MINUTES OF THE TOWN COUNCIL MEETING HELD ON MAY 14, 1996

I. CALL TO ORDER AND ROLL CALL

The Town Council Meeting was called to order by President Lesly Smith on Tuesday, May 14, 1996 at 9:35 A.M. in the Town Hall Council Chambers. On roll call the following Elected Officials were found to be in attendance: Mayor Paul Ilyinsky; President Lesly Smith, Councilmen Leslie Shaw, Sam McLendon, and Allen Wyett. President Pro-Tem Jack McDonald was absent. Also in attendance were: Town Manager Robert Doney, Assistant Town Manager Peter Elwell, Assistant to the Town Manager Dave Jakubiak, Town Attorney John Randolph, Director of Public Works Al Dusey, Police Chief Joseph Terlizzese, Fire Chief Vincent Elmore, Director of Recreation Russell Bitzer, Recreation Supervisor Leah Rockwell, Risk Manager Barbara Martinuzzi, Finance Director Marie Crozier, Assistant Finance Director Cheryl Somers, Director of Building & Zoning Robert Moore, Zoning Administrator Paul Castro, Planning/Project Coordinator Timothy Frank, Chief Code Compliance Officer Brian House, and Town Clerk Mary Pollitt.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Father Woodcock from St. Edward. President Smith led the Pledge of Allegiance.

III. PRESENTATIONS

A. Recognition of Lindley Hoffman, Architectural Commission from 1993 - 1996

Mayor Ilyinsky presented a plaque to Mr. Hoffman in recognition of his service on the Architectural Commission.

B. Presentation of the Lifeguard Agency Certification from the United States Lifesaving Association to the Town's Beach Patrol

Chief Terlizzese presented the Lifeguard Agency Certification to Beach Patrol Supervisors Mark Hassell, Daniel Kniseley, and John Osborne. Chief Terlizzese added that the certification included accreditation from the United States Life Saving Association, and that there were only three lifeguard units in the entire State of Florida that had been accredited.

C. Retirement of Roy Griffin, Fire-Rescue Lieutenant - 24 Years and 9 Months

Mayor Ilyinsky presented a ring to Lt. Roy Griffin in recognition for his service to the Town of Palm Beach, and wished him good health and happiness in retirement.

IV. COMMENTS OF THE MAYOR

There were none.

V. APPROVAL OF THE AGENDA

The following changes were made to the Regular Agenda:

Defer item XI.C.3, Reconsideration of Variance No. 58-94, to the June 11, 1996, Town Council Meeting.

Withdraw item XIV.C.3, Variance No. 8-96.

Defer item XIV.C.6, Variance No. 12-96, to the June 11, 1996, Town Council Meeting.

Defer item XIV.C.8, Variance No. 14-96, to the June 11, 1996, Town Council Meeting.

Defer item XIV.C.10, Variance No. 16-96, to the June 11, 1996, Town Council Meeting.

Withdraw item XIV.C.11, Variance No. 17-96.

Withdraw item XIV.C.18, Special Exception No. 13-96.

Add item XI.C.8, Consideration of Attendance at the Florida League of Cities August 8-10 Meeting.

Add item XI.C.9, Consideration of Increasing the number of Town Council Meetings.

Add item XI.C.10, Consideration of the Issue of Merchants' Insurance (difficulty in obtaining).

Add item XI.C.11, Consideration of the Implementation of the Independent Auditor's Recommendations.

Add item XI.C.12, Consideration of setting a date for a Special Town Council Meeting Regarding the Mar-a-Lago Club.

Motion to approve the agenda as amended made by Mr. Wyett. The motion was seconded by Mr. McLendon. On roll call, the motion carried unanimously.

Motion to approve the Approved Agenda (Items VI-VII) made by Mr. Wyett. The motion was seconded by Mr. McLendon. On roll call, the motion carried unanimously. The items on the Approved Agenda were as follows:

VI. APPROVAL OF MINUTES OF JANUARY 22, 1996, MARCH 12, 25, AND 27, 1996, AND APRIL 16, 1996

VII. LICENSES AND PERMITS

A. Charitable Solicitations

1. Landmarks Preservation Commission; No. 358-96

B. Licenses and Permits

1. Application for a New 4COP-SRX Alcoholic Beverage License by Mr. Allen W. Heise for 251 Sunrise at 251 Sunrise Ave.

REGULAR AGENDA

VIII. LICENSES AND PERMITS - NONE

IX. PUBLIC HEARINGS

A. Landmark Designation of 16 Golf Road - Consideration of Resolution No. 24-96

Mr. Timothy Frank, Planner/Project Coordinator, addressed the Town Council, stating that staff had found that the subject property met the criteria for designation: meeting Criteria A: exemplifies and reflects the broad cultural, political, economic, or social history of the state, county, or town; Criteria C: embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmanship; Criteria D: representative of the notable work of a master builder, designer, or architect whose individual ability has been recognized, or who influenced his age--in this case it was Marion Syms Wyeth. Mr. Frank verified the proof of publication in this regard.

Mrs. Smith asked if the name of the street had been changed from Golfview Road to Golf Road?

Mr. Frank replied that the plats showed the name as Golf Road, although the road was commonly called Golfview Road.

Mrs. Smith pointed out that the road sign said "Golfview Road" and asked if the sign would be changed to "Golf Road"?

