coverage allowed by the code, there will be 4 acres in houses. He recalled there is existing one acre impervious and roads, there would be 2 acres impervious and roads.

Mr. Prosperi focused on the overall change in quality green space, noting it compares 1.75 acres protected to 1.75 acres protected, and in that there will be no change. He reported there are 3.25 in natives to over 4-1/2 acres in natives, entrance and par, with 4.75 in mixed trees and lawns to 5 in mixed trees and lawns. He advised there would be two and one half in open to 2-1/4 in open for a total of 12.25 acres in quality green space existing to 13.25 acres in quality green space proposed and in addition we rid the Town of almost 6 acres of nuisance vegetation.

He exhibited a rendering of the entrance feature, which he believed was a difficult issue, according to the newspapers. He stated this is a concept that this would be a community that would have a gate, and they are sensitive to that, but reminded all that there is an existing gate on North County Road which is most often closed and locked since the current owners would prefer to use their access on North Lake Way. He indicated they are creating this entrance feature as a homage to the El Mirasol gate, and setting it well back, about 150 feet back from the road. He hoped they would be able to have a gate house with a security gate operation. He advised in order to discourage traffic on North Lake Way, and to direct it to North County Road, those entrances would just have gates which would be self opening gates that you could drive up to and would be pressure sensitive gates. He indicated there are many examples of houses in the RB district which have pressure sensitive gates on North Lake Way so he asked them to take that into consideration.

He advised the concept with regards to the out buildings, the accessory buildings, would be that certain parcels would be owned in common by all of the property owner within the subdivision, with a property owners association for the buildings, all of the maintenance in the subdivision would be under the control of the property owners association which would maintain the hedges, the walls, which would see to the proper pruning and maintenance of the historic and specimen trees on the property, and that is the reason for those buildings which would be built with barrel tile roofs, and would be very attractive in appearance with some heavy site screening. He said in addition the property owners association would undertake the maintenance of the proposed new park and the hedges that surround the property, and would like to undertake the maintenance of the pump station in the northwest corner of the property. He advised the property owners would take on the responsibility of picking up and removing all the trash and debris, the gardening cuttings from the property, and trucking them off at its own expense, as well as the maintenance of the curbs, the streets which would remain private streets, the street lights, and they would agree that in the event the property association ever went kaput, that they would draft a lien provision which the Town would have the benefit of enforcing if the Town ever had to step into the shoes of the property owners association.

He asked the Town to undertake something which the South Florida Water Management District has requested, and that is that the Town be responsible for the maintenance of the storm drain which is a South Florida Water Management District requirement with the property owners association agreeing to fully reimburse the Town for that expense, and they would agree that there would be a lien mechanism the Town would have the benefit to see that it got reimbursed.

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Mr. Prosperi summarized that this property is supposed to be developed at less than 1/2 of the densities that are permitted, and they are coming with a proposal which requires not a single special exception or variance, and shows that they have tried to anticipate and address the concerns of the Town and the neighborhood, and are trying to keep the appearance of the property as it is now. He commented they will try to prohibit individual lot owners from exiting except through, no more number of exits than currently exist on the property. He reported they will have a uniform maintenance of the hedges and walls so that the property will look from the outside as there is one ownership as it is now, and are taking great care to maintain the trees along the front wall. He believed that as one looks through the entrance gate they will see an acre and six tenths of landscaping element which will look very pretty, so there will really be no houses visible as there is no house visible now to a passerby on North County Road.

Mr. Moore reported in a memorandum addressed to the Mayor and Town Council on May 25, 1994 through Mr. Doney, the staff had identified several of the issues that have already been addressed by Mr. Prosperi and a list of supplemental items have been submitted regarding this application.

Mr. Moore read his comments into the record on this proposed subdivision:

(1) The staff recommends that a limited access easement be three (3) feet in width as to be recognizable on the plat;
(2) The home owners association parcels identified as C, roadway D, fountain area E, accessory building, and F accessory building cannot be sold as house lots.
(3) The following lots: 16, 17, 19, 24, 25, 26, 27, 30, 31, 32 and 33 are now in use with the existing Phipps house and accessory uses and will require a unity of title which would expire with the demolition of the aforementioned structures and uses.

He noted that the supplemental list recognizes that, and has asked for a slightly different arrangement which has been reviewed, and he sees no problem with the way they wish to handle that.

(4) The approximately 16,000 square feet of passive park area, parcels A and B on the east side should be maintained by the homeowners association, more importantly holding the Town harmless for any liability from public use.

(5) The wildlife letter was passed on to the Mayor and Council as a supplemental letter this week.

(6) The irrevocable letter of credit in the amount of 135% of the estimated improvements, with the bond and letter of credit set at $656,000 to insure completion of the improvements.

(7) The Town will be required to be a permit holder for the South Florida Water Management District permit for storm drainage on private streets, the homeowners association shall be required to enter into an agreement with the Town to pay for the ongoing maintenance of the system.

(8) Homeowners association will be responsible for all roadway and common area maintenance including gas street lights.

(9) By acceptance of the new plat, current easements will be abandoned and new easements will be established as required.

(10) Each lot would have a concrete trash pick-up site.

(11) The required subdivision fee, due prior to the signing of the plat by the Town, is in the amount of $46,050.

Mr. Moore noted the only other issues that the staff had called to the attention of the Council was the density issue which is in compliance with the comprehensive plan.

He felt the other issue of the gated community, or the gated concept is a policy issue that Council must address, as it is silent in the zoning ordinance as to whether one would be permitted or not, and we feel it is discretionary, as there is one at Sloan's Curve Planned Unit Development. He recalled another was at Grace Trail that was closed, but now it apparently has been removed and only a vehicle bumper has been placed there so pedestrian and bicycle traffic can go through.

He advised that this sub-division is the largest subdivision we have looked at, but it's probably one of the best subdivision applications we have received in terms of professional preparation and working with staff in compliance with our ordinances.

Mr. Prosperi corrected a statement made earlier and that was he misspoke when he stated they wished to maintain the pump station, as they want to maintain the landscaping of the pump station. He stated the applicant is not thrilled with providing liability insurance to the Town for what would be a public park.

Mr. Prosperi referred to the wildlife issue, noting that Mr. Cross of Gee & Jensen did a survey of wildlife on the property, and noted that there are no endangered species on the property. He knows there is a wild fox which is reputed to live there but evidently wasn't home the day that Mr. Cross was there. He suggested to the Town and has arranged with a gentleman named George Gentile who is noted in the county for relocation of wildlife, and who would monitor the property during the subdivision improvements and see that any critters who are either endangered or just plain cute will be relocated, and that any critters who are nuisances to the neighbors would also be relocated at the expense of the applicant.

Mrs. Wiener asked how they were envisioning the various phases, as she was sure they wouldn't do the houses all at one time.

Mr. Prosperi responded there will be four phases. He reminded the Mayor and Council that the houses that are there on the ten lots in the center of the property will remain, at least for the time being, and possibly for a very long time will remain in the ownership of the current owners. He noted there is a cottage on lot 24 which is called Governess Cottage which will stay and another

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will be moved, so the property will continue to act as an estate with seven (7) acres that will remain. He advised on the phasing, they are planning on 23 lots, but the remaining ten (10) lots would be legal lots, and if the house were torn down there could be 10 houses on that at some time down the road, but that is not what the applicant is counting on at the moment because the applicant doesn't have the absolute right to acquire that property unless the current owners additionally act. He stated there would be two phases, one with sixteen lots and the other with seven lots and he believed the applicant will propose to have six houses under construction at one time. He stated he has talked with staff about this and they will have a construction entrance off of North Lake Way, with plenty of staging space for worker's cars and construction items, and he wouldn't anticipate at any time that there would, that it would look like to an outsider that there was a lot going on there.

Mrs. Wiener asked what the time plan was to complete those six houses, and then what would the next stage be, because she wished to be certain that we don't wake up one morning with 30 houses all of a sudden out of a clear blue sky.

Mr. Prosperi asked that Dan Swanson answer that question. Mr. Swanson addressed the Council indicating the proposal is that they would start with two spec houses, and as the sales took place, they would then go with it, but he felt it would probably be a 30 month period in which at least 23 homes would be sold.

Mayor Ilyinsky asked if they would clear the land house by house to which Mr. Swanson responded negatively, indicating they would remove the non-native trees and tag the rest of the trees which would need to be relocated and that would have to be moved immediately for the roads and so on, and keep the other trees in tact until they sold the lots, and then they would have to move those.

Mrs. Wiener asked if she understood him correctly and he was saying it would take 30 months for what to happen? Mr. Swanson responded for the twenty three homes to sell. Mr. Weinberg wanted to know if 30 months were needed to sell or to build to which Mr. Swanson responded they would have to sell them first, but what he felt the overall time frame on the development is some place between twenty eight months and four and one half years.

Mr. Shaw guessed his objections are not so much from what the zoning allows, but the fact that they have subdivided to half of the size, but the thought the lot sizes in proportion to what the applicant is trying to do, are relatively narrow. He felt the fact that you've got the nice setback of the wall on County Road should be followed all the way through the property. He was not sure, especially the northern parameter, how they are planning to handle the maintenance of this if they are building right on the property lines. He thought there needed to be more like seven to ten foot setback all around the property and possibly a little bit more so that the impact as one goes by the street is not so massive. He realized the idea behind it is to make it look like it is one property, but he didn't think the feeling is that we want it to look as massive as it would be if all the parameter landscaping is going to be right on the property lines or within two (2) feet of the property lines, as what makes County Road so attractive is that as you drive down the street with the very large properties, all of the hedges are set back 10, 15 feet so it gives you a very nice openness, and he felt that that is something that should be followed through and what is now on County Road should go around the rest of the perimeter.

He commented on another concern which was the access and the gates on North Lake Way and he understood that this subdivision was going to be made with only an emergency access. He has viewed other renderings where it was going to be a circular road so that there would be two entrances on County, obviously they have elected to go with the single access.

Mr. Prosperi responded it is a mistake to think that the only width of lots in the subdivision is 100 feet as seventeen lots or over half of them are in excess of 100 feet, with a maximum lot width of 170 feet. He stated there are 130 foot wide lots, 140 foot wide lots, but there are several that are 100 or 105 or 109 feet wide. He noted they do vary and he has provided information which shows the lots on Kawama which vary from about 110 to about 130 or 140, and on Miraflores which are pretty uniform at 100, but also show across the street which is some of the newer subdivisions Casa Bendita, El Mirasol, Chateaux Drive the lots vary from 109, 110 feet to about 130 feet as the maximum. He reported the idea behind the site planning of this subdivision was to provide 1990 houses built in the tradition of Palm Beach house of the 1920's typically occurred on El Vedado or Brillo, or El Bravo in that section of Town, and these lot sizes are very comparable, and he hoped to keep the appearance of the subdivision inside the subdivision like that. He stated there is a contractual provision which the current owners of the property inserted with the agreement that these houses will all have barrel tile or red clay tile roofs, and will be Mediterranean in feel, that is something that they feel very strongly about. He noted the road takes turns to go around the root systems of these existing trees, which are not protected trees, but which are large trees which they are trying to save. He recalled that every Royal Palm, of which there are many, they're going to be 240 different palm trees on the property which are going to be nurseryed in this location and relocated so that what we are trying to do is to keep the look of the property as much as possible.

He referred to the neighbors and the setback, as on Miraflores, there is a common property line and they are going to setback from that common property line so this will add footage which will be landscaped for the neighbors so that the easement will be clear for the utility companies, and then hedge will be provided and a wall and Ficus trees. He indicated on Kawama, although the hedges themselves will only be about three (3) feet back from the curb, that's about where the existing hedge currently exists, and will have palm trees behind it, and from the point of view of the Kawama land owners, not having ten (10) houses entering and exiting on Kawama would be a boon to them.

Mr. Prosperi noted on the North Lake Way exits, gates will be put in, which would look like single gates to a single family house which would be pressure sensitive to discourage entry and exit on North Lake Way, but in addition the hedges on North Lake Way will be moved back, to totally conform with the current sight triangle, as there is a bit of a curve there and the wall curves to provide the required sight triangles which will also be provided at the corner of Kawama and North County Road, and Kawama and North Lake Way.

Mr. Weinberg stated his concern about the "why" they decided on red roofs for all and stucco walls for all, as this gives to him a feeling of development. He felt this was very deluxe, but life requires variety not sameness, and he gets the feeling of sameness which he thought was a potential destructor of beauty, and beauty is the essence of what we're seeking at this point.

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Mr. Robert Eigelberger responded the question came up on the red roofs, and this a choice of his wife and the idea of Phipps Estates, and why it should be Phipps Estates. He stated his wife is a bit of a romantic and her grandfather's house and her grandmother's house and her uncle's house when they all came here years and years ago the Casa Bendita's of the world were all barrel tiled roofs and stucco walls and that's what she remembers of Palm Beach as she grew up.

Mr. Weinberg stated he had no objection to the name or the growth of it.

Mr. Eigelberger stated it was a condition his wife put on this and she wanted to use the name and remember Palm Beach as she remembered it. Mr. Weinberg thought it was a lot of acres of remembrances. Mr. Eigelberger recalled they owned half the town and had a lot of acres.

Mrs. Smith commented they are looking at 30 some odd lots of identical houses, which are not laid out and felt with 100 foot wide lots that we are going to be looking at, in effect what could give the impression of unjoined townhouses identical, and we have several developments around here that she found personally very unattractive and this was her concern.

Mr. Weinberg stated he had a concern about the front gate. He thought it was baronial or heavy and says to him let's try to be like an English castle, and it is just not graceful, and that is the best word he can apply to that. He noted he is speaking from his own feeling on the subject, and he commends them for what they are trying to do, and wants them to do the very best.

Mr. Eigelberger noted on North Lake Way there are three gates, and on North County Road there are two gates to the existing estate, and we have a gate on Kawama Lane, so actually there are six gates on the property. He repeated that they are keeping the seven acres in the center, and a lot of the conditions they worked out with the purchaser in order to do this development. He advised a lot of the design work they did together. He noted the street separates them from every house on the property, and so going from six gates to three gates, and the bit of control that he thought he would like to have and that may be the answer to that. He thought the concept of the gates on North Lake Way is an excellent concept, recalling there's so much traffic now by Publix and down by the Biltmore and in that area of Town and it is congested, so he thought it's much better that all traffic come out on North County Road. He thought the idea of the gate at the main entrance with the one that sets so far back in the woods is a good concept. He has seen the Peltz's gate and we've seen these enormously barren walls and that's all come in the last several years. and he believed that needed to have more landscaping. He knows past Councils and Mayor Deedy Marix always wished to maintain that canopy of trees and the bicycle path would always go by there, and he thought the reflected park was a nice addition.

Mrs. Royal asked if they had designed a typical house to which Mr. Prosperi responded negatively. Mrs. Royal wanted to know if she could buy a lot and build a house of her own design or would she have to use their builders and how were they going to market this establishment. Mr. Prosperi responded Mr. Swanson does hope to build all of the houses, but it may be possible that one could buy their own lot and use their own builder, however, there may be a price differential. He stated in essence, this is not a cookie cutter subdivision as these are going to be "built to suit" houses and would not be of uniform design. He commented these are not development houses or tract houses, and although they hope to build them at a pretty good pace the design or design decision will be shared by the purchaser of the individual property who will be designing his or her, or their own house, and of course ARCOM.

Mrs. Royal asked if she bought a lot, could she hire any architect to design the house? Mr. Prosperi responded Mr. Swanson has urged him to say that there would not be duplicate houses in the area.

Mrs. Royal asked what would be the width of the entrance gate to which Mr. Prosperi responded the opening is 28 feet. Mrs. Royal noted there are two pedestrian gate walkways. Mrs. Royal asked how high were the gates to which Mrs. Smith responded she noted it was 33' on the Plan. Mrs. Royal commented there are two pedestrian gate walkways and asked what was the height.

Mrs. Smith thought it was 33 feet according to the drawing. Mr. Prosperi indicated it was fourteen to twenty feet. Mr. Shaw asked about the roof height to which Mr. Prosperi responded it was about 27'. Mrs. Smith repeated she saw 33' and asked for elevation plans to remain on display. Mr. Prosperi noted the numbers on the side of the plan is elevation 33, which is the MGBD. Mrs. Smith indicated she was not confused and Mr. Zimmerman agreed with her that it was his interpretation that it was 33'. Mr. Moore commented he was also confused as they first thought it was 33' MGBD. Mr. Prosperi thought it was 26 or 27 feet tall.

Mrs. Royal noted the aperture is 28 wide, and asked what would be the width of the two pedestrian walk throughs to which Mr. Prosperi responded it becomes 14' and 20' to the top of the structure. Mrs. Royal asked what was the width to which Mr. Prosperi responded the width across would be 28'. Mrs. Royal asked if they added the pedestrian walkways to which Mr. Shaw responded it looks to him to be about 64'.

Mrs. Wiener reminded all that ARCOM would handle those type of things. Mrs. Smith commented this is a most important subdivision and she thought they needed to have some of these questions answered before there is a disagreement. Mrs. Wiener felt they needed to get into the broader type of things. Mrs. Smith pointed out there already is a disagreement as to whether it is 33 or 26 feet, and she felt they have to know what they are looking at is accurate. Mrs. Wiener thought they needed to be looking at is the number of lots, and how do they feel about that, as well as the gates, and they should be be talking about overall concepts.

Mrs. Smith wanted to see a real drawing and not a rendering so they know what they are talking about. Mrs. Royal asked how many people were in the room who were not involved in the development. (Most of the people in the room raised their hand). Mrs. Royal stated her concern about this being a very large undertaking, and there were not enough members of the public involved. She knows it is a late hour, but perhaps this needed to be put over to another time.
Mrs. Wiener recalled other late evenings on large projects. Mrs. Royal responded this is the largest one that the Town has ever had. Mrs. Wiener noted this is on the agenda, which was approved earlier recalling she has sat here late at night and had a room full of people who were concerned and disturbed about a certain thing that was on the agenda and it could be midnight and

if people were concerned and disturbed about something, they would be here. She knows they don't necessarily come to a conclusion at this point in time as they all have a lot of questions to ask and then they make a determination. She didn't like to hear that this shouldn't be heard because there aren't a lot of people out there, disturbed and upset, as it just may be that a lot of people think it's nice.

Mr. Moore clarified that the height is actually 33'. He noted there is no height requirement for this structure as it is going to have to be something that the Town Council will have to approve as it is not in the Zoning Ordinance. He reported that the only subdivision he recalls which took up a lot of Council's time was the one proposed for Mar-a-Lago. Mrs. Wiener recalled a famous night, sitting here till about 10:30, 10:45, on townhouses and the fact is there were a lot of people there that night as it was on our normal agenda, so how it will end nobody knows. She thought this may be deferred to next month, but we do need to deal with a certain amount of this and she requested the Council continue with their questions. Phipps Estate Subdivision

Mrs. Royal wanted to know the road frontage for example of lot 18, where it is curved. Mr. Prosperi responded he can't give her that figure from the drawings he has here today, but he does know it has 21,685 square feet and is in excess of 100' frontage. Mrs. Royal commented it does not look that wide. Mr. Moore reminded that the width of the lot for setback purposes, is computed at the setback line and not at the street, and he believed that was 86'.

Mrs. Smith asked which lots were going to be held out with the main residence and the other structures to which Mr. Prosperi responded the main residence currently now sits on Lots 26, 27, 30 and 31 with the access on 25 and 32 and the Governor's Cottage on Lot 24. He stated the house on Lot 4 or 5 will be moved to Lot 32. Mrs. Smith asked if there would be five, three or four driveway exits with two for the main house to which Mr. Prosperi responded negatively, indicating there will be one for the main house and they wish to keep Lots 31 and 32 tied to the main house. Mrs. Smith noted the Lot 33 stays with the main house as that is the driveway to the main house. Mrs. Smith referred to Lot 19 asking which part of that lot would be the park? Mr. Prosperi responded it would be Parcel A. Mrs. Smith asked if the building on that lot would be torn down? Mr. Prosperi responded they call that Casita, and that will be torn down, however, they would like to use it and the garage building behind it as a project office, but after that, it will be torn down. Mrs. Smith asked what Phase would that be to which Mr. Prosperi responded it would be Phase One.

Mrs. Smith asked about the construction entrance wondering if they wanted to change the configuration on North County Road, to which Mr. Prosperi responded he hoped not, but on Lot 19, there would be a temporary construction entrance. Mrs. Smith asked if on the plan they showed where the present gate is into the property with the curve in the wall to which Mr. Prosperi responded it is not shown on this plan. Mrs. Smith commented it is confusing when all of the details are not shown on all of the plans.

Mr. Prosperi referred to the boundary survey sheet which has the entrance shown and where all of the existing buildings are located. Mrs. Smith asked if the trees they were talking about would remain around the original entrance touching the wall.

Mr. Prosperi responded those trees are not going to be removed, but there are additional trees along the wall which are not designated which will also not be removed.

Mrs. Smith commented the reason she brought it up is they are talking about a very structured landscaped design for this property which it currently does not have, and she wondered why they hadn't considered perhaps leaving a 15 foot green belt of the presently existing vegetation around the parameter of the entire property so that the effect of the construction over a period of what may be three, four, five, six or seven years, would not be readily apparent to the neighborhood.

Mr. Prosperi responded that along North County Road, the purpose of the landscape design is to try to preserve the appearance of the wall, and to keep the landscape behind it as close as possible to what it is now. He advised With respect to the property on Miraflores where a common property line is shared, they are trying to clean that up and make that attractive. He reported he has talked to some of the neighbors there, Mr. Ryan and Mr. Barnhardt, and they liked that idea as they are actually gaining some land.

Mrs. Smith stated she had heard that they might be gaining some property, and asked if that is what the different property owners on Miraflores were interested in? Mr. Prosperi recalled Dick Barnhardt & Christopher Ryan have asked if they could buy that little strip. He advised they have to give them something uniform and that's really not for public view anyhow. He noted as they come to North Lake Way and Kawama Lane, there is a ficus hedge.

Mrs. Smith advised what she is talking about is the trees behind it, as Kawama is looking very jungley and natural, and the ficus hedge is there, but the people are looking into the property and they have a great perception of the tall trees behind that, which they are now considering replacing most of the landscaping and the green canopy with coconuts.

Mr. Eigelberger explained the ficus hedge which is there now is literally on the curb and right now, there is a house being constructed on Kawama Lane so all day long, all the trucks are parked on their side of the street, and all the traffic is through there so they are constantly cleaning up that Ficus hedge. He thought the plan that you will see here sits back three feet, so right now if anything the hedge is encroaching on the road, whereas the new plan, the hedge is back three feet, and walls are behind that.

Mrs. Smith noted they are looking at a solid wall of vegetation now and she didn't know if there were concerns that it was on the curb or not on the curb, as one does look through and they are going to be looking at palm trees. She recalled they were removing 9,403 feet of canopy feet of endangered and threatened trees, and replacing them with palm trees, according to the landscape inventory.

Mr. Prosperi thought the landscape inventory is confusing and asked if Mr. McCormick, the landscape planner, could address this. He advised the palm trees have nothing to do with the canopy, advising they are saving all of the palm trees, and the canopy will be replaced.

Mr. Warren McCormick, landscape planner, addressed the Council reporting that the current vegetation that's on the property is primarily made up of many palm trees in different sizes, which

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they inventoried and every tree that is three feet or taller will be saved and replanted. He informed the Council that the other palms which are not so noteworthy are 70 Royal Palms and they propose to use those as street trees throughout the subdivision. He didn't know exactly how to deal with the canopy because the canopy was so disproportionate because of the Ficus, which is enormous, and there will be a net loss of footage in canopy because of the Banyans and the Ficus.

Mrs. Smith asked if he know approximately how much of the canopy would be lost to which Mr. McCormick responded on Sheet LP-9, they have tried to put all the mitigation together, and this recaps LP6, 7, and 8, noting they have dealt with endangered or threatened, native trees, historic trees, but have left out the obnoxious trees as they are not going to be mitigated. He noted there are 240 palms on which mitigation is required, and they will be using 293 so what that tells you is we are going to use every palm on the site plus some, and we will just use them as we can. He reported there are 10,238 canopy feet, and the canopy feet we are proposing to put back in 7,195 so there is some short fall of 3,000 canopy feet.

Mrs. Smith recalled in another large subdivision that is being developed, they were talking about moving trees, and Council was told very clearly that the trees could only be moved once, and that the likelihood of the large specimen trees surviving a second move, once they have been moved to a nursery area was very very slim, so she would like to ask why would you not leave the trees where they are and build in effect, house by house, so as not to lose the landscape feeling of it. Mr. McCormick responded the plan is to first remove all of the undesirable vegetation, such as the Brazilian Pepper, Australian Pine and Maleluca, and we are going to establish the boundaries for the protected trees so that nothing can happen to them, actually that will come first. He advised the roads will be staked and brought up to grade, and as soon as that is established any trees that come into conflict with the roads will have to be adjusted at that time, but after that, they will then start locating trees from on site on to the road right of way.

Mr. McCormick stated what they are trying to do is handle the trees as little as possible. He didn't agree with the comment made that the palm trees cannot be stockpiled. He thought if it were an oak tree they would have an entirely different conversation, but many of the trees that are on site can be handled more than once, because they are of a palm nature. He advised that individual lots will not be stripped and will be done as they are developed, and hopefully what happens is, they would move it from the site that's under construction to a site in preparation of construction.

Mrs. Smith asked if they would be put in the nursery holding area to which Mr. McCormick responded this would be primarily for the palm trees.

Mrs. Smith asked Mr. McCormick to address the historic trees. Mr. Swanson interjected he would like to explain about the relocation of the trees, as many of them would have to be removed as they are going to have to fill in the site, which is very low. He has talked to everybody who have agreed to let them lower the street a foot as the site is very low. He recalled at one time, they thought they may have to raise the site 3.5' to come up with the one hundred year flood plan, so part of the relocating is because with the fill that has to go in, once we want to create lakes the trees will die, so a certain amount of the trees would have to be relocated as they can't put the fill around them.

Mrs. Smith noted they state they will have to fill in about three feet on the property to which Mr. Prosperi responded it varies from one and one half to two feet. Mrs. Smith asked how will they be dealing with the situation of fill around the main house since it will in effect end up sitting much lower than the surrounding property? Mr. Eigelberger advised the house doesn't sit lower and is about at seven feet already.

Mrs. Smith asked about the specimen trees.

Mr. McCormick referred to sheet LT-4, which shows the specimen Banyan tree located along North County; another one on North County, and there is a third one is just north of the main house.

Mrs. Smith indicated she sees four entrances off of North Lake Way and recalled they stated there would be three. Mr. Prosperi responded the reason why is this plan shows the existing improvements and there already is an existing driveway and it won't be there when the job is completed and there will be only two streets and the one entrance to the main house. Mr. Moore pointed out there will also be a temporary construction entranceway.

Mr. Prosperi reported the present entrance will be closed and a wall will be constructed to match that wall that is there and the ew one will be opened as part of the original subdivision improvements as part of the original subdivision improvements the new entrance will be constructed.

Mrs. Smith asked if the original entrance that we are talking about now not too far south of where the new entrance would be and asked why they couldn't just leave it with the accompanying landscaping as you cut on the interior of the property. She explained what she is trying to do is mitigate the effect of this for years on the neighborhood as they suddenly look at a wide open space, because she had a concern that if it's done in phases, and for some terrible reason Mr. Swanson is unable to complete it, and you try to sell the lots separately and build individual houses that we will be looking at a development that isn't finished and we have many examples of that, for example Lalique in West Palm Beach, it has had three or four owners in five years, it keeps changing and it looks worse and worse.

Mr. Prosperi reported the reason why the entrance was located to the north was to line it up with Casa Bendita, as from a public safety and traffic point of view, it would be better to have it located there. He stated that with respect to the other point, they would be happy to include in any bond the cost of the gate at 135%, so that the Town would have those assurances that it would be completed. She asked what sort of bond will cover this, as she knows they have to put up the letter of credit regarding the proposed improvements and in addition would they need a bond for the building of the houses to avoid the fact that the improvements are in, the land is bare and the only thing left standing is Bob and Susie's house? Mr. Prosperi responded they would not. Mrs. Smith asked if they didn't need to have anything to guarantee that this subdivision will take place? Mr. Prosperi responded they have to do something to guarantee the streets will be built, that the utilities will be put in and that that the other public utilities, the public works that they are undertaking to do will be done, but in terms of building the houses on each lot, they don't have to do that.

Mrs. Smith thought in effect they could clean the property, put in the improvements and leave it. Mr. Weinberg asked what she meant by leave it? Mrs. Smith responded they could walk away from it after the property is cleared, put in the roads and leave it open without the vegetation on it, and there would be no guarantee that the financing is in place for the building of these houses and she was worried about it.

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Mr. Prosperi answered there is no guarantee that 33 or 23 houses will be built on the site, and in fact, there may be fewer, as Mr. Swanson tells him that people often buy one, one and a half or two lots, so there could be fewer houses built. He stated it may be that the entrance element will be put in promptly, that all landscaping at the entrance and the fountains will be put in promptly, and that the trees will be relocated. He stated the palm trees will be relocated promptly, the royal palms along the drive, but there is no guarantee that a certain number of houses will be built by a certain day.

Mrs. Smith wanted to know if it would be possible for an owner to come in and pick out two of the lots on Kawama Lane and build one big house there to which Mr. Prosperi responded affirmatively. Mrs. Smith asked if they can be sold separately, could they build their own design to which Mr. Prosperi responded affirmatively. Mrs. Smith noted there then could be less houses on the lots than what they were showing to which Mr. Prosperi responded affirmatively.

Mrs. Royal commented then they have a guarantee that the maximum will not exceed 33, but we have no minimum.

Mrs. Wiener wanted to know if the members of the Council were satisfied that this was the right number of lots?

Mr. Shaw recalled the first thing that was brought up was the lot size.

Mrs. Wiener wanted to know if they were all agreed that this subdivision can have that number, do we feel satisfied that the sizes are large enough that in the event that no one decides to buy a double lot or a lot and a half that we are quite satisfied that these number of lots are appropriate even though we are fully aware that they are almost twice the size of a lot that we would normally have in that area.

Mr. Shaw commented he was not happy with it, and it's not a matter of being satisfied, and he was not trying to get into developers pockets or into the people that are planning to buy the property and build a home, but he was looking at it from the stand point that I'm questioning whether or not someone is going to look to build a home or purchase a home that you are going to build for them on a lot that's 100 feet. He thought there were too many lots and I think that the 100 foot width is an issue for what they are trying to accomplish, and that is a large luxurious Palm Beach style home, as given some of the existing zoning that we have of wanting garages, entrance from the side instead of straight in, set backs, height requirements and he thought they were running into problems and the only way to resolve is to have the 100 foot lot, the ones that are 120 and 130 are not the issue, it's strictly the 100 footers.

Mrs. Wiener indicated what she was trying to do was to get a feeling, a consensus on the number of lots. She reminded them that on North Lake Way on the Lake Trail, there are dozens of homes with 100 foot frontage, and they are certainly Palm Beach type homes, so she didn't think that's what makes it, and a determination should be made whether or not this is the appropriate number of lots.

Mrs. Wiener agreed there were certain things about this that were not her idea of what they should have there, but she personally thought this was one of the best plans and laid out situation that she has seen, and also, she recalled on another project, something else happened and all the people who were howling in the beginning wished that they had gotten what they were howling about in the beginning instead of what they finally got in the end, so just because it's the first dress that we are seeing so to speak, doesn't mean that it's wrong, but I think we need to establish basics about this thing, and the fact that it's the largest piece of property left in the Town doesn't mean that this is a bad project. She recalled on this other piece of property they were going in the right direction and things were fine, and there was a lot of noise and carrying on and now we are in a situation a lot of people seem to be unhappy about, but it's over. She wanted to be sure that this doesn't happen here. She asked again if everyone was in agreement that they had the right number of lots here.

Mrs. Smith indicated she was not saying that there should be less, but in looking at the list of supplementary items, she had some thoughts about the configuration of the lot. Mrs. Wiener asked if she was saying she had no problem with the number to which Mrs. Smith responded no, she has no problem with the subdivision and she didn't know if there should be more or less lots. She mentioned earlier about the landscaping belt on the parameter of the property. She thought perhaps Lot 19 could be expanded into Lot 18; and Lot 1 and 2 could be moved a little bit so that not every lot line is a straight line, recalling Mr. Weinberg also had that concern about every line being straight. She believed they were all straight and all right next to each other and had no character, and she thought it was an important project and she would like to see it have character with some of the lines being moved, so when it comes to the question of being more or less lots, she would like to see it worked into the topography of the property. Mr. Weinberg agreed.

Mr. Prosperi thought the character of this project will be determined by the people who are making very substantial investments in their own home, and will have the ability to buy one lot, two lots or a lot and a half, and in some cases, particularly the early buyers who will be driving the process, and later buyers may find that the only thing available is a lot and a half or two and that's from where the character will come, pointing out this is land that doesn't have the end user personality to it yet, and that is why Mrs. Smith is faulting it. Mrs. Smith stated she was not faulting it, she was questioning it.

Mr. Prosperi thought that when the individuals come who will be buying this property to build their own home on it, the lots will vary more in size. He recalled there were 17 lots are in excess of 100 feet, and even though some of those are lots that the Eigelbergers may keep, there are still a fair number of them, out of them which would be 23 rather than 33 lots which are in excess of 100 feet, and there is a lot of character there.

Mrs. Smith noted the road on the south side is not straight, the road on the north side is straight, and if one weren't looking at a straight road going in you wouldn't be looking into the interior of the property. She stated she was talking about North Lake Way, so if the lots could be moved a bit or reworked in size.

Mr. Prosperi believed it was only one entrance on North Lake Way that had this problem as the other North Lake Way entrance does bend around the trees. Mrs. Smith agreed but thought perhaps they wouldn't have to fill the land in as they were discussing if some of the lots were reworked.

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Mrs. Smith commented the Council doesn't seem to have a problem with the subdivision, and they have heard what we've had to say, and perhaps this should be deferred to next month and then they can come back, get the feeling that perhaps we could defer till next month, and you come back, incorporating the ideas that we have come up with today, but she wanted them to know she was opposed to the gate house. She realized there was one at Sloan's Curve, but that is a PUD development that's multi-family apartment/single houses development.

Mrs. Wiener agreed with Mrs. Smith on the gate, however, if someone came along, and sold part of this, lets say you decided to sell one third of the property, and then they would put in normal straight-like streets, using as an example the Garden of Eden development, which was one large area at one point, not quite as large as this particular property but this is a large piece of land, and it is attractive, and obviously people do not keep this size of properties to themselves anymore, and she noted this is an estate that is being cut up and normally streets are straight so that your fire engines can go in, and all these types of things, and she did not think this was any different. She stated if they want to look at it as one particular subdivision, which term she did not like to use, or do they want to say look at it as having several new streets in the town of Palm Beach. She thought that the gate is what gives them a feeling of some kind of a thing out there, and that's the real problem, as they are not looking at it in the context of what it really is, and what it ought to be.

Mr. Prosperi believed they could certainly restudy the question of the gate structure, but having visited the few friends that live on Island Drive, and they have a car that sits there and provides security for Island Road. He knew also on Ibis Isle, there is a gate house. Mr. Weinberg explained the Ibis Isle gate house is not used. Mrs. Smith agreed stating it was empty and there are no gates there. Mr. Prosperi stated they would restudy it and perhaps they could eliminate the gate, but wondered if they could have security personnel in one of the buildings there, which would primarily be a property owner's association off to the side. Mrs. Smith stated they haven't gotten to the buildings yet, to which Mr. Prosperi responded they would have a very useful function.

Mrs. Smith thought they should be put on the inside. She didn't want to argue with him, but the front entrance and gate and guard house and storage buildings all needed to be restudied in such a way that it would be more compatible. She thought the reason that we are all so concerned about this, is because this is the best, and the biggest subdivision we are doing, and obviously it has the Phipps name on it, so they want it to be the best, as that is what people would expect. Mrs. Smith made a motion to defer it till next month, so they don't sit here and have it appear that she is arguing with them on the concept of the storage buildings or the association. She didn't believe there was going to be an association for years because it's going to take several years to do the improvements and build the houses.

Mrs. Wiener wondered whether they could look at it the way she was talking about it, in a realistic manner, and know that streets are straight, and maybe they could understand along with us that there is no reason for security buildings there any different than on any other streets in the area.

Mr. Shaw thought there was a reasonable consensus on the individual items, and the one he had a concern about was that North Lake Way is already a difficult street to enter onto, and the preference to exit and enter the property from County Road. He thought that gives support to the feeling that they really don't want to use North Lake Way as a entrance and exit, and since they are planning to have gates that are going to be pressure sensitive, it would mean they want to get out of the property rather than coming into the property. Mr. Prosperi responded with the exception of fire and police personnel. Mr. Shaw commented he would feel a lot more comfortable if those were not actually set up as entrance and exit for the residents, and perhaps what would be more pleasing to the Council, would be if they continued the single entrance that widens up and maybe came together to just a single exit presently where the existing exit is on the property. He realized there may be changes how the lots are broken up, but considering that it's this section that's phase four, he didn't know that it would have a great effect at the onset as to how it would be laid out, and it would satisfy Mrs. Smith's desire not to have straight roads. He stated it eliminates one of the exits onto North Lake, and at the same time if we do leave it as a closed exit you still have a continuous loop which is good for control that you don't have to have everything zigging or making U-turns and going back the other direction, and add a little benefit to the lay out of the property, and alleviates what they all agree to, and that is they don't want the traffic on North Lake, and not have it as a pressure sensitive gate, but have it strictly as a coded emergency gate to be opened and closed by police/fire-rescue, etc, and that would be its' only function.

Mr. Prosperi responded a principal reason why those streets need to exit on North Lake Way is the matter of the cul-de-sac. Mr. Shaw responded he didn't want a cul-de-sac. Mr. Prosperi pointed out the Code would require one, and that is a problem. He thought if it were an emergency exit only type of thing where you couldn't enter enter and we would discourage residents from going out, it might work, as he thought cul-de-sacs were ugly.

Mr. Shaw suggested just creating a circle. Mr. Prosperi did not think that would work as it is the wishes of Mr. & Mrs. Eigelberger to keep their property in tact which he thought the Council should give them the option to do.

Mr. Shaw believed they might be able to replicate what has been done on the County Road side with twenty odd feet or so.

Mr. Prosperi responded the Eigelbergers wish to have their entrance on North Lake Way and keep their property in tact and wish to preserve that option. He thought if they had a loop as suggested by Mr. Shaw, they will be landlocked on North lake Way, and that is why that wasn't done. He respectfully requested that the Estate property be kept in tact.

Mrs. Smith made a motion to defer this matter until next month, incorporating all the remarks and thoughts, not specifically desires that there not be a straight road, but they can tell us whether or not the road could be changed, and this be deferred until the July Meeting. She commented she had the thought that with the concerns about the house appearing too constricted on one hundred foot lots, that they might at that time also have some architectural input from architects who will tell them whether or not the lot sizes would be a problem. Seconded.

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On roll call, the motion carried unanimously.

Mr. Prosperi asked if this would be listed on the agenda earlier or perhaps have a workshop meeting. Mrs. Wiener advised this will be listed earlier in the agenda and she assumed it would be heard in early afternoon. Mrs. Smith suggested it be scheduled for a time certain, like 1:30 PM to which Mrs. Wiener did not agree.

Mr. Moore asked if there was anything else the Council wished the staff to consider. Mrs. Wiener responded this will be coming back next month.

Mr. Shaw asked if it was possible to schedule a special meeting to which Mrs. Wiener did not agree.

XV. ANY OTHER MATTERS - There were none.

Any Other Matters

XVI. ADJOURNMENT - Meeting was adjourned at 9:15 PM.

Adjournment

Grace T. Peters
Town Clerk