

TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL MEETING **HELD ON JUNE 10, 2003**

I. CALL TO ORDER AND ROLL CALL

The regular Town Council Meeting of June 10, 2003, was called to order at 9:30 a.m. by Town Council President William J. Brooks. On roll call the following Elected Officials were found to be present:

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

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

Town Manager Peter B. Elwell
Assistant Town Manager Thomas G. Bradford
Assistant to the Town Manager Sarah Hannah
Town Attorney John Randolph
Police Chief Michael Reiter
Director of Planning, Zoning & Building Robert Moore
Assistant Director of Planning, Zoning & Building Veronica Close
Zoning Administrator Paul Castro
Planning Administrator Tim Frank
Public Works Director Al Dusey
Public Works Assistant Director Paul Brazil
Town Engineer James Bowser
Finance Director Jane Skittone
Assistant Fire-Rescue Chief John Deiorio
Risk Administrator Karen Temme
Information Systems Manager Spencer Wilson
GIS Coordinator Cory Cordero
Town Clerk Mary A. Pollitt

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II. INVOCATION AND PLEDGE OF ALLEGIANCE

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

III. PRESENTATIONS

A. None.

IV. COMMENTS OF MAYOR LESLY S. SMITH

I am going to start by talking about traffic because not only do we debate it and read about it, most of us start our day in the midst of it. I applaud County Commissioner Warren Newell for last week halting the closing of the Forest Hill Boulevard exit –which, with the closing of Southern Boulevard, would have forced I-95 commuters to drive for miles before they could get off to go west. As you know, I have met with West Palm Beach Mayor Lois Frankel – and just last week I met with County Commission Chair Karen Marcus – where the number one topic was how we can coordinate our road rebuilding and repair without driving residents out of their homes – and out of their minds. All I can say is that many of us, at all levels of government, are working diligently to establish better communications – a kind of “early warning system” – and give common sense direction to a process that right now is a clear case of the tail wagging the dog.

One hopeful sign is a report from Town Engineer James Bowser that we are less than four weeks away from a new synchronized traffic signal system for the Okeechobee/Lakeview corridor – from Flagler Drive to Tamarind and Parker Avenue that will greatly improve the flow of traffic across our bridges. We are hoping, as well, that the Coast Guard will work with local officials to delay bridge openings if a train has just passed, to relieve the backup caused by this combination.

Another topic I discussed with Commission Chair Marcus was County help in getting our permit from the State for Phipps Park – which has been delayed time after time due to what looks like purely bureaucratic snafus. Commissioner Marcus is a highly vocal environmentalist and committed to our beachfront restoration projects, and she assured me she will help.

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A long-term proposal on the table, however – the Seafarer Pipeline Project - gives me great concern, and I hope that we – and the County – will subject it to meticulous scrutiny before making a decision. Assistant Town Manager Tom Bradford has done some research since our May meeting, and his findings raise significant red flags.

First, the Wall Street Journal reports that El Paso Gas – the project's initiator – posted a \$394 million first-quarter loss, primarily related to bad investments, restructuring and asset write-downs. This does not make me feel comfortable about handing El Paso \$160 million for a 181-mile pipeline.

Second, the Sun Sentinel reports that El Paso is one of three bidders for a contract with the Bahamian government, which has expressed reservations about the potential of negative environmental impact on its natural habitat. Surely, we should share this concern.

Third, a Palm Beach Post article says that FPL has contracted with another natural gas supplier to serve its new gas-fired generator at Indiantown – the same facility that El Paso says would be its primary source for the gas to be transmitted by the seafarer pipeline. We should think twice about funding, on spec, a potentially hazardous project for which there is no current market. I am sure we will have numerous discussions on this issue as further facts come to light.

A couple of congratulations are in order. first, to our own Police Department Public Information Officer, Janet Kinsella, who was voted the 2003 Public Information officer of the year by the Florida Law Enforcement Public Information Officers Association. Ms. Kinsella was honored for developing the Police Department's Teen Police Academy – which the association cited as not only informing the leaders of tomorrow, but enhancing the department's image and increasing morale. Ms. Kinsella has been with the Palm Beach Police Department for more than 10 years and has been the Public Information Officer for more than a decade. It is especially gratifying when an employee whom we treasure for her creativity and competence is recognized by others. Congratulations, Janet.

Congratulations, albeit somewhat bittersweet, to Palm Beach Public's extraordinary Principal, Marilyn Brady, who next year will move on as Principal at Pinewood Elementary School. Pinewood's gain is a great loss for Palm Beach, and for the thousands of students who have been educated and inspired by Marilyn. When the demise of Palm Beach Public was first rumored, Marilyn immediately sparked a campaign to recognize the school's value – to us and to its students. What she is too modest to say is that much of the credit for making this an exemplary school, and for its role as an integral part of our community, goes to Marilyn. So while we congratulate her

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on a move that will surely bring new challenges and new rewards, we in Palm Beach will miss her.

We have received our first quarterly report on the activities of Palm Beach Cats, the non-profit organization that is addressing our feral cat situation in concert with the Town. Beth Pouncey and her cadre of volunteers are off to a great start. They are feeding and providing medical care to over 300 cats, are spaying and neutering the adult cats in these colonies, are removing kittens and select adult cats that can be socialized and adopted as house pets, are resolving neighborhood issues that arise between feral cat supporters and objectors, and have collected over \$15,000 of private donations to support these efforts.

Together with the Town staff, PB Cats has reduced a community crisis to an ongoing program of neighborly communication and humane animal population control. Regardless of the state of Florida's unfortunate recent action endorsing a more violent approach on State lands, we are proud of the gentler touch with which we are managing feral cats here in Town. It is a Palm Beach style solution: A compassionate community response that is inclusive, charitable, and – so far – very effective. We intend to stay the course.

I would like to remind everyone of the Town's upcoming 4th of July celebration. It will be held at Bradley Park on Friday, July 4th, from 6:30 - 9:00 p.m.

We have a fun filled event planned again this year with great food, games, and entertainment for all ages. I hope to see you there!

And finally for those that may have missed Saturday's article in the Palm Beach Post, the heading was "Palm Beach Chosen as America's Best". the July issue of the Robb report cites Palm Beach's culture, shopping, dining, and golf as obvious reasons it has picked the Town of Palm each as "America's Best Place to Live". I will certainly second that!

V. APPROVAL OF AGENDA

The following amendments were made to the agenda:

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REMOVE from the Consent Agenda, Architectural Commission items B32-03 and B36-03 to be heard as Development Review items XI.A.1 and XI.A.2;

Councilman McLendon moved approval of the removal of Item E. (specifically items B32-02 and B36-03 as contained therein) from the Consent Agenda to be heard on the Regular Agenda as Items XI. A. 1 and XI. A. 2. The motion was seconded by President Pro-Tem Goldblum. On roll call the motion carried 4/1, with Councilman Wyett casting a dissenting vote.

DEFER Item Number XI.C.1.a., Variance No. 6-2003, to the August 12, 2003, Town Council meeting;

Motion made by Councilman McLendon, seconded by President Pro-Tem Goldblum to defer Item XI. C.1.a., Variance No. 6-2003, to the August 12, 2003, Town Council Meeting. The motion was seconded by President Pro-Tem Goldblum. On roll call the motion carried 4/1, with Councilman Wyett casting a dissenting vote.

TIME CERTAIN Item Number XI.C.3., Other a. to be heard at 4:00 p.m. or shortly thereafter.

President Pro-Tem Goldblum moved approval of a time certain (4:00 p.m.) for Item XI.C.3. to be heard. The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

The Agenda was approved, as amended, through motion of President Pro-Tem Goldblum, seconded by Councilman Wyett, and carrying unanimously on roll call.

**VI. COMMUNICATIONS FROM CITIZENS – 3 MINUTE LIMIT PLEASE
(Another Opportunity for Communications From Citizens Will be Offered
Immediately After the Lunch Break)**

Mr. Eric Gilbertson, 151 Chilean, addressed the Town Council regarding past and present millage rates, the tax rate, and the lack of pedestrian cross-walks on South Ocean Boulevard.

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VII. CONSENT AGENDA

- A. APPROVAL OF PUBLIC WORKS COMMITTEE MEETING MINUTES FOR THE MEETING ON MAY 12, 2003. *(Please see report in its entirety immediately following the Consent Agenda items).*
- B. APPROVAL OF TOWN COUNCIL MEETING MINUTES FOR THE MEETING ON MAY 13, 2003.
- C. APPROVAL OF SPECIAL TOWN COUNCIL MEETING MINUTES FOR THE MEETING ON MAY 13, 2003. (COMPREHENSIVE PLAN).
- D. APPROVAL OF SPECIAL TOWN COUNCIL MEETING MINUTES FOR THE MEETING ON MAY 13, 2003. (ATTORNEY/CLIENT CLOSED DOOR SESSION).
- E. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL COMMISSION AT ITS MEETING ON MAY 28, 2003. *(Items B32-03 and B36-03 were removed from the Major Matters to be considered as Development Review items XI.A.1 and XI.A.2)*
- F. RESOLUTIONS
 - 1. Resolution No. 16-03 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving Amendments To The School Concurrency Interlocal Agreement. [Timothy M. Frank, Planner/Projects Coordinator]
 - 2. Resolution No. 17-03 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving Amendment No. 2 to a Previously Approved Grant Agreement, FDEP Contract No. 00PB1, Between the State of Florida Department of Environmental Protection and the Town of Palm Beach Under the Florida Beach Erosion Control Program for the Project Known as the Palm Beach Island Beach Restoration Project, and Authorizing the Town Council President to Execute Same on Behalf of the Town. [Albert P. Dusey, Director of Public Works]
 - 3. Resolution No. 19-03 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Execution of a Maintenance Memorandum of Agreement

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Between the Florida Department of Transportation and the Town of Palm Beach for Maintenance of Hardscape Within the Medians and Areas Outside the Travel Way to the Right-of-Way Line on State Road A1A (Royal Poinciana Way) Lying Between Flagler Memorial Bridge and South County Road in the Town of Palm Beach, Florida. [Albert P. Dusey, Director of Public Works]

4. Resolution No. 20-03 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Adopting an Amended Statement of Investment Policy for the General Employee Board of Trustees of the Town of Palm Beach Retirement System Pursuant to Section 82-95(b) of the Code of Ordinances of the Town of Palm Beach and Providing an Effective Date. [William C. Crouse, Director of Human Resources]
5. Resolution No. 21-03 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Establishing the Preliminary Non-Ad Valorem Assessment Rates for Commercial Solid Waste Collection; Providing an Effective Date. [Albert P. Dusey, Director of Public Works]

F. OTHER

1. Authorization to Prepare an Ordinance Changing the Name of the "Zoning Commission" to the "Planning and Zoning Commission." [Peter B. Elwell, Town Manager]
2. Approval of an Additional One Year Extension of Lease Agreement for the Royal Poinciana Theatre to Continue its Wednesday Matinee Program Through the 2003/2004 Season. [Peter B. Elwell, Town Manager]
3. Approval of Settlement of a Claim Pursuant to Memorandum Dated June 3, 2003, from Risk Manager Karen Temme. [Peter B. Elwell, Town Manager]

The Consent Agenda was approved, as amended, through motion of Councilman Wyett, seconded by Councilman McDonald. The motion carried unanimously on roll call.

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**REPORT OF THE PUBLIC WORKS COMMITTEE MEETING HELD ON MAY 12,
2003**

I. CALL TO ORDER AND ROLL CALL

The Public Works Committee meeting was called to order at 1:45 p.m. by Chairman Samuel C. McLendon in the Town Council Chambers. On roll call, Chairman McLendon and Committee Member Allen S. Wyett were present. Elected Officials, Town Council President William J. Brooks and Town Council President Pro-Tem Norman P. Goldblum were present. Also attending the meeting were: Town Manager Peter B. Elwell, Public Works Director Albert P. Dusey, Assistant Public Works Director Paul Brazil, Town Attorney John C. Randolph, and Town Clerk Mary A. Pollitt.

II. APPROVAL OF AGENDA

The agenda was approved as presented.

III. DISCUSSION OF EMERGENCY WATER SUPPLY SYSTEM OPTIONS

Chairman McLendon said the primary purpose of the meeting was to discuss the pros and cons of the safety of the drinking water supply and emergency planning. He mentioned his handout on Considerations for Safe Drinking Water that he distributed at the beginning of the meeting.

Mr. McLendon recognized the City of West Palm Beach's Director of Utilities, Ken Rearden.

Mr. Rearden reported the City of West Palm Beach has been under a high surveillance risk assessment on the water supply system since September 11, 2001, including purchasing a helicopter that surveys the system four times per day. He continued that high-tech monitoring equipment has been purchased including inter-connects with all neighboring cities allowing transfers to areas that may be affected by an emergency. He added that the City of West Palm Beach has a Homeland Security Task Force that meets monthly, and the City of West Palm Beach is 'on top' of situations and will help any affected neighboring community during emergencies.

Mr. McLendon, referring to an emergency reverse osmosis water system in conjunction with local golf clubs, said bottled water stocked by the Town's residents would be preferable to a limited r-o distribution system.

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Mr. Reardon, responding to Mr. Wyett's concerns regarding terrorists actions pertaining to the water system, said the water is sampled on a daily basis, not only at the water plant but in remote areas of the system, and the intention is to isolate the area where the contaminates are introduced into the system. He continued the contaminated water would be pumped out of the system, and new transmission lines would be installed if necessary. He added that the employees have been trained to deal with these methods, and a large quantity, truckloads, of contaminant would be required to compromise a system the size of West Palm Beach's.

Mr. Reardon said the system has a 10 million gallon/day standby well fill that would be activated and pumped into the "M" Canal system with an additional alternative of an 8 million/gallon/day aquifer storage-recovery well located on the Water Plant site. He explained that in an emergency if the lakes are contaminated, water could be drawn directly from the aquifer to the water treatment plant plus the inter-connect systems with Palm Beach County, Riviera Beach, Lake Worth, and Royal Palm Beach would allow transfer of water between communities.

Mr. Wyett asked what the average water usage was currently.

Mr. Reardon responded it was between 26 and 28 MGD depending on the day and the weather.

Mr. Wyett noted that the system had approximately a 1/3 reserve without considering the neighbors plus 8 million in an emergency situation.

Mr. Reardon said in an emergency situation, residents would not be without water but would be on a restricted basis with irrigation needs being reduced significantly. He said the system has seven re-pump stations and everyone needs to be aware of any unusual activities; however, those stations are manned 24 hours per day, seven days per week, and have surveillance cameras and intrusion alarms on them.

Public Works Director Dusey asked Mr. Reardon if the plant were no longer able to treat water, could the plant be isolated from the rest of the system sufficiently to allow pass-through of water.

Mr. Reardon responded that is possible because each of the transmission mains have isolation valves at the plant boundaries, and the plant can be isolated if necessary.

Town Manager Elwell reported that the Strategic Planning Board recommended that the water issue be addressed with the intention that the Town be properly protected in the future for the worse case scenario that might come to pass. He reported the

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consideration of the issue has been expedited because of the sense of urgency that all actions that can prudently be taken related to homeland security are being taken.

Mr. Elwell explained the proposal was meant to be a case of learning everything the Town needed to know to position the Town to be able to rapidly implement a system which may or may not require some infrastructure to be built. He continued the Board's recommendation was intended to have the three existing reverse osmosis systems at the local private golf courses modified to provide a drinking quality water that could be distributed through the pipes on the Island to provide a minimum supply of water on an emergency basis. He added the Committee members provided additional input, resulting in the scope of issues being considered at this meeting.

After commenting on the possibilities and costs of the Town installing its own reverse osmosis system, Councilman Wyett said he was satisfied with the City of West Palm Beach's actions to protect the water supply for Town residents. He added temporary reverse osmosis facilities could be located in the Town; however, sites with huge underground storage facilities are not easy to find in the Town.

Councilman Goldblum commented on the possibility of buying Army surplus units, bladders, that could be located on flat bed trucks that would provide an emergency water supply in various areas of Town as an option until a permanent water supply could be established and also suggested inquiries should be made regarding the costs of utilizing the three existing reverse osmosis systems in Town.

Mr. Elwell, responding to Mr. Goldblum's comments, said those questions would be or could have been analyzed through a \$21,000 study that would provide cost estimates of changes necessary to the present system. He suggested the Committee could reasonably decide to consider the issue over the next several years as recommended by the Strategic Planning Board; however, staff was prepared to move as quickly as deemed necessary by the Committee and the Town Council.

Mr. McLendon said the Committee lacked sufficient secret information regarding West Palm Beach's plans, and that lack made it difficult to form a recommendation by the Committee.

Mr. Wyett, citing two different scenarios, said the back up water supply system in West Palm Beach could supply sufficient water to Palm Beach in an emergency, but a contaminated distribution system would be a different story.

Mr. Reardon said if there were a terrorist attack and water contamination occurred, the Department of Defense would actually come to the area and take over the operation of the water system utilizing a mobile command system. He added that he

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would expect bladder systems, tank trucks, and different types of water plant systems would be brought into the area.

Alec Flamm, resident, said he agreed with Town Manager Elwell's comments and pointed out the system is working as it is intended to work. Mr. Flamm encouraged the Committee to consider the Strategic Plan section on water issues as follows:

1. The Town examine closely the need for any emergency water supply in the event that something does happen;
2. If the possibility is fairly remote of a terrorist incident, low capital investment should be made and a rapid reaction program should be in effect;
3. In the event of an emergency, the three plants at the various country clubs could be upgraded to provide drinking water.

Mr. Wyett said the issue could be reviewed again in six months with West Palm Beach as the City updates the system. He suggested tabling the issue for six months within the scope of the Strategic Plan and to provide some comfort, perhaps, contacting one of five companies for quotes on an emergency reverse osmosis pallet system. He said 40 foot trailers would have pipes extending into the lake or ocean with reverse osmosis facilities, and as much water could be generated as the Town would want to pay for.

Mr. Goldblum said the Town Council should take a prudent stand; investigate what is available; go forward and not wait, because the citizens demand more than that. He added the cost should be determined and see what happens at that point.

Mr. McLendon asked if Mr. Goldblum was in favor of going ahead with the proposed study at a cost of \$21,000.

Mr. Goldblum responded the \$21,000 would identify the real problems and would remove the guess work from the issue.

Mr. Wyett commented anyone of the five firms who do business on a national basis would give the Town a figure, without charge, of what the costs would be, and no consultant is needed. He added the Town has five crossings from West Palm Beach that serve the residents, and the key for the three local sources, the country clubs, is the distribution system; with a potential source of bladders coming from the federal government.

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Mr. Rearden said water pressure would be a problem using the country club systems and auxiliary pumps would probably be needed.

Mr. Elwell, summarizing the comments of Mr. Flamm, Mr. Wyett, and Mr. Goldblum, said the study would provide the technically determined answers to some of the questions providing the Council information to proceed with a prudent, reasonable approach to protect Town residents on this issue. He suggested if the Committee wanted to proceed with something immediately, the recommendation to the Town Council would be to go ahead with the study. He explained the study includes all of the elements discussed at this meeting with the exception of the bladder trucks with the staff providing information concurrently while the study was undertaken.

Mr. Elwell continued that if the Committee is comfortable that the City of West Palm Beach has taken the necessary steps and is doing everything that can reasonably be done at this moment and wants to revisit the issue in six months or another period of time knowing that staff will remain vigilant and bring forward any information to the Council viewed as critical and needing action sooner than a six month period, then the responsible decision would be a recommendation to the Town Council to continue to monitor the issue, learn what can be learned in six months, and review the issue in November or at another time.

Mr. Wyett said he concurred with the idea of being vigilant, observant, and deferring the issue for six months with a Committee meeting in November or sooner if the information indicates a need for that.

Mr. McLendon said he was not prepared to proceed with the study at this time and the recommendation to the Town Council, made and seconded, was: **RECOMMEND TO THE TOWN COUNCIL THAT A PUBLIC WORKS COMMITTEE MEETING BE HELD IN SIX MONTHS TO REVIEW THE ISSUE OF EMERGENCY WATER SUPPLY OPTIONS OR SOONER IF INFORMATION DICTATES.**

IV. ANY OTHER MATTERS

There were no other matters.

V. ADJOURNMENT

The meeting was adjourned at 2:50 p.m.

Samuel C. McLendon, Chairman

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Allen S. Wyett, Committee Member

VIII. REGULAR AGENDA

A. Old Business

1. Request from John Schuler, Architectural Commission Chairman, to Allow ARCOM to Hear Certain Items Prior to Submittal to the Town Council. [Robert L. Moore, Director of Planning, Zoning, and Building]

Director of Planning, Zoning & Building Robert Moore reported that Architectural Commission (ARCOM) Chairman, John Schuler, had written to the Town Council and the Mayor regarding ARCOM hearing certain items prior to submittal to the Town Council. Staff had outlined the issue in a memorandum dated June 3, 2003, with the recommendation that if an application was identified as being a possible candidate for pre-review by ARCOM or the Landmarks Preservation Commission (LPC), the application could be deferred by the Town Council, and referred to ARCOM or LPC for review. The Mayor and Town Council would then consider the application, with the benefit of comments from ARCOM or LPC, and make the final determination in conjunction with their role as a de facto Zoning Board of Adjustments and Appeals.

Chairman of ARCOM, John Schuler, addressed the Town Council, stating that his main objective had been to relate variances to the projects under consideration. He stated that he believed that the recommendation of staff was a step in the right direction.

Mr. Moore estimated that the new process would entail an additional two week time period for the applicant.

Mayor Smith suggested that projects come to ARCOM for review before going to the Town Council. She explained that in her experience, at least 60% of the projects were redesigned, with the assistance of ARCOM, many times eliminating the need for variances. She suggested that, in the interest of time, staff identify difficult projects that could be sent to ARCOM and/or LPC before being reviewed by the Town Council, rather than the Town Council deferring the application to ARCOM or LPC.

Councilman Wyett commented that when he had been a member of ARCOM, the present system was used, and many times it was a disadvantage because applicants were

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not able to receive the advice of ARCOM prior to submitting applications to the Town Council.

President Brooks commented that it was sometimes difficult to find a hardship in variance requests, and that another layer of review may help speed the process.

Town Manager Elwell commented that the key to the success of the proposed modified system was in the criteria that would be established for determining which applications would come to the Town Council with a recommendation for deferral. He clarified that if the concept was acceptable to the Town Council today, staff would return with some more specific recommendations.

Councilman McDonald suggested that adding an extra layer of review may not be preferable in streamlining the system. He suggested a proposal be presented that would address all of the relevant issues.

Mr. Moore replied that he would like to take some time to work with the chairmen of ARCOM and LPC to create a proposal that would work well for both staff and the commissions. He requested that the issue be discussed at the August 12, 2003, Town Council meeting.

B. New Business

1. Resolution No. 18-03 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Establishing a Single Unified List of Town of Palm Beach Street Names for the Town's Geographic Information System and All Other Purposes.
[Peter B. Elwell, Town Manager]

Town Manager Elwell reported that the Town's Geographic Information System (GIS) would make it possible for the public, as well as staff, to gain access to information about the Town more quickly and in greater detail than has been available in the past. He explained that it was necessary to have one set of street names and spellings for all of the streets, since without such unification, the layers of infrastructure and information would not be as useful. Two streets were as yet unresolved – Chilean Avenue – inconsistency between C-h-i-l-i-a-n and C-h-i-l-e-a-n. Staff recommended Chilean with an "e." Golfview and Golf Road were also inconsistent, and staff recommended that "Golfview" be used. All property owners on the two streets in question had been notified of Resolution No. 18-03 and the recommendations of staff.

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Town Attorney Randolph read Resolution No. 18-03 by title, as printed above.

Councilman McLendon moved approval of Resolution No. 18-03, as recommended by staff. The motion was seconded by President Pro-Tem Goldblum. On roll call the motion carried unanimously.

2. Emergency Traffic Signal for New Central Fire Station.
[Albert P. Dusey, Director of Public Works]

Public Works Director Al Dusey reported that an emergency traffic signal for the new Central Fire Station had been part of the project since its inception, however, it had not as yet been brought before the Mayor and Town Council for approval. Staff recommended approval of the installation of the traffic signal.

In response to Councilman McDonald, Mr. Dusey replied that every time there was a call to leave the station, the traffic signal would be automatically activated; when the trucks returned from a call they would have to back into the station, at which time the traffic signal would again be activated.

Assistant Chief Deiorio responded that the number of times the vehicles would be in and out would vary according to the season. He estimated that it would take approximately 40 seconds to one minutes to back the vehicles into the station.

In response to Mayor Smith, Mr. Dusey replied that staff would investigate the possibility of obtaining a regular traffic signal at the South Fire Station.

Councilman Wyett moved approval of the emergency traffic signal for the new Central Fire Station. The motion was seconded by President Pro-Tem Goldblum. On roll call the motion carried unanimously.

3. Planning for the Possible Burying of Overhead Utility Facilities
Along Royal Poinciana Way.
[Albert P. Dusey, Director of Public Works]

Town Engineer Bowser reported that staff had begun discussions with Florida Power & Light (FP & L) concerning burying lines along Royal Poinciana Way. FP & L had indicated that there were plans to replace existing wires on Royal Poinciana Way through a reconductoring project. Staff had discussed the possibility of burying lines in lieu of reconductoring. FP & L had indicated that they would be willing to delay the

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project, applying the reconductoring funding of approximately \$40,000 to an underground project for the Town, if the work could be completed by November 15, 2003. He explained that was not possible, and FP & L would go ahead with the reconductoring project. Discussion had taken place with FP & L and The Breakers, the primary property owner in the area, and The Breakers had indicated that they were willing to grant easements for the wires and cabinets. There were other entities involved as well, and Mr. Bowser requested direction from the Town Council regarding the interest in the continuation of exploration of the underground wiring. He estimated that staff could return in 90 days or less to report with a more definitive proposal. He noted that the earliest that the Town would be able to put in a large conduiting project would be coincident with the Florida Department of Transportation (FDOT) project on Royal Poinciana Way in 2004, which may create more chaos than necessary. He suggested that perhaps some conduiting could be installed under the roads during that construction, so that a project could be undertaken in 2005.

Town Manager Elwell stated that installing the conduits on Royal Poinciana Way during the 2004 project for the north/south would allow staff the opportunity to work with FP & L, FDOT, and any other entities involved. The direction of Town Council today would allow staff to move forward to provide definitive details concerning costs.

Mr. Ned Barnes, President & Chief Operating Officer of the Palm Beach Civic Association, addressed the Town Council, stating that there was great interest in the project; the Civic Association had met with FP & L personnel, who had indicated that a personal contact would be provided. He suggested that it may be possible for the Town to utilize the \$40,000 reconductoring funding, and stated that the Palm Beach Civic Association would be willing to help.

Mr. Elwell noted that staff was working on the plan for addressing state roads, and then the preparation of a plan for Townwide undergrounding.

Councilman Wyett moved approval of staff continuing to explore the underground wiring project, projected for 2005, and return within 90 days with a detailed report. The motion was seconded by President Pro-Tem Goldblum. On roll call the motion carried unanimously.

In response to President Pro-Tem Goldblum, Assistant Town Manager Bradford stated that staff had focused on the grants from the National Historic Trust, that had to do with historic preservation. A grant source had not been identified relative to the state road portion of the project. He noted that once the scope of work relative to the state road was confirmed, the grant situation would be revisited.

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President Brooks noted that the first step in a long journey had been taken, and it should be kept in mind that the burying of overhead utility facilities would not happen overnight.

4. Par 3 Golf Course Alternative Water Supply.
[Albert P. Dusey, Director of Public Works]

Town Engineer Bowser reported that the Town Council had authorized the pursuing of grants to build an alternative water supply for the Par 3 Golf Course, and a grant in the amount of \$150,000 had been obtained; additional grants were being applied for through Hartman and Associates (HAI). He pointed out that a condition of the \$150,000 grant obtained from the South Florida Water Management District (SFWMD) was that permit applications be submitted by September 30, 2003. He requested concurrence of the Town Council that the project be continued, and that the expenditure of \$35,900 be authorized towards the preparation and submittal of the permit applications relative to the Par 3 Golf Course alternative water supply. He stated that a cross analysis had indicated that the system would pay for itself in just under 12 years, with the \$150,000 grant already obtained.

Councilman Wyett remarked that a 12-year payback was a long payback; most plans of this sort should have a much shorter payback; without the additional grants the procedure was very costly, as were maintenance costs.

Town Manger Elwell commented that Mr. Hartman had made general inquiries at the federal level, however, the \$150,000 grant from the South Florida Water Management was firm.

In response to Councilman McLendon, Mr. Bowser confirmed that staff was continuing to exam lowering the water usage at the Par 3 Golf Course.

After discussion, President Pro-Tem Goldblum moved approval of the expenditure of \$39,500 from the Capital Improvement Fund contingency towards the preparation and submittal of the required permit applications for the Par 3 Golf Course Alternative Water Supply System. The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

5. Code Enforcement Board Appointments.
[Robert L. Moore, Director of Planning, Zoning, and Building]

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After casting ballots, the Town Council appointed Larry Ochstein as an alternative member to the Code Enforcement Board.

6. Landmarks Preservation Commission Appointments.
[Robert L. Moore, Director of Planning, Zoning, and Building]

After casting ballots, the Town Council appointed Robert Eigelberger as an alternate member to the Landmarks Preservation Commission.

IX. ORDINANCES

A. Second Reading

1. None.

B. First Reading

1. Ordinance No. 12-03 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 118 by Adding Article VI, Division 160, "Speed Regulations" to Establish the Default Speed Limit on Town Streets and to Provide for Future Speed Limit Alterations; Providing for Codification; Providing for Repeal of any Ordinance in Conflict; Providing for Severability; Providing an Effective Date. [Albert P. Dusey, Director of Public Works]

Town Attorney Randolph read Ordinance No. 12-03 by title, as printed above.

Public Works Director Dusey reported that the speed limit study had been approved by the Town Council at its last meeting, and Ordinance No. 12-03 established the approval made at that meeting.

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

X. COMMENTS OF TOWN COUNCIL MEMBERS & TOWN MANAGER

Councilman McDonald questioned the schedule for the Bath & Tennis Club's project to improve the appearance of its loading dock.

Mr. Moore replied the Club is pulling permits from the DOT, and construction will be undertaken over the summer months as requested. An update will be forthcoming at a later Town Council meeting.

Councilman McDonald requested a written update be provided to the Council regarding the refunding of impact fees.

Councilman McDonald expressed concern regarding State legislation allowing the Florida Department of Transportation (FDOT) to override local ordinances and regulations. Town Manager Elwell commented that there had been a strong argument to veto the legislation allowing the state to ignore municipal restrictions on state roadway improvements. He noted that he did not believe that the legislation would affect signed agreements with the FDOT regarding local projects. In response to Councilman McDonald regarding how the Town could have input on legislation. Town Attorney Randolph explained that it would be necessary to have a lobbyist on hand.

Councilman McDonald expressed concern regarding the tree trimming on Royal Poinciana Way, and stated that the Asplundh Company should be banned from doing business in Town for one year after the negligent trimming of the palm trees on Royal Poinciana Way.

Councilman Wyett complimented the Public Works Department on their handling of the projects on North Lake Way.

XI. DEVELOPMENT REVIEWS

A. Appeals

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1. Appeal of the ARCOM's Decision on May 28, 2003,
Regarding Application #B36-03, 221A Worth Avenue.
[L. Frank Chopin, Esq.]

Ex-parte communication was declared by Councilman McLendon via a meeting with Architect Smith and Attorney Frank Chopin; by President Pro-Tem McLendon with Architect Smith and Attorney Chopin; by President Brooks via a meeting with Architect Smith and Attorney Chopin at the original presentation for the May Town Council meeting, and a meeting with Architect Smith since that time.

Attorney Frank Chopin, on behalf of 221A Worth Avenue, Love LLC, addressed the Town Council, stating that an appeal was being made of the Architectural Review Commission (ARCOM) decision regarding the building design. He provided architectural renderings of the proposed building, noting that the application had been approved by the Town Council, however, thereafter ARCOM had approved the building with the proviso that the barrel clay hyped roof be replaced with a flat roof. He requested that the building be approved as it was presented to the Town Council last month. He noted that the building had been designed specifically to conform to the Worth Avenue Guidelines, which had been approved by the Town Council. He explained that the objection from some ARCOM members had been that the building was dissimilar from others in the area. He exhibited photographs indicating that there were many barrel tile hyped roofs, and suggested that the flat roof required by ARCOM was contrary to the Worth Avenue Design Guidelines.

Planning Administrator Tim Frank addressed the Town Council, stating that he would provide a general consensus of ARCOM. Based on the evidence shown to ARCOM, he recalled that the elevation drawings had not shown a pitched roof variety in the general vicinity. Initially, there had been a motion for deferral, and Attorney Chopin had objected. Another motion had then been offered, with approval providing there was a change to some sort of flat roof configuration, to be presented to staff and perhaps some representative of ARCOM. He advised that ARCOM had collectively felt that the proposed plan was too small in scale, and too dissimilar in context with its surroundings. He explained that the drawings presented to ARCOM had indicated that all of the surrounding structures had flat roofs.

Mr. Moore explained that Attorney Chopin had expressed concern that there was a limited window of opportunity to build on Worth Avenue, which were the dates of May 1st through November 1st. Therefore, the concept was to approve with a flat roof so the permit could be processed, with the understanding that Attorney Chopin would seek the opinion of the Town Council.

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Councilman McDonald commented that the drawings presented today were more comprehensive than those presented to ARCOM, which may have put ARCOM at a disadvantage in evaluating the project.

Attorney Chopin maintained that he had presented a streetscape of the property at the ARCOM meeting, and that he would provide the photographs that he had provided to ARCOM. He read from a verbatim transcript of the ARCOM meeting:

Mr. Adams: Yes, and you didn't photograph one of the things which would support this project across the street. There is another very tall, narrow, next to Cartier, it's adjoined practically, it is adjoined.

Attorney Chopin maintained that the point was that ARCOM members were, in fact, aware that there were hyped, barrel clay roofs on Worth Avenue, and Mr. Adams had pointed out that the applicant had not done a thorough job in taking photographs of all of those types of roofs that existed on Worth Avenue.

Mayor Smith commented that every member of ARCOM could visit the site in order to know exactly what they were evaluating; in addition, there were Worth Avenue guidelines to consider. She stated that she believed the design was excellent and should be an inspiration to the other stores on Worth Avenue; she supported approval of the project.

Councilman Wyett stated that he agreed with Mayor Smith, and moved to grant the appeal of the decision of ARCOM on May 28, 2003, regarding 221A Worth Avenue. The motion was seconded by President Pro-Tem Goldblum. On roll call the motion carried unanimously.

2. Appeal of Administrative Decision to Require the Applicant to Seek Town Council Approval of a Time Extension for Site Plan Review # 8-2001, the Sea Lord Hotel Property.

[James R. Brindell, Esq.]

Note: If the applicant's appeal is not granted by the Town Council, the applicant will seek a time extension under Item XI. B. 1. immediately below.

Attorney James Brindell, on behalf of the applicant, SLM Palm Beach Associates, L.P., explained the status of the property in question: Demolition had been approved by the Architectural Commission (ARCOM) on May 28, 2003, as were the plans for the new

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buildings. The demolition application was filed on June 3, 2003, and there was an asbestos removal project as a part of that; a contract had been signed with the asbestos removal company, who had given the required ten days notice to all environmental agencies. That notice would expire on June 13, 2003, and the asbestos removal would begin on Monday, and was expected to take approximately two weeks. The required surety had been posted with the Town. Mr. Brindell advised that the demolition would be finished in July, and there would be no objection to a deferral until the August Town Council meeting, in order to provide the opportunity for the Town Council to see that the work was completed.

Director of Planning, Zoning & Building Robert Moore commented that staff recommended approval for the demolition; once the demolition was completed, the applicant could return to the Town Council in August for a final review, and for approval of the apartment building which would be built. He explained that because there had been a problem in the past with the property, the lender had stepped forward and a bond had been posted.

Councilman Wyett moved approval of the demolition of the current building, and deferred approval of the new apartment building until the August 12, 2003, Town Council meeting. The motion was seconded by President Pro-Tem Goldblum. On roll call the motion carried unanimously.

B. Time Extensions

1. Request for Time Extension for Site Plan Review #8-2001, the Sea Lord Hotel Property.

[James R. Brindell, Esq.]

Note: If the applicant's appeal under Item XI. A. 2., immediately above, is granted by the Town Council, this request for time extension will be moot and this item will be removed from the agenda.

C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

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- a. VARIANCE NO. 6-2003 The application of First Allied Jacksonville Corporation (Malcolm Glazer, President) relative to property described as the lengthy legal description on file; commonly known as 1200 South Ocean Boulevard; located in the R-AA Zoning District. To allow the relocation of the landmarked house to a more westerly location on the subject property requiring a side yard setback (south side) of 19.2 feet in lieu of the 30 feet minimum required by code. (*Deferred From February 11, 2003 Town Council meeting*) **(Request for Deferral to the August 12, 2003, Town Council Meeting per Letter Dated April 30, 2003 from James R. Brindell, Esq.)**

This item was deferred earlier in the meeting, under Item V. Approval of the Agenda.

- b. SITE PLAN REVIEW NO. 15-2002 WITH SPECIAL EXCEPTION, VARIANCES & FLOOD VARIANCE
- (1) The application of F.J.K. Properties, Inc., and F.J.K. Properties III, Inc. - Frederick R. Keitel, President relative to property described as Lot 39, Block E of Revised Map of Royal Park Addition to Palm Beach for the four-story building to be rebuilt and Lot 40, Block E to include the adjacent building that shares parking pursuant to a Declaration of Covenants and Restrictions; commonly known as 230 Royal Palm Way; located in the C-OPI Zoning District. Requesting Site Plan Review with Special Exception and Variances to demolish and rebuild a four-story office building with no increase in the total floor area or gross leasable area to be constructed substantially within the same building footprint as the existing building; variance to allow a 4.5 ft. front setback in lieu of the 21 foot minimum required; variance to allow a zero (0.0') side setback on the east and west property line in lieu of the 21 ft. minimum required; variance to rebuild four stories in lieu of the three-story

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maximum allowed by special exception; variance for a maximum height of 44.17 ft. (as measured from the floor) in lieu of the 35 ft. maximum allowed in the C-OPI zoning district; variance to add an additional four feet of height increasing the total height to 48.17 ft in lieu of the 40 ft. maximum allowed.; variance to have 28.55% lot coverage in lieu of the maximum lot coverage of 25% allowed; variance to have 11.39% landscape open space in lieu of the 30% minimum required and to provide 5% front landscape open space in lieu of the 35% minimum required; variance to provide air conditioning units 8 ft. above the roof in lieu of the 3 ft. maximum allowed; variance to provide 36 off-street parking spaces in lieu of the 61 spaces required; and, a flood variance to maintain the existing first floor elevation at 4.8 ft. NGVD in lieu of the 7.5 ft. NGVD minimum requirement.

*(Deferred From December 10, 2002, February 11, 2003, April 8, 2003, and May 13, 2003 Town Council meetings . **Please note:** When it approved deferral of this item at the May 13th Town Council meeting, the Town Council declared that there will be no additional deferrals of this item.)*

Ex-parte communication was declared by Councilman McLendon via a previous meeting with Attorney Ray Royce; by President Pro-Tem Goldblum via a previous meeting with Attorney Royce; by Councilman Wyett via a previous meeting with Attorney Royce; by Councilman McDonald via a discussion with Mr. Frederick Keitel at the Seaview Tennis Courts, regarding the project; by President Brooks via discussion with Attorney Royce, and via telephone with Mr. Keitel.

Attorney Ray Royce, on behalf of the applicant, addressed the Town Council, stating that the applicant wished to demolish the building at 230 Royal Palm Way, and replace it with a new building that would have the same footprint, number of floors, and square footage, however four feet taller. He explained that the present building had been built approximately 50 years ago, and was not a particularly attractive building, which was also now nonconforming. He exhibited photographs of the present building, noting that the building had eight foot ceilings and was simply outdated and substandard; the proposed building would add one foot to each floor.

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Mr. Royce introduced the owner of the building, Mr. Frederick J. Keitel, who also owned the building adjacent on the west, and the building across the street from the property in question.

Mr. Keitel addressed the Town Council, exhibiting architectural renderings of a proposed building, stating that he had purchased the building in question in approximately 1996. He explained that the ceiling heights of the current building were not commercially acceptable today. He maintained that concerns related to the air conditioning equipment had been addressed. He noted that rather than demolishing the current building, the building could also be left as it was, and have multiple tenants, as opposed to a major institution.

Architect Ed Oliver provided several graphic exhibits of the proposed building at 230 Royal Palm Way, and discussed the impacts to the surrounding properties. He provided a photo essay of the north and south sides of Royal Palm Way. He stated that five of the variances requested were strictly for the property to become conforming. He stated that he believed that the height increase was necessary to modernize the building, and that eight foot ceiling heights were no longer appropriate. He stated that the applicant was also requesting the ability to demolish the structure at one time and to rebuild it at one time. The Code allowed tearing down 50% of the building and then rebuild 50% of it at one time, then working through the rest of the project. He stated that, in earlier conversations with Planning, Zoning & Building Director Robert Moore, he believed it would be appropriate to request a variance allowing the applicant to tear the building down to the ground, and rebuild it at once. He explained that the construction time would be shortened, and the impact would be lessened on Royal Palm Way.

Zoning Administrator Paul Castro commented that the building was in the C-OPI District, which was the Office and Professional Institution Zoning District, and by right, two stories were allowed, 25' in height, with an additional 10' for a pitched roof, and 5' for a parapet type roof. Three stories were allowed by special exception, with a total height of 35', and a pitched roof of 45'. He noted that the current building was a four story building that had been built before the existing code regulations; the proposed building was 12' higher than what would be allowed today. In addition, the existing parking, and the grandfathered parking was 25 parking spaces deficient for the gross leasable area being proposed to be rebuilt on the location. What the applicant was requesting was something far and above what was allowed by Code. He agreed that the applicant could remodel/renovate the building and possibly eliminate a floor, however, staff did not believe the site would support the gross leasable area being recreated. He noted that it was not in compliance with the nonconforming section of the code, which said that if the existing nonconforming building was kept, it must be done in such a way that not more than 50% at a time would be demolished. Staff questioned the hardship as it related to the variances being requested.

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Director of Planning, Building & Zoning Robert Moore stated that he had suggested that the applicant apply for a variance to rebuild the structure completely, rather than doing 50% one year and 50% another year, because he had believed that Royal Palm Way had suffered enough construction. He stated that it would never be his recommendation to rebuild a nonconforming building with a variance. He explained that he had made that crystal clear to both Attorney Royce and Architect Oliver. He explained that if the applicant wanted the higher ceilings, it would be necessary to have a three story building.

Attorney Royce stated that there were many hardships in this case – the 50% rule would constitute a hardship as it would cost more, take longer, and disrupt Royal Palm Way to a greater extent; he maintained that the eight foot ceilings alone could be considered a hardship, as no one wanted to live with eight foot ceilings, and it would be difficult to attract first class tenants; the building had conformed when it was originally built, and subsequent codes had made it nonconforming; the proposed building would certainly improve the image of the street and of the Town, and allow the owner to obtain a reasonable return. He maintained that it would not make sense to set the building back, as now required, because parking would be lost, and the parking had been there for years and years and it worked. From time to time valets were used, and he advised that a condition requiring valets would be acceptable.

Mr. Oliver clarified that Mr. Moore had not intended to give the applicant any direction, other than to suggest a way to tear the building down quicker; it had nothing to do with the merits of the variance, and he wanted to be sure that was clear to the Town Council.

Zoning Administrator Castro clarified that the proposed building would be 12 feet taller than the existing top of the parapet on the existing building. In addition, the roof overhanging Bessemer Trust property would not be allowed.

Mr. Keitel commented that, at great cost, he had emptied the building, in hopes of having the opportunity to rebuild. He stated that he was signed to two, three, and five year leases, so the opportunity to rebuild the building would not come up again for another five years, unless he bought all of the tenants out of their leases for the next few years. He noted that he had signed a client last year that was going to lease the whole building, however, because of economic conditions the client had backed out.

Councilman Wyett commented that the current building was obsolete, however, parking was still a problem. He suggested that the applicant consider a three story building with higher ceilings.

President Brooks commented that he was concerned with several of the variance requests, however, he agreed that the building was obsolete; he agreed that two or three

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stories with higher ceilings may be appropriate, which would alleviate the NGVD problem. He noted that the Town Council could not make a decision based on the economic situation of the applicant.

Mr. Keitel commented that the building could sit there for the next 75 years and make money, however, he could not stand to drive down the street and see that ugly building. He stated that he would not rebuild for three stories, and would leave the building the way it was.

Mr. Oliver addressed the NGVD – he stated that the sidewalk elevation along Royal Palm Way was the elevation at which the first floor would be built; it was identical to what was done in the Brown Brothers Harriman Building; in order to protect the building against rising flood waters, should that occur, the building had to be designed for hydrostatic loads, and also had to be waterproofed. He stated that, from the standpoint of the building and how pedestrians responded to it, he believed that it would be more successful to have the building remain at the current street elevation. He requested approval of all of the variances, with the exception of the variance requesting the additional four feet height increase, with the opportunity to come back and discuss that variance at a later time.

Mayor Smith commented that she still had a problem with the hardship, and that she did not believe that economic reasons were a hardship.

Attorney Royce replied that most of the variances related to issues such as the front yard setback, and the related variance requests were required in order to put the building back in the same place, because the code had changed since the time the building had been built. The variances were required as a technical matter; the central issue in the request was the height increase. He maintained that the hardship related to the land, the building that was currently in place, and the fact that the code had changed since the building had been built.

Mr. Moore commented that it was the recommendation of staff, that if the Town Council wished to grant any of the variances, it be predicated upon the appeal (next item on the Agenda concerning retaining two inches of water) being withdrawn, and that there be no approval of the extra four feet at all.

Attorney Royce requested approval of the request, without the four foot height increase, and with the appeal being dismissed by the applicant.

President Pro-Tem Goldblum moved acceptance of the withdrawal of the appeal, and the demolition taking place all at one time, so that Royal Palm Way was not so severely impacted. The motion died for lack of a second.

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Councilman Wyett moved deferral of Site Plan Review No. 15-2002, so that the applicant would have the opportunity to clarify the project for presentation to the Town Council. The motion died for lack of a second.

President Brooks passed the gavel, and moved denial of Site Plan Review No. 15-2002. The motion was seconded by Councilman McDonald. On roll call the motion carried 3/2, with President Brooks, Councilman McDonald, and President Pro-Tem Goldblum casting affirmative votes; Councilman McLendon and Councilman Wyett casting dissenting votes.

- (2) Appeal of an Administrative Decision Regarding Special Exception 15-2002 (230 Royal Palm Way). [Raymond W. Royce, Esq., Holland & Knight, LLP. *(Deferred From December 10, 2002, February 11, 2003, April 8, 2003, and May 13, 2003 Town Council meetings. Please note: When it approved deferral of this item at the May 13th Town Council meeting, the Town Council declared that there will be no additional deferrals of this item.)*

(The appeal was withdrawn by Attorney Ray Royce per the discussion above.)

**The regular Town Council meeting of June 10, 2003 was adjourned
for the luncheon recess at 12:40 p.m.**

The meeting was reconvened at 2:15 p.m.

2. New Business

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- a. VARIANCE NO. 17-2003 The application of Moshe Scheiner and Nechama Scheiner relative to property described as Lot 47 and the East ½ of Lot 46 of Bungalow Park; commonly known as 230 Park Avenue; located in the R-C Zoning District. To allow construction of a 386 square foot two story addition with a rear yard setback of 6 feet in lieu of the 15 feet required in the R-C Zoning District; and to allow the proposed two story addition to increase lot coverage to 31.5% in lieu of the 30% maximum allowed in the R-C Zoning District. *(Deferred From May 13, 2003 Town Council meeting for Re-advertising)*

Ex-parte communication was declared by Councilman McLendon via a telephone conversation with Attorney Maura Ziska; by President Pro-tem Goldblum via a telephone conversation with Attorney Ziska; President Brooks via conversation with Attorney Maura Ziska.

Attorney Maura Ziska, on behalf of the applicant, addressed the Town Council. She advised that the variance request was being made by Rabbi and Mrs. Scheiner for additional living space needed to accommodate their growing family. She informed the Council that the Scheiners currently have three children with one on the way and plan to have more. She explained that the 386 square foot proposed addition will replace an existing covered patio in the back of the house keeping the green space and lot coverage virtually unchanged. She continued that on the south side, there is landscaping and a walkway that acts as a buffer between the Scheiner's property and the Palm Beach Hotel making the impact very minimal. She stated that the hardship runs with the land which is a non-conforming property size and a non-conforming depth. She said 10,000 square feet is required and only 5,250 exists; 100 feet in depth is required and only 70 feet exists. She advised that there is no adverse effect on the neighborhood and the neighbors support the request. The addition will not be seen from the street.

Director of Planning, Zoning & Building Robert Moore stated that the Comprehensive Plan: demonstrate how the application meets criteria for granting a variance. Building Department: demonstrate hardship; Town Manager: demonstrate hardship.

Councilman Wyett moved approval of Variance No. 17-2003.

President Brooks stated that this is a non-conforming lot which was grandfathered in and this request would add to the non-conformity.

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Ms. Ziska replied that it would encroach into the new setback requirement of 15 feet.

Councilman Mc Lendon seconded the motion. On roll call the motion carried 4/1, with President Brooks casting a dissenting vote.

- b. VARIANCE NO. 20-2003 The application of Thomas Turchan, Jr. and Mimi Turchan relative to property described as Lot 35, Eden Properties; commonly known as 211 Eden Road; located in the R-B Zoning District. To allow construction for a major renovation to the home, expanding the garage area and adding a second story. Variance required for a side setback of 10' (west side) for the garage expansion in lieu of the 12.5' required by code for the one-story portion of a house; and variance required for lot coverage of 30.6% in lieu of the 30% maximum allowed by code for a two story home.

Attorney James Brindell, on behalf of the applicant, addressed the Town Council, stating that the purpose of the variance was two-fold: the first part was to enlarge an existing non-conforming one car garage into a conforming two car garage with the least amount of setback encroachment; and the second part is that the applicant wants to add a second story over the central part of the house. He advised they would be eliminating one of the two curb cuts increasing the landscaped open space from 47.7% to 49.2%. The code requires 40%.

Attorney Brindell said that this exact plan had been approved as a de minimus request by the Town Council in June 8, 1999 and ARCOM on July 28, 1999. He reported that due to the applicants having other personal priorities, the approvals were not exercised at that time.

Attorney Brindell, using visuals, outlined the variance requests and noted that the present CCR is 2.64%. He advised that the requested additions will be 3.95% which is less than the 3.96% that the Code requires. He continued that the hardship is that the property is non-conforming with respect to the garage. He stated that the existing house has had the same location as when it was built and sits on lot lines that have a 10 foot side yard setback and do not extend beyond the existing line of the building.

Architect Jacquie Albarran explained that their request is for a two car garage because the existing garage is a 1 ¼ - 1 ½ car garage with only one door with no space

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for a second car. She stated that minimal changes will be made in order to make it a two car garage, and the entire front is concrete and will be made into a garden.

Attorney Brindell advised that the drainage standards will be met.

Director of Planning, Zoning & Building Robert Moore gave the following staff comments from the Application Review Sheet: Comprehensive Plan: should demonstrate how proposal meets criteria for granting a variance. Building Department: demonstrate hardship; Town Manager: demonstrate hardship.

Director Moore stated the variance request has remained the same as the last time they came before Council four years ago. He commented that, at that time, the Building Department requested that they demonstrate hardship. He continued that the side yard setbacks were existing and conforming when the home was built; however, the front yard is really the problem.

Ms. Albarran responded that it is just the side area and the front is fine.

Attorney Brindell stated it is just a matter of extending the line that exists. There is no front yard setback issue.

Director Moore stated that a hardship was found last time they were before the Council and nothing has changed now other than a different Council.

After further discussion, Councilman McDonald moved approval of Variance No. 20-2003. The motion was seconded by Councilman Wyett. On roll call the motion carried 5/0.

- c. VARIANCE NO. 21-2003 The application of Bishop, Wilder and Jason Regalbuto relative to property described as Lots 173, 175 and the West one-half of Lot 177, Poinciana Park; commonly known as 160 Seabreeze Avenue; located in the R-B Zoning District. To allow construction for a major remodeling of the home which includes changing the architectural style to Georgian. Variance required for side yard setback of 6.49' on the east side for new second floor (to be built over the existing first floor) in lieu of the 15' minimum setback required by code for a two story building; variance for a side yard setback of

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11.46' on the west side for the new second floor (to be built over the first floor) in lieu of the 15' minimum setback required by code for a two story building; and, variance for cubic content ratio of 5.59 in lieu of the 4.23 allowed by code.

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

Attorney James Brindell, on behalf of the applicant, addressed the Town Council, stating that the house in question had been built around 1925 and was in dire need of architectural renovation. He pointed out that most of the work would occur in the rear along existing lot lines, and the plan is to fill in the area between the two balconies giving the house more liveable space. He stated the house currently has about 3,300 square feet not counting the garage which is about 933 square feet. He reported that a total of 354 square feet would be added including the little infill on both floors in the back making the whole second floor addition about 278 square feet.

Attorney Brindell pointed out that the lot is substandard which is not unusual for this neighborhood. He said that at 7,656 square feet, the lot is 23% below code. The lot itself is 62.5 feet wide and 122.5 feet deep. He advised that the width of the lot is 37.5% below code as the lot itself is only 62.5 feet wide and the code requires 100 feet. He noted that the house is set back quite far and that the angle of vision is only 54% out of 100%.

Attorney Brindell advised that two current non-conformities would be eliminated because the open landscaped space would be increased from 31.9% to 40% and the front yard open space would be increased from 28.9% to 40%. He added that the 2" drainage requirement would be met.

Attorney Brindell pointed out that Architect Albarran conducted a study of the 100 block of Seabreeze and that of the nineteen houses on the block, fifteen of those houses exceed the CCR code maximum of 4.23. He stated that even with this addition, ten of the houses would still exceed the cubic content of this house. He noted that the house will be well within the character of the neighborhood in terms of CCR, again mentioning the narrow lots.

Ms. Albarran stated that the house is really tiny and the applicants would like to make it more liveable. She said that they already have a foundation around the rear of the house they can use that protrudes a few feet from the existing second story. She commented that the front is all concrete which not only includes the driveway but the approach between the driveway and the house. She added is 100% hardscape. She advised that it is basically non-conforming on the entire lot including the front so they are

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planning to make it conform not only on the front setback but also the rear. She reported that in order to compensate for what they are being asked to do, an enormous amount of hardscape would be removed.

Attorney Brindell stated that there are three variances, two on the side yard which are a function of the grossly undersized width and then the cubic content variance which is very small 1.36 and is a function of the grossly undersized lot. The lot is undersized by 23%. He advised that the hardship is the undersized width of the lot which leads to the problem of being able to provide the code setbacks. He said they are not asking for a setback beyond the building that exists there now. He continued that the cubic content as a function of the undersized lot is also part of the hardship. He advised there have been no objections from their neighbors.

Ms. Albarran stated that most of that block is above the cubic content being requested. She said they all have the same type of small lots and their houses are already larger in cubic content.

President Brooks asked if the CCR would be exceeded by 20%?

Attorney Brindell stated that it is 5.12 now and it will be 5.59. He continued that there is a sheet of all CCR's in the 100 block which shows that out of nineteen houses, fifteen are in excess of 4.23; ten will still have a CCR greater than this house. This shows it is in character with the neighborhood.

Zoning Administrator Paul Castro commented that in terms of this specific application, the sliding scale is based upon the size of the lots. He stated that extra credit is given for smaller lots in the CCR. The smaller the lot, the more CCR ratio you get. He continued that this house, at this point and time, already exceeds or is close to the maximum CCR allowed. He stated that it is going all the way up to 5.59 which far exceeds the cubic volume allowed for a lot this size. He said that the Building Department is questioning the hardship as it relates to volume for this specific property. He continued that in terms of the side yard setback, the lot is fairly narrow at only 62 – 62 ½ feet wide. He noted that there is some hardship as it relates to that setback, but stated he has difficulty as it relates to the hardship of cubic volume to this house.

Mrs. Albarran felt that the "Sea" streets were separate when the study of cubic content in Palm Beach was conducted because they have larger houses on the smaller streets. She stated that the neighborhood is really above the cubic content that is being requested today. She noted that what they are asking for is in the rear of the house which doesn't affect anyone and which is very necessary for this particular house to work.

Councilman Wyett stated that this application is a good example of why an overlay of the "Sea" streets is not needed. He said each house is unique and

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represents a different problem. He expressed their willingness to help people bring their houses into the twenty-first century and make them liveable. Councilman Wyett made a motion to approve Variance No. 21-2003. The motion died for lack of a second.

President Pro-tem Goldblum asked what the water retention was?

Ms. Albarran said because the green space has been almost doubled, it is designed for two inches.

Councilman Wyett restated the motion to approve Variance No. 21-2003. President Pro-tem Goldblum seconded the motion.

Mayor Smith questioned the bottom set of pictures and what they related to.

Ms. Albarran showed the front of the house pointing out it is all concrete including the driveway and the approach to it. She said that you can see from the photographs that it is a horrible house.

Mayor Smith stated that this is a typical "Sea" street house and noted that the Council has agreed to this type of addition many times. She felt that since they are not tearing down the house, but are renovating an existing structure retaining its character, it is important that the Council go along with this type of project even if the cubic content is increasing,

President Brooks stated that since the style of the architecture is being changed to Georgian, perhaps this should go to ARCOM first for their input.

Mayor Smith suggested that they could approve the footprint of what is going to be done and then send it to ARCOM for the stylistic review.

Councilman Wyett amended his motion to approve the footprint and then send it to ARCOM for the stylistic review. On roll call the motion carried unanimously.

- d. VARIANCE NO. 22-2003 The application of Isabel Furlaud, TR relative to property described as Lot 118 and the South 30 feet of Lot 119 of the Plat of the Mark Rafalsky Tract; commonly known as 745 Hi-Mount Road;

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located in the R-B Zoning District. To allow construction of an infill addition at the kitchen requiring a variance for a side yard setback (south side) of 13.26' in lieu of the 15' minimum required by code; variance for an angle of vision of 106.5° in lieu of the 104° allowed by code; variance for building height plane encroachment of 3.66' for the one story addition (measured from zero datum); variance for lot coverage of 26.85% in lieu of the 25% maximum lot coverage allowed by code; variance for building height of 24.63' for the new addition in lieu of the maximum of 22' allowed by code; and, variance for cubic content ratio of 4.70 in lieu of the 3.85 (+5%) cubic content ratio allowed by code.

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

Attorney James Brindell addressed the Town Council, on behalf of the applicant, stating that the house located at 745 Hi-Mount Road is a John Major house built in 1939. He advised that Architect Gene did an update on the house between 1996 and 1998 that won the Ballinger Award. The house was landmarked in 1999. He reported that this is one of the highest points in Town and the existing finished floor is about 8 feet above the crown of the road which comes up at an angle going toward the north. He explained that the owners are proposing to renovate a small kitchen which currently has an awkward and insufficient layout. He stated that the proposal involves an infill of approximately 143 square feet. He used visual aids to show the proposed renovations. He advised that they cannot expand the kitchen externally because the only place to do that is in the laundry room located on a lower level of the house.

Gene, Architect, reported that he has been working on this house since around 1995. He explained, using visual aids, that the existing kitchen is about 130 square feet in the southwest corner of the building. It is a 13 x 10 clear area with a small little bump out and is limited by the fire place in the living room; by one of the structural bearing walls in the dining room in the back; the stairways down to staff quarters, the outside, and the automobile garage. He advised that leaves no place inside to renovate the kitchen. He stated that the proposal is for an L-shaped addition which is an infill within the boundaries of existing exterior walls of the house and is about 140 square feet. He said it will square it off and give the residents a little nook making it more functional both in terms of cabinet layouts and new appliance sizes and other things that need to fit in there. He stated that is the rationale of the proposal.

Mr. Pandula noted that the façade of the building was land marked in 1999. He said the plan is to keep the house a one story building matching the existing tie beam

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height of 9.2 feet from finished floor. He discussed how he was going to treat this architecturally.

Attorney Brindell advised that Landmarks would have to approve the proposed renovations to the façade.

Attorney Brindell stated that they need a south side yard setback of 13.26 feet in lieu of the required 15 feet. He said this is a variance of 1.74 feet and it has to do with the existing location of the house relative to the south side yard line and the internal layout problem. He relayed that there really is no other way to make this a functional kitchen.

Attorney Brindell stated that a variance is also needed for an angle of vision of 106.5 degrees in lieu the allowed 104 degrees.

Mr. said they want to continue the line of the façade of the building. He advised that architecturally it doesn't make sense to drop it in that extra one foot. He explained it is measured to the overhangs and not the face of the wall so there is a one foot overhang which makes the angle up to 106 degrees from the 104 degrees it's allowed to be.

Attorney Brindell continued that a variance is also needed for a building height plane encroachment of 3.66 feet for the one story addition. He advised that they are 8 feet above the crown of the road.

Mr. stated the height has become an issue because the finished floor of the house is 8 feet above the crown of the road. He noted that all of the individual components of the building are per code if they are measured from a normal data of a finished floor or an elevation of 7.5 feet. He advised that they are not using elements that are taller then allowed and showed the angle they are allowed to have.

Attorney Brindell stated that the hardship is the existing finished floor elevation and pointed to a rise that goes up from the street to the building pad.

Attorney Brindell advised that a variance is also needed for lot coverage of 26.85% in lieu of the allowed 25%, a variance of 1.85%.

Mr. stated that they are not altering the footprint of the major building at all or altering any of the automobile drives or landscaped drives. He advised that it is the lot coverage area, the infill, that is being addressed. He stated that before the project started eight years ago, the owners purchased 30 feet of property to the north, 30 feet by 185 feet, specifically for the purposes of landscaping and to land bank knowing additions would occur later on. He continued that something interesting has happened which could be a poster child for changes in zoning codes. The original lot was 19,000 square feet

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and they bought 5,000 square feet for a total of 24,000. He continued that in the last few years with the 20,000 square foot overlay in the RB District, the allowable lot coverage has gone from 30% to 25%. He stated they would have been better off with 30% at 19,000 square feet as opposed to 25% of 24,000. He said that the net allowable gain after having purchased 5,500 square feet is about 400 square feet. He felt that maybe it was bad luck, but their intent years ago was to think ahead and acquire the property allowing them to make necessary changes. He stressed that the change in the zoning code has put a square footage crunch on them as well as changing their side yard setback from 12.5 feet to 15 feet.

Attorney Brindell continued that a variance is also needed for a building height of 24.63 feet for the kitchen addition in lieu of the allowed 22 feet.

Mr. explained that the reason for this variance also has to do with the 8 feet above crown of road and the allowable roof heights. He stated that they comply in all areas except for the need to take up this 8 foot difference from crown of road to finished floor. He said only a tip of roof is non-conforming.

Mr. Brindell stated this would be an architectural feature subject to Landmarks approval.

Mayor Smith suggested they lower the roof pitch to make it smaller and then a variance would not be needed. She asked if the pitch was the same as the roof to the left of the front door?

Mr. replied that it is the same as what is on the major body of the house. He corrected himself and said that they tried that originally and it looked too flat so they tried the step back roof form as well as the pitch. He advised that Mayor Smith was correct. He said that it is one of those intuitive architectural things that feels better architecturally for the building. He reported that it is critical because the front façade is the only portion of this building that is landmarked so an evaluation was made to go with it.

Mr. Brindell stated that the last variance required is a small variance of 0.85 for a cubic content of 4.70 in lieu of the allowed 3.85. This has to do with the existing configuration of the house and the difference of the internal floor heights resulting in only one place for this notched out area. He felt it was the only effective way to make this kitchen more functional and not very large.

Mr. Brindell stated the problem is the existing height of the ground, and they had to count the dirt under the house is part of the CCR.

Director of Planning, Zoning & Building Robert Moore gave the following staff comments, as submitted on the Application Review Sheet: Comprehensive Plan:

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hardship must be addressed; Building Department: hardship must be addressed; Town Manager: demonstrate hardship. Mr. Moore said it is a case with a very unusual circumstance, this request for a very small addition is triggering many variances. He stated that the ordinance did not take into account de minimis type variances. He advised the only item Mr. did not address was his architectural decision to make the roof a little bit taller than what the corresponding roofs are. He concluded that other than that this is a prime candidate, due to the fact that it is a de minimus type variance, for a very small unit.

President Pro-Tem Goldblum moved approval of Variance No. 22-2003. Councilman McLendon seconded the motion. On roll call the motion carried 5/0.

- e. VARIANCE NO. 23-2003 The application of Leibowitz Realty Group, Inc. relative to property described as Lot 32, Block G, Royal Park Addition; commonly known as 210 Brazilian Avenue; located in the C-TS Zoning District. Variance required to allow a real estate brokerage company, consisting of approximately 1,200 square feet, to be located on the first floor with frontage on and entrance directly onto a sidewalk fronting a roadway.

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

Attorney Leslie R. Evans, on behalf of the Liebowitz Real Estate Group, Inc. and RD of Palm Beach, Inc., addressed the Town Council stating he is requesting a variance to allow a real estate brokerage firm to open up a 1,200 square foot office at 210 Brazilian Avenue. He informed them that he is the owner of this building which was the old Daily News building. He said the property is in a C-TS zoning area and except for the stores that front on South County Road, all of the stores located on the surrounding streets are basically service oriented. He stated that to the west is a gym which has been there at least seven or eight years; to the east is Richard's Barber Shop which has been there for a very long time; and across from it is the Quinn Real Estate Group which has been there for quite a few years.

Mr. Evans advised that the existing hardship is that the building is approximately 79 years old, built in 1924, and was landmarked in 1986. He noted it took him two years to renovate the upstairs, and it was extremely difficult in trying to renovate the downstairs because of the way the building was built. He explained that the walls were difficult to maneuver because they were used as supports for the presses used by the Shiny Sheet. He advised that the last year of renovations was spent restoring the sewers and plumbing on the lower level.

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Mr. Evans stated another problem was that a façade easement was given to the Preservation Foundation which could create problems if an entry is created from the inside. He said that could adversely affect the character of the building.

Mr. Evans stated that next year, with Polly Earl's concurrence, the exterior of the building will be restored. The use is going to change from commercial, which has a 5 to 1 ratio, to office, which has a 4 to 1 ratio. He mentioned there is no parking at the building because none was contemplated when the building was built. He reported that the neighbors support him and there have been no objections. He stated that everything has been done to try and reconfigure the building but it has been extremely difficult. He said that in the four years he has owned the building, he has gone through three tenants because that street does not lend itself to retail.

Director of Planning, Zoning & Building Robert Moore gave the following staff comments, as submitted on the Application Review Sheet: Comprehensive Plan: states it can be located on the second floor; Building Department: hardship must be addressed.

Mr. Moore stated that the C-TS is for a strolling shopping district. He felt Mr. Evans was trying to convey that the original intent of no offices on the first floor was to encourage strolling shopping. He said it was important that if the Council grants Mr. Evans' request, that he understand he will be going from a parking requirement of from 1 for 200 square feet to a parking requirement of 1 for 250 square feet. He stated that there is no parking and that Mr. Evans cannot go back to a retail use at a later date. Mr. Evans would then be forced to ask for a variance for parking because he is going to a lesser use, and it is not a free pass to go back to retail at a future date.

Mr. Evans stated that he understands fully that if he does decide to change it, it would require a variance.

Councilman McDonald asked why it requires a variance and not a special exception?

Mr. Moore stated that it is a location variance. He explained that when non-direct street frontage exists such as across the street where the travel agency and the dry cleaners are located, a special exception is needed, but a variance is needed where there is direct street frontage.

Councilman McDonald asked how far down the street does the C-TS zoning run?

Mr. Moore replied the C-TS zoning runs to the driveway.

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Councilman McDonald wanted to know why the zoning could not be changed, as opposed to applying for a hardship variance.

Mr. Moore replied C-OPI exists only on Royal Palm Way.

Zoning Administrator Paul Castro responded that a provision allowing for offices was put in the Code last year. He said this was done in recognition of the small office spaces that did not have direct frontage on the street. He continued that they recognized that if pedestrians are shopping and strolling along the street, they would not normally walk into a hallway of a building to try to find retail stores. He said that a primary purpose of an office above the first floor was so shops would continuously be seen while strolling down Worth Avenue or County Road to window shop. He said this particular situation was unfortunate because they do have frontage on the street which requires the variance and not a special exception.

After discussion regarding where the occupants of this office would park, Mr. Moore stated there was no parking. Mr. Evans said arrangements for off-site parking would be made.

Councilman Wyett moved approval of Variance No. 23-03.

Mr. McDonald asked if this variance could be limited to just this tenant?

Mr. Moore advised that it could be. He stated that Mr. Randolph, Town Attorney, normally would advise that a reasonable condition could be imposed. He stated that it has been done before with special exception uses such as restaurants where new tenants need to come back to the Town Council to review the conditions.

Councilman Wyett amended his motion to include the condition that the approval is for this one tenant only. Councilman McLendon seconded the motion. On roll call the motion carried 5/0.

3. Other

- a. **[This Item Will Be Considered at 4:00 p.m., or Shortly Thereafter]** Consideration of the Proposed Overlay Zoning District Regulations for the Sea Streets and the Results of the Neighborhood Workshops Conducted by Staff on this Proposal. [Robert L. Moore, Director of Planning, Zoning, and Building]

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Director of Planning, Zoning & Building Robert Moore reported that staff had been directed to study the "Sea" streets, and develop plans for some consideration of the existing narrow lots, the existing construction on the streets, and to bring proposals to the Zoning Commission, as well as the residents on the streets at a workshop. He explained that the workshops had been held, and Zoning Administrator Paul Castro would report on the workshops and the findings that had resulted.

Zoning Administrator Castro reported that the workshops had been held in February, and the purpose had been to provide an opportunity for staff and the architect consultant to show the residents concepts, and to gather resident input on the proposed overlay. At the workshops a survey had been distributed, with self-addressed stamped envelopes to provide return surveys to staff. Approximately 57 residents attended the workshops, out of 191 residents notified, and 20 completed surveys had been received back by staff. He explained that the response to the workshops fell into three different categories: those opposing any change to the streets; those that liked the proposal; and those that thought the proposal was a bit stark, and would like to see certain modifications. The majority thought the proposal was a good start, but were concerned about issues such as maximum lot width requirement, the ability to renovate a house versus construction of a new home. There were a small minority of residents that believed the proposal should not be placed on the three specific streets, and felt that the proposal should not focus on one small area of the R-B Zoning District, as they believed that it would hurt property values. Many of the people returning the surveys felt that the proposal, as presented, fell short of providing regulations that would emulate the character of the street or promote the continued preservation of the streets. Many of the residents felt that the new houses that had been built on the three streets did fit into the character of the streets.

Mr. Castro stated that staff was at a point of looking for direction from the Town Council related to the proposed overlay district. He noted that the Strategic Planning Board had recommended that staff consider the R-B District on a street-by-street basis as it related to the size and scale of houses for each street, and that is something staff would be considering during the 2005 zoning season.

Mr. Keith Jones commented that he had attended the workshops, and read a portion of a letter he had written to the Palm Beach Daily News: "The overlay zoning regulations recommended by the Town staff for the "Sea" streets neighborhood contained two very different sets of proposals. Only by analyzing each set of proposals separately can we see what is right and what is wrong with the recommendation. One set of proposals would relax various existing zoning regulations. For example, the proposals: reduce the current minimum requirements for lot size, lot width, side yard setbacks and rear yard accessory setbacks. Those proposals appear genuinely designed to preserve the character of the neighborhood. They would permit property owners to undertake new construction or major renovation in a manner consistent and harmonious with the present

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configuration of the neighborhood, in which there are many smaller lots with houses, guest houses, and garages set near the property line to maximize both indoor and outdoor use of available space. I support this first set of proposals. The second set of proposals the Town staff has recommended would place special and differing zoning restrictions on "Sea" street properties, burdening those properties with requirements not imposed anywhere else in the Town of Palm Beach. For example: the Town staff proposes a maximum lot width of 100'; a reduction in the maximum building height, and an increase in the rear yard setback. There are several things wrong with these proposals. I won't list everything that is wrong, but will identify two things in particular: in the first place, the Town staff proposals do not achieve their stated aim of preserving and maintaining the character of the "Sea" street neighborhoods. A major virtue of the neighborhood is its diversity, with housing and lots of many varying sizes and styles. The proposals deny this diversity, and would mandate a cookie-cutter approach to all new construction and major renovation. That is a recipe for dreary sameness; not for the diversity and eclecticism that contributes to the successful character of the "Sea" streets today. The second point is that special zoning restrictions imposed uniquely on the "Sea" streets, but nowhere else in Palm Beach will inevitably harm property values in this neighborhood. This is just a simple matter of economics. Property ownership is (unintelligible) ownership of a bundle of legal rights. If some of those rights are taken away, such as the right to build a house of the same height as an existing house there on the street, the owner has suffered a real loss. For the Town to impose such a loss on the residents of one small neighborhood, but on no one else raises a question of constitutional equal protection. The residents of the "Sea" streets should not be subjected to uniquely restrictive zoning requirements. They should not be treated worse than other Town residents."

Mr. Dick Kleid, 2660 S. Ocean Blvd., and member of the Zoning Commission, commented that he, along with one other member of the Commission, voted against the overlay for the "Sea" streets, because he thought it was wrong to single out a few streets in the Town for special treatment. He suggested uniform zoning regulations, and not just an overlay that was carved out for a special area.

Ms. Polly Earl, Executive Director of the Preservation Foundation, commented that the Foundation wholeheartedly supported the effort to study the area and to try to come to terms with the distinctive character of the streets, as it was the character of Palm Beach that had maintained the unique qualities and property values. There had been particular concern about the elevation of smaller lots to a standard for the area. She suggested that making a standard sized lot may be something that would provide extra incentive for developers to come in and create a different style of home in the area. There were also larger properties on the streets, which contribute just as much to the character of the street as the smaller properties. She suggested that diversity was not recognized well enough in the report. She stated, that, in general, the Foundation believed that more study was needed at this point.

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In response to Mayor Smith, Ms. Earl replied that some of the very old fashioned areas in Town may have a slightly different character and perhaps could benefit from a special study. In addition, there was a mid-north area, around Sanford, that appeared to be slightly different in character than the far north.

Planning, Zoning & Building Director Robert Moore commented that there had been diverse opinions heard at the workshops. He explained that staff had offered the proposals to the Zoning Commission in an effort to preserve the character of the streets, and reduce the variance requests. He suggested that any further efforts be conducted on a street-by-street basis.

President Pro-Tem Goldblum suggested that strictly adhering to the current rules and regulations would control improper home sizes and retain the character of the Town.

Councilman Wyett commented that over-regulation could lead to standardization and cookie-cutter architectural design. He suggested careful implementation of the current rules and regulations, rather than further studies.

Ms. Earl commented that reduction of variance requests should not be a goal of a study, as it was an administrative situation, and had nothing to do with studying the character of the streets.

Zoning Administrator Paul Castro commented that staff was pulling together the data on all of the homes that had been built since the sliding scale came into effect. As part of the staff presentation this zoning season, data would be provided about how that was working.

President Brooks recommended that pictures also be presented concerning what had been built before the sliding scale went into effect.

Mayor Smith commented that the study had been done on the proposed overlay zoning district regulations for the "Sea" streets. The Town Council had accepted it for review, and looked forward to seeing the comprehensive study that would be done during the zoning season next year; the Town Council would consider the results of the sliding scale, then match them with the overlay on the "Sea" streets and determine the best way to achieve results.

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- b. Request James R. Brindell, Esq., for a Waiver From Section 42-199, "Hours For Construction Work," of the Town's Code of Ordinances to Complete a Planned Construction Project at The Breakers Hotel.
[Robert L. Moore, Director of Planning, Zoning Building]

(This item was heard out of order, and was addressed before 3. Other a. which was time certain for 4:00.)

Attorney James Brindell, representing The Breakers Hotel, addressed the Town Council, stating that renovations were being planned this summer on the Venetian Ballroom. He requested extended work hours from 7:00 a.m. to 8:00 p.m. with no work on Sundays or holidays.

Discussion took place regarding the installation of fire sprinklers in the Venetian Ballroom during the renovations. The Town Council decided to place this item on the agenda at the July 8, 2003 Town Council Meeting.

President Pro-tem Goldblum moved approval of the request from The Breakers Hotel for a waiver from Section 42-199; 7:00 a.m. to 8:00 p.m. with no work on Sundays or Holidays. The motion was seconded by Councilman McLendon. On roll call the motion carried 5/0.

XII. ANY OTHER MATTERS

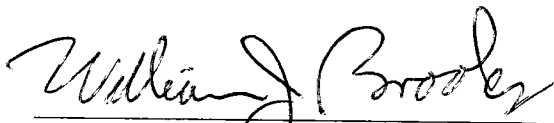
There were none.

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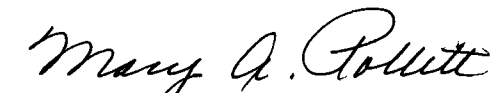
XIII. ADJOURNMENT

The regularly scheduled Town Council Meeting of June 10, 2003, was adjourned at 3:15 p.m. until a time certain of 4:00 p.m., at which time Item XI. C. 3. Other [Consideration of the Proposed Overlay Zoning District Regulations for the Sea Streets and the Results of the Neighborhood Workshops Conducted by Staff on this Proposal] was heard.

There being no further business, the regularly scheduled Town Council meeting of June 10, 2003, was adjourned at 4:30 p.m.



William J. Brooks
Town Council President



Mary A. Pollitt
Town Clerk