Mr. Moore responded that the plat did say "Golf Road" and that was used for the legal description. Even though the name of the road had been changed at some point in time, the plats had never been changed.

Town Clerk Pollitt swore in all those who would be testifying in the proceedings.

Mr. McLendon asked Mr. Frank how many single family homes were landmarked?

Mr. Frank responded that approximately 200 homes were landmarked.

Mrs. Jane Day addressed the Town Council, stating that the property at 16 Golf Road was designed and built in 1924, with the original owner being Clarence Geist, and the architect being Marion Sims Wyeth, who had developed Golf View Road. The house was important because it fulfilled all of the criteria in the Landmark Ordinance. The original owner, Clarence Geist, was important not only for his association with Palm Beach, but because he had been a financial advisor for the development of Boca Raton. In addition, he had developed the resort of the Seaview Club in Atlantic City. The property was architecturally important because of its style, which was more ornate than some of the other Mediterranean revival style pieces.

Mr. Wyett asked if the material submitted by Mrs. Day was part of the public record?

Mrs. Day responded affirmatively.

Mr. Wyett submitted that several residents had been offended by the addition of the sentence, "In addition to the membership at the Everglades Club, the Geists were members of the Bath and Tennis Club." He suggested that the sentence had no bearing on the landmarking of the property.

Mrs. Day replied that she would be happy to eliminate the sentence.

Mr. Shaw made a motion to make the designation report, as amended, part of the record. The motion was seconded by Mr. Wyett. On roll call, the motion carried unanimously.

Mr. Randolph read Resolution 24-96:

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY HEREINAFTER DESCRIBED MEETS THE CRITERIA SET FORTH IN ORDINANCE 2-84, ALSO KNOWN AS CHAPTER XVI, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH; AND DOES HEREBY DESIGNATE SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK, PURSUANT TO ORDINANCE 2-84, ALSO KNOWN AS CHAPTER XVI, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Mr. Shaw made a motion that Resolution 24-96 be approved; seconded by Mr. McLendon. On roll call the motion carried unanimously.

B. Landmark Designation of 17 Golf Road - Consideration of Resolution No. 25-96

Mr. Frank addressed the Town Council, stating that staff had found that the subject property met the following criteria for designation: Criteria A: exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county, or town; Criteria B: identified with historic personages or important events in the nation, state, or local history; Criteria C: embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction, or use of an indigenous materials or craftsmanship; Criteria D: representative of the notable work of a master builder, designer, or architect whose individual ability has been recognized or who influenced his age--in this case Marion Sims Wyeth. Mr. Frank verified proof of publication in this regard.

Mrs. Day began her presentation, stating that 17 Golf Road was the first house that had been built on Golf View Road, and that the street had been developed in cooperation with E.F. Hutton, Marion Sims Wyeth,and the Golf View Development Corporation. When the house was built it proved to be too small for Marjorie Merriweather Post, and 93 feet had been added to the length of the property. The house was important for its association with Mrs. Post, E.F. Hutton, Marion Sims Wyeth, and the development of the Town. The house was a Mediterranean revival style house, but was quite different in style from the previous landmark (16 Golf Road); reflecting on the architecture in the southwestern part of the United States, and the Spanish Mission architecture.

Mr. Shaw made a motion to make the designation report part of the record; seconded by Mr. McLendon. On roll call, the motion carried unanimously.

Mr. Randolph read Resolution 25-96:

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY HEREINAFTER DESCRIBED MEETS THE CRITERIA SET FORTH IN ORDINANCE 2-84, ALSO KNOWN AS CHAPTER XVI, ARTICLE III, OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, AND DOES HEREBY DESIGNATE SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK, PURSUANT TO ORDINANCE 2-84, ALSO KNOWN AS CHAPTER XVI, ARTICLE III, OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Mr. Shaw made a motion to approve Resolution 25-96; seconded by Mr. McLendon. On roll call, the motion carried unanimously.

C. Landmark Designation of 134 Seabreeze Avenue - Consideration of Resolution No. 26-96

Mr. Frank addressed the Town Council, stating that staff found the subject property met the following criteria for designation: Criteria A: exemplifies or reflects the broad cultural, political, economic, or social history of the nation, state, county, or town; Criteria C: embodies distinguishing characteristics of an architectural type, or is a specimen inherently valuable for the study of a period, style, method of construction, or use of indigenous materials or craftsmanship; Criteria D: representative as a notable work of a master builder, designer, or architect whose individual ability has been recognized or who influenced his age--in this case the original architect was unknown, however, substantial work had been done on the property by John Volk, who was being recognized under Criteria D.

Mrs. Day began the designation report, stating that 134 Seabreeze Avenue was located in Poinciana Park, which was a development in Palm Beach that was representative of the boom time era, as more families started to move to the Town of Palm Beach. The house had been built in 1926 for Charles Manning, an important realtor and developer, however, the building permits did not state the name of the architect. The reason the house had been considered was because it was the first project of John Volk in the Town. Volk had come to Palm Beach in 1926 after a short stay in Key West, and the Seabreeze Avenue project had been his first project in Palm Beach, starting a career ending in 1984, with over 1,000 projects attributed to Mr. Volk. When looking at the drawings, the sketch for the house showed that Volk completely changed the architecture, with the house now being representative of his work. The house was a milestone for Volk, and was also associated with theatrical producer, Sam Harris, who owned the house, and liked the work of John Volk so much that he later built a house at the northern end of the island, using Volk as the architect.

Mr. Shaw made a motion to accept the designation report as part of the record; seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Mr. Francesco Scatigno, the owner of the property was sworn in by the Town Clerk, and addressed the Town Council, stating that he had been out of town, but had faxed a letter to the Town Council explaining why he was opposed to the landmarking. Mr. Scatigno pointed out that the architect of the house was unknown, and the bay window on the side had nothing to do with the structure of the house.

Mr. McLendon asked if Mr. Scatigno had included his objections in his letter?

Mr. Scatigno replied that he had expressed his feelings in his letter.

Mr. Moore commented that the objection of the owner was to the landmarking of his property on the basis that no major architect was named as the original designer, exterior improvements had been made to the house and renovations were not part of the original design.

Mr. Wyett asked Mr. Scatigno if he planned any additional renovations?

Mr. Scatigno replied negatively.

Mr. Wyett asked Mr. Scatigno if he thought that landmarking the property would make changes on the property difficult?

Mr. Scatigno replied that he would like to know who the architect had been, and that a landmarked house should have this information.

Mr. Wyett asked if Mr. Scatigno would be pleased with landmarking only the front of the house?

Mr. Scatigno replied affirmatively, and asked if the landmarking could be postponed until the architect could be discovered?

Mr. Moore stated that Mr. Scatigno had requested that staff do additional research when he had appeared before the Landmarks Commission, which had been done. Staff had been unable to determine the original architect, however, the renovation work was definitely that of Mr. Volk.

Mrs. Day commented that the house had been built for Charles Manning, with the architect unknown, and when the house was sold to Sam Harris in 1927, Volk changed the whole facade to look as it now did. There were no actual plans, but there was a Volk sketch on his notepaper that showed the house as it appeared today.

Mr. McLendon asked if Mr. Scatigno had filed an objection with the Landmarks Commission?

Mr. Scatigno replied affirmatively.

Mr. McLendon then asked what the vote had been?

Mr. Frank responded that the Landmarks Commission had voted unanimously in favor of the project, with the feeling that the original drawings were available, however, the architect was not known. The intention was to recognize the work of John Volk, not the original house, most of which was now missing.

Mrs. Day mentioned that a grant had been received to study the developmental history of the Town, and newspapers from the 1920's would be researched in this regard. She reiterated that the importance of the house was its association with John Volk, as his first project in the Town of Palm Beach.

Mr. McLendon commented that he was surprised that the name of the original architect had not been included in the original plans.

Mrs. Day responded that this was quite common in the boom era of the 1920's, as things were happening so quickly that they were developer driven, rather than architect and homeowner driven.

Mr. Wyett asked how many homes by this architect had been landmarked?

Mrs. Day replied that she did not have the exact number, but that Volk was probably in the 18-20 range, which was under representing him for the amount of work he had done.

Mr. Frank agreed that Mr. Volk was definitely under represented, as he had more projects in the Town, and less landmarked houses, the reason being that Mr. Volk had served on the Landmarks Commission, refusing to have his houses considered during that time.

Mr. McLendon made a motion that the landmarking of 134 Seabreeze Avenue be deferred until the November Town Council Meeting, with the understanding that the owner waive any rights that may have occurred requiring the Town Council to act within ninety days. The motion was seconded by Mr. Wyett.

Mr. Scatigno agreed to the November deferral.

On roll call, the motion carried unanimously.

X. OLD BUSINESS

A. Ordinances (Second Reading)

1. Ordinance No. 7-96 - Cable Television Customer Service Standards

Mr. Randolph read Ordinance 7-96:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, PROVIDING PROCEDURAL RULES AND ENFORCEMENT MECHANISMS FOR IMPLEMENTATION OF CUSTOMER SERVICE STANDARDS BY THE CABLE OPERATOR; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Mr. Randolph remarked that there had been several changes made to the ordinance from the first reading; those changes that had been made were thought to be in accordance with the direction received by Town Council, primarily relating to cumulative violations.

Mr. Shaw communicated that in reviewing the ordinance he had noticed some anomalies in the way it was put together; there was some confusion as to how complaints were counted. Mr. Shaw suggested that the second reading of the ordinance be postponed as he explained his reasoning. He expressed concern regarding the criteria for implementing penalties, as well as cumulative complaints, and concluded that staff and Comcast would need further review of the ordinance. Mr. Shaw made a motion to postpone the second reading of Ordinance 7-96; seconded by Mr. McLendon.

Mr. Dave Jakubiak, Assistant to the Town Manager, addressed the Town Council, stating that there must be policy directives from the Town Council as to the intent regarding fines for violations.

Mr. Randolph stated that the ordinance could be written so as to make it clear, as long as the intent was known. He explained that currently the ordinance intended that in any one month for five or more violations of any particular standard, a $500 fine would be implemented. If, in a subsequent month, there were five or more violations in the same category as the previous month, then that would be considered a repeat violation and a $1,000 fine would be implemented. Mr. Randolph established that exact direction would have to be received from the Town Council as to clarification of these policies.

Mr. Wyett remarked that there was some confusion, and that the purpose of regulating was to ensure that Comcast rendered good and adequate service.

Mr. Jakubiak stated that the ordinance was modeled after the FCC adopted ordinance, and the only thing that had been changed was deleting the percentages and adding specific numbers, such as five violations.

Mr. Wyett replied that the violations should be by category, rather than by cumulative numbers of violations.

Mr. Jakubiak responded that Comcast did have the appeal process.

Mr. Wyett stated that the result could be minuscule violations requiring hearings, and that if there was some problem then the particular area could be addressed.

Mr. Jakubiak explained that the Town could not deal with percentages, because the reporting procedure by Comcast did not specifically deal with only the residents in Palm Beach, but with their entire customer base in Palm Beach County.

Mr. Shaw expressed that the only question that should be addressed at this point was how fines would be tabulated, and suggested that a vote take place on the recommendations in his memorandum.

Mr. Shaw reiterated the highlights of his memorandum:

There were three sections to the Ordinance, with the Ordinance stipulating that if there were five complaints in each section, then there would be a violation. His definition of a repeat violation by section would be when a second five had been reached for a total of ten complaints. His interpretation of the Ordinance was that one violation in a section would constitute a $500 fine; if there was a second violation in the same section then a $1,000 fine would be implemented; at the end of the month, the counter would go back to zero.

Mr. Randolph stated that was not the way the Ordinance currently read; the way it was intended to currently read was that the Cable company could have five or more violations in any one month, and it would constitute a $500 fine. If there were ten or fifteen violations in a particular month, it would constitute only a $500 fine; it would not be a repeat violation. If, in a second month, there were another five violations for the same thing, that would be a repeat violation, and that month they would have to pay a $1,000 fine.

Mr. Wyett remarked that the way Mr. Randolph interpreted the Ordinance made more sense than the discussed changes.

Ms. Diane Christie, Director of System Development for Comcast Cable, addressed the Town Council, stating that the survey taken of townspeople was in favor of Comcast, and that the intention of Comcast was to provide the best customer service possible. Comcast now had an on-time guarantee for customers, and had followed the FCC guidelines, and the suggestions made in the Ordinance were stricter than the FCC rules. Even though the FCC said that a municipality could impose stricter standards, it also allowed for the cable operator to pass the costs on to the residents. The intention of Comcast was not to make charges in Palm Beach higher than anywhere else, but to do their best to abide by set standards.

Mrs. Smith explained that there had been a motion to defer the Ordinance until next month, however, in the course of the discussion it had appeared that the Town Council did not wish to defer because of overregulation.

Mr. McLendon asked Ms. Christie if the customers in Palm Beach were kept in separate computer files?

Ms. Christie responded that every franchise in Palm Beach County, all 19 of them, had special codes accordingly, and complaints were kept by municipality, however, the telephone system could not track exactly how many phone calls came in by municipality. Service calls, complaints, credits, and installs generated by the Town of Palm Beach could be given, but the exact number of phone calls could not be given. She gave the example of a customer calling and asking why Comcast did not carry a certain channel; no computer action would be involved, and that particular call would not be recorded in the computer system.

Mr. Randolph remarked that if amendments were made then the Ordinance would undergo a first reading next month.

On roll call the motion of Mr. Shaw to defer the second reading of Ordinance 7-96 was denied 2/3.

Mr. Wyett made a motion to approve the second reading of Ordinance 7-96; seconded by Mr. Shaw. On roll call the motion carried unanimously.

2. Ordinance No. 8-96 - Regulation of Fishing from Public Right-of-Ways in Lake Worth Waters

Mr. Randolph read Ordinance 8-96:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA AMENDING CHAPTER 13, OFFENSES - MISCELLANEOUS, BY INCLUDING A NEW SECTION 13-45, PROVIDING FOR THE PROHIBITION OF FISHING WITHIN THE WATERS OF LAKE WORTH ADJACENT TO THE PUBLIC RIGHT-OF-WAY BETWEEN SUNSET AND SUNRISE; PROVIDING FOR PENALTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Mr. Shaw made a motion to approve Ordinance 8-96; seconded by Mr. Wyett. On roll call the motion carried unanimously.

3. Ordinance No. 9-96 - Amendment to Chapter 4 of the Town Code of Ordinances Relating to Regulation of Animals and Fowl

Mr. Randolph read Ordinance 9-96:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 4 OF THE CODE OF ORDINANCES RELATING TO ANIMALS AND FOWL; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF

ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Mr. Wyett commented that it had been brought to his attention that there was no fee schedule on an application permit to have animals in Town, and suggested that discussion be held.

Town Clerk Pollitt stated that there was indeed no fee schedule for such a permit, however, most other permits did carry a fee, and the implementation of a fee would be at the determination of the Town Council.

In response to the question of Mrs. Smith regarding an amount, Mrs. Pollitt suggested a nominal charge of $25.00, which was the amount now charged for a Charitable Solicitation Permit.

Mr. Wyett made a motion to charge a $50.00 fee for an animal permit, seconded by Mr. McLendon.

Mr. Randolph recommended that Ordinance 9-96 be passed today, and that the fee be addressed through a separate ordinance and an amendment to Ordinance 9-96.

Mr. Wyett amended his motion to include the suggestion of Mr. Randolph; seconded by Mr. McLendon.

On roll call the motion carried unanimously.

Mrs. Pollitt stated that her office had received an inquiry from a gentleman desiring to plan a party for the sixth birthday of his daughter, with several ponies for children to ride, on May 24, 1996. She noted that the ordinance required 30-day notification, which was not possible at this date.

Mrs. Smith asked for further information regarding the plans.

Mrs. Pollitt replied that Robert W. Hardy was requesting permission to have a party on May 24th, from 5:30 P.M. to 7:00 P.M. at the home of Mr. and Mrs. Jack Thompson, 237 Seabreeze. The party would be a cowgirl party; approximately 15 girls would be in attendance, with a barbecue cookout, and members of the Student Council of the Palm Beach Day School would be present to entertain the girls with various games. Mr. Hardy would like to have pony rides in a vacant lot on Clarke Ave. that was owned by friends.

Mr. Shaw suggested written permission be obtained from owners of the vacant lot on Clarke Ave. Mrs. Smith agreed, along with adding that there would be no liability to the Town

Mr. Wyett made a motion to approve three ponies at the party, providing all provisions of Ordinance 9-96 were complied with; seconded by Mr. McLendon.

Mr. Randolph remarked that the ordinance had not yet been passed, and recommended that the motion be considered before the ordinance was actually passed, because there was no provision in the ordinance to allow for a waiver of the 30-days.

On roll call the motion carried unanimously.

Roll call was taken for the motion approving Ordinance 9-96, which passed unanimously.

B. Other

1. Consideration of Beach Issues

a. Status Report on Restoration of the Lake Worth Inlet Sand Transfer Plant - Discharge Piping

Mr. Al Dusey, Director of Public Works, addressed the Town Council, stating that the piping had been completed, and the Sand Transfer Plant was now operational. There had been an extension granted to the Corps of Engineer for inlet dredging.

Mrs. Smith noted that Mr. Abe Gosman had pledged $250,000 to the Town once the plant was operational, and there was a remaining $200,000 left in his pledge.

Mr. McLendon questioned the liquidated damages on the contract?

Mr. Dusey responded that point had not yet been reached with the contractor, and that he was expecting further information to be available for the June Town Council Meeting.

b. Final Report on Mid-Town Beach Restoration Project

Mr. Dusey reported that the dune planting at Mid-Town had been completed, the experimental dune grass project had been

Mr. Dusey reported that the dune planting at Mid-Town had been completed, the experimental dune grass project had been planted at Clarke Avenue, and a small experimental weather station had been installed at the Lifeguard Headquarters at Chilean Avenue.

Mrs. Smith pointed out that the experimental weather station was at no cost to the Town, and had been paid for by the Garden Club of Palm Beach.

Mr. Dusey gave an update on the beach elevation process. The profile work had been done which would indicate what the sand offshore looked like, and information was forthcoming.

Mr. Mark Hassell, Assistant Supervisor of Lifeguards, reported that turtle nesting began on April 28, and currently there was a total of seven nesting turtles; six loggerheads and one leatherback.

2. Monthly Status Report from Finance Department Regarding Enforcement Procedure for Collection of Fines, Fees, and Other Monies Due to the Town

Finance Director, Marie Crozier, addressed the Town Council, submitting the monthly status report, and stating that there were two changes in her memorandum of May 8, 1996: one change was in paragraph three regarding an increase of $15,250 to the Garden City Code Enforcement outstanding fine; in addition there was a letter from Attorney Kenneth Crenshaw requesting that interest of $401.95 be waived for his clients, who had acquired the property but had been out of the country and unable to complete the paperwork to meet the 60-day guideline.

Mr. Shaw made a motion to accept the check for $1.674.78; seconded by Mr. Wyett. On roll call the motion carried unanimously.

Mr. Wyett asked if all items that were no longer of concern to the Town could be eliminated from the next report on outstanding fines. All members of the Town Council concurred with the suggestion of Mr. Wyett.

3. Consideration of Proposed Water Franchise Agreement with City of West Palm Beach and Related Issues

Mr. McLendon reported that alternatives for irrigation sources were being worked on and the application to South Florida Water Management District (SFWMD) for the canal was imminent. He suggested that a lobbyist be hired to assist with changes in legislation, and that a meeting be set for discussion of this matter.

A Water Committee Meeting was set for Tuesday, May 21, 1996 at 10:30 A.M.

4. Consideration of July 4th Celebration Plan in the Town of Palm Beach

Mr. Russell Bitzer, Recreation Director, addressed the Town Council, recommending, as requested by the Town Council, a July 4th concert in the park, a traditional July 4th barbecue, games, and entertainment, with the event being held from 6:30 - 9:00 P.M. Mr. Bitzer gave pertinent details: residents would be able to bring lawn chairs and blankets to enjoy a relaxing evening, while the Recreation Department provided old fashioned fun-filled games. Restaurants from the neighboring Royal Poinciana Association had extended the offer to provide a traditional barbecue at a small cost to residents. Other refreshments, such as popcorn, cotton candy, sodas, and ice cream would be available at no charge. Entertainment such as clowns, face painting, jugglers, stilt walkers was also proposed, and at the conclusion of the event there would be a spectacular release of brilliant mylar streamers launched high into the sky. Patrons could take the streamers with them as souvenirs after they had fallen to the ground.

Mr. Bitzer commented that on April 16, 1996 the Recreation Department had met with representatives from the Palm Beach Chamber of Commerce, the Civic Association, Citizens Association South of Sloan's Curve, and Royal Poinciana South County Road Merchants Association. Everyone had seemed to be interested in assisting to develop the plan. A representative of the Chamber of Commerce had suggested that if 5 people at the meeting all contributed $1,000, then the preliminary budget of the Town would be matched; each representative agreed to check with their Board of Directors in this regard.

In addition, Mr. Bitzer advised that all Town departments had offered assistance; the Police Department would handle traffic control; Fire Rescue had offered to have a unit on hand; Public Works would assist with the set-up and electricity. Ms. Martinuzzi, the Risk Manager, had discussed the event and she been in agreement, pending the streamer display insurance policy to be provided by the company to name the Town as an additional insured in the amount of $1,000,000. The company had committed to do that.

Mr. Wyett expressed concern that offering "free" entertainment, refreshments, etc., would encourage a more regional aspect to the function, rather than a Town function.

Mr. Bitzer replied that was one of the reasons that there had been agreement as to charging for the barbecue dinner.

Mr. Shaw suggested that the time for the event be moved up one hour.

Mr. Bitzer replied that perhaps the time could be adjusted, and he would consider that and finalize it.

Mrs. Smith commented that Mr. Bitzer and his department had done a wonderful job in pulling the event together. She thanked all of the Town organizations for stepping forward with assistance.

Mr. Bitzer summarized that the budget could be rounded off to approximately \$11,000.00; \$3,000.00 had already been donated, so basically the funding requirement would be \$8,000.00.

Police Chief Terlizzese advised that additional overtime would have to be paid to 4-6 police officers for this event.

Mr. Bitzer responded that funding would be needed from the Undesignated General Fund Balance to cover these expenses.

Mr. Shaw recommended that the glowsticks not be used, as children could break them open, and money could be saved in that regard.

Mr. Shaw made a motion to approve up to \$9,000.00 to be used for the event from the Undesignated General Fund Balance, with the understanding that further donations would be made to offset that amount; seconded by Mr. McLendon. On roll call the motion carried unanimously.

5. Consideration of Budget Calendar for Fiscal Year 1997

Mr. Doney stated that the current draft of the budget calendar was dated May 6, 1996, and would be the plan of action under which the staff would proceed in order to prepare materials for consideration by the Finance & Taxation Committee. The initial Finance & Taxation Committee meeting would be held on Friday, June 28, 1996 at 10:00 A.M. and Monday, July 1, 1996 at 10:00 A.M. Additionally, Mr. Shaw had requested a Thursday, August 15, 1996 Finance & Taxation meeting.

Mrs. Smith stated that for the last three years there had been no need for the August meeting, and rescheduling could be done, if necessary.

Mr. Doney advised that the first Public Hearing on the tentative budget had been proposed to be held at 5:01 P.M. on September 5, 1996, with the second and final Public Hearing held on September 10, 1996 at 5:01 P.M. Both of these dates were subject to change, depending on County meeting dates.

Mrs. Smith asked that each Council member submit travel/vacation dates in writing to the Mayor and Council President so that schedules could be adjusted, as it was very important that there be a quorum at all of the budget meetings.

Mrs. Smith suggested deferring this item until later in the meeting, so that everyone could check calendars during the lunch break.

6. Progress Report on Proposed Tri-Party Interlocal Agreement Regarding Lake Worth Inlet Improvements Plan Including the Port of Palm Beach, Palm Beach County, and the Town of Palm Beach

Mrs. Smith reported that she had attending the meeting on May 8, 1996 with Palm Beach County Commission Chairman Ken Foster, Assistant County Administrator Bevin Beaudet, Chief Assistant County Attorney Gordon Sulfridge, Director for County Department of Environmental Resource Management Richard Walesky, Port Commission Chairman John Sansbury, Port Executive Director Ed Opel, Palm Beach Town Manager Bob Doney, Director of Palm Beach Public Works Al Dusey. Discussion had taken place about the Inlet Management Plan and the benefit of the plan to the Port of Palm Beach, as well as development of a Tri-Party Agreement between the County, the Port, and the Town of Palm Beach for the implementation of the plan. Currently, there existed a Bi-party Agreement between the County and the Town for this purpose, and the drafting of the Tri-party Agreement had been agreed upon. The County would bring the Agreement to the County Commission in early July, before the Commission got fully involved in budget deliberations. Progress had been made, and it was expected that the respective stafffs would negotiate and develop the Tri-Party Agreement for consideration. The original meeting had taken place on April 17, 1996, and Mayor Ilyinsky had laid the groundwork, creating the good feeling and rapport that would result in the Tri-Party Agreement.

7. Consideration of Personal Communications Services (PCS) Wireless Technology - Request for Towers Siting and Related Issues (Deferred from March 12, 1996 and April 9, 1996 Meetings)

Since there was no new information available at this time, Mr. Wyett made a motion to defer this item to the June 11, 1996 Town Council Meeting; seconded by Mr. Shaw. On roll call the motion carried unanimously.

XI. NEW BUSINESS

A. Ordinances (First Reading)

1. Ordinance No. 10-96 - Amendments to Chapter 24, Article III, "Water Conservation," of the Town Code of Ordinances

Mr. Dusey addressed the Town Council, stating that an ordinance had been drafted for consideration of the Town Council, that would restrict watering of lawns to 3 days per week. He suggested that an odd/even system be used throughout the Town. The general thought regarding golf courses was that if fairways were irrigated every other day and greens every day, there would be no damage.

Mr. Wyett asked what enforcement provisions were anticipated?

Mr. Dusey responded that the Water Conservation Ordinance provided for the Police Department or Code Enforcement Officers or any other individuals designated by the Town to enforce the provisions of the ordinance.

Mr. Shaw expressed concern that certain vegetation must be watered every day which could pose a problem, however Mr. Dusey responded that there were provisions within the Ordinance for variances in this regard.

Mr. Wyett questioned the duration of watering, and asked if there was any education process for residents?

Mr. Dusey suggested that, on the second reading of the Ordinance, a stuffer be inserted into the water bills explaining the change and appropriate water usage.

Mr. John Matich, Palm Beach resident, addressed the Town Council, stating that in the past, most condominiums watered continuously on the designated water day. He stressed the need for an educational program.

Mayor Ilyinsky stated that this would be at least the eleventh educational program that the Town had put out, and that the honor system had to be relied upon.

Mrs. Smith remarked that three years ago, she had spoken before the Citizens South of Sloan's Curve, with presidents of all the condominiums present, and a plan had been developed as to how and when to water, as well as a list of drought resistant plants. She offered the same services to Mr. Matich or others interested in the plan.

Mr. Matich replied that would be a great idea.

Mr. Robert Moore, Director of Building & Zoning, stated that the Board of Directors of a condominium authorized the use of water, and commented that the Citizens South of Sloan's Curve must authorize managers to comply with the Ordinance.

Mrs. Ann Herman, Palm Beach resident, addressed the Town Council, commenting that the condominiums should be designated by address, rather than by east side or west side.

Mr. Dusey replied that if there were any problems, changes could be made.

Mr. Randolph read Ordinance 10-96:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA AMENDING CHAPTER 24 OF THE TOWN CODE OF ORDINANCES, WATER, ARTICLE III. WATER CONSERVATION, AT SEC. 24-74 RESTRICTIONS AND SEC. 24-75 EXEMPTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Mr. McLendon made a motion to approve Ordinance 10-96; seconded by Mr. Shaw. On roll call, the motion carried unanimously.

B. Resolutions

1. Resolution No. 27-96 - Request Florida Department of Transportation to Include Royal Palm Way Improvements in their Five Year Improvement Program

Mr. Dusey addressed the Town Council, stating that meetings had been held with the Florida Department of Transportation to convince them to improve Royal Palm Way, which is a State Highway. They had recognized the need, but had been unable to get it on their five year program. The resolution was an effort to exert pressure on FDOT by going through the Secretary of Transportation, State Senator, and State Representative with documentation of the problems associated with Royal Palm Way, i.e., drainage, and street surface. Mr. Dusey encouraged the Town Council to pass the resolution in order to allow staff to convince the FDOT that there is a real need in this situation.

Mr. McLendon made a motion to approve Resolution 27-96; seconded by Mr. Shaw.

Mrs. Smith asked about the area on the north side of the bridge where trash and garbage were located?

Mr. Dusey replied that he was unaware of the situation and it would be taken care of.

On roll call, the motion carried unanimously.

Mr. Randolph read Resolution 27-96:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, REQUESTING THAT THE SECRETARY OF THE DEPARTMENT OF TRANSPORTATION REVIEW AND REQUEST THAT THE PORTION OF STATE ROAD 704, ROYAL PALM WAY, WITHIN THE TOWN OF PALM BEACH BE RECONSTRUCTED TO CURRENT STATE STANDARDS.

2. Resolution No. 28-96 - Amend Legal Description in Resolution No. 26-79, Regarding Landmark Designation of Property in Chapel Hill Subdivision

Mr. Randolph reported that the Resolution was not ready for consideration at this point, and requested that this item be deferred to the June 11, 1996 Town Council Meeting.

Mr. Shaw made a motion to defer Resolution 28-96 to the June 11, 1996 Town Council Meeting; seconded by Mr. Wyett. On roll call, the motion carried unanimously.

C. Other

1. Consideration of Request from Royal Poinciana Theatre for an Additional One (1) Year Extension of Lease Agreement to Continue Wednesday Matinee Program from December 1, 1996 to April 1, 1997

Attorney Phil O'Connell, Jr., representing the Royal Poinciana Theater, addressed the Town Council, requesting an extension of the existing Agreement for the exception of parking at the Royal Poinciana Plaza for the Wednesday matinee season for 1996-97. Mr. O'Connell noted that a question had been raised concerning the parking program that the Plaza itself was undertaking, and Mr. Robert Spiegel had reported that the overall program was approved in November, and that construction work had been deferred during the season, however, they would be ready to commence in order to be finished by the beginning of the upcoming season.

Mr. Robert Moore addressed the Town Council, stating that Mr. Paul Castro, Zoning Administrator, had been in touch with Mr. Spiegel, and the plan was to go forward. There had been some discussion of partial work, and Mr. Spiegel was advised that he would be required to revisit the Town Council if this was the case.

Mr. Wyett made a motion to approve the request of Royal Poinciana Theater for a one year extension of the Lease Agreement to continue the Wednesday matinee program from December 1, 1996 to April 1, 1997; seconded by Mr. McLendon. On roll call, the motion carried unanimously.

2. Consideration of Request by Greater South County Road Association to Place Plaques on Trees for South County Road Tree Planting Program

Ms. Christine Franks, Vice President of the South County Road Association and Chairperson for the Palm Tree Project, addressed the Town Council, stating that she was requesting approval of the placement of name plaques on each of the Palm trees that would be planted along the South County corridor from Seaview Avenue to Worth Avenue. The reason for putting the plaques on the trees was to recognize the support of residents, foundations, and businesses in Palm Beach for the Palm tree project.

Mr. Loman Koos explained that the plaques would be placed on the grilles that go around the trees, submitting sketches of the proposed placement.

Mr. Shaw expressed concern with the durability of the plastic plaques, given the fact that they would be screwed into the grilles.

Mr. Koos replied that there was an alternative that entailed attaching a plaque to the tree by a chain, using the same sort of plastic.

Mr. Shaw asked if the Association would be willing to maintain the plaques?

Mr. Koos replied affirmatively.

Mr. Wyett expressed that although the Town greatly appreciated the donation of the trees, the donations should be kept anonymous, and the plaques were not necessary.

Mr. Koos responded that initially, when monies were collected for the trees, people were told that there would be recognition of an individual gift, in memory of someone, or as a donation honoring someone.

Mr. Shaw asked if consideration had been given to one large plaque listing all of the names.

Mr. Koos agreed, and said that he would investigate having one larger plaque listing all of the names of donors in a location approve by the Town Council.

Mr. Shaw made a motion that this item be deferred until Mr. Koos could gather more information; seconded by Mr. Wyett. On roll call the motion carried unanimously.

3. Reconsideration of Previous Town Council Action Regarding Variance No. 58-94, U. S. Trust Company of Florida, at 334 North Woods Road, With Regards to Property Wall Within Storm Drainage Easement - Request for Deferral to June 11, 1996 per letter dated May 8, 1996, from John Peter McCabe.

Variance No. 58-94 was deferred to the June 11, 1996, Town Council meeting, by motion, under V. Approval of Agenda. (See page 2)

4. Consideration of Proposed Settlement Agreement Regarding Lubavitch Center of the Palm Beaches verses Town of Palm Beach

Mr. Randolph stated that the Lubavitch Center filed a lawsuit asking for injunctive and declaratory relief, in order to allow them to place a menorah in Bradley Park. A Status Conference had been called by the judge, and prevailed upon the Town to grant the request. The Town Council then granted the request. Although there was no ultimate concluding judgment against the town, the Lubavitch Center did prevail in regard to the matter of temporary relief, and as the prevailing party were entitled to an attorney's fee. Mr. Randolph explained that the fee being requested totaled approximately $28,000, which he did not consider a reasonable request under the circumstances of the case. For discussion purposes, Mr. Randolph suggested some alternative recommendations:

1. The settlement agreement could be resolved by the Court, *absent* an agreement as to the amount of attorney's fees, with the Court making a determination in that regard. There could then, however, be additional fees if the plaintiff's attorneys obtained an expert witness, which would be added to the amount of the settlement.

2. A counter proposal in regard to the amount of the fees could be offered. Mr. Randolph suggested an amount between $10-15,000.

Mr. Smith questioned the number of hours (124) which had been billed by the plaintiff's attorney, since most of the information was public knowledge.

Mr. Randolph responded that would be one of his arguments in Court; that indeed the lawfirm had filed cases such as this in the past, and was accustomed to filing such cases. He noted that the counter argument would be that experts in these types of matters should not be penalized as such. Mr. Randolph added that he would also argue the number of attorneys involved, as well as the fact that his own fees had been $5,647.75.

Mrs. Smith suggested offering the same amount that Mr. Randolph had charged as a counter proposal.

Mr Randolph asked whether the Town Council would rather have him contact the law firm with the comments of the Town Council and further negotiate?

Mr. Shaw suggested that an offer be made, and if unacceptable, then the matter could be taken forward.

Mr. McLendon made a motion to offer twice what Mr. Randolph had charged, hoping that would gain the attention of the plaintiff's lawyers; seconded by Mr. Shaw. On roll call, the motion carried unanimously.

5. Consideration of Recommendation by Chief Terlizzese for Temporary Suspension of Fines for False Alarms Through September 30, 1996

Police Chief Terlizzese addressed the Town Council, stating that fines had originally been suspended for a six month period, because of the rash of burglaries in November, 1995. It appeared that hesitation to report alarms was prevalent with Alarm Companies throughout the United States, so that clients would not be billed for false alarms. Chief Terlizzese recommended suspension of fines for false alarms for another six months; he would return to the Town Council at the end of September with a report.

Mr. Wyett suggested an extension for one year.

Chief Terlizzese replied that a considerable amount of revenue would be lost, but that burglary attempts that were thwarted because of the alarms did offset the revenue loss. He noted that each time an alarm went off, two police officers were required for about an hour, with 99% of alarms being false.

Chief Terlizzese said that at the present time he was recommending an extension for the remainder of the fiscal year (through 9/30/96), and during that period of time he would research the system.

Mr. Wyett made a motion to approve the extension of suspension of fines until September 30, 1996, with Chief Terlizzese reporting back to the Town Council at that time; seconded by Mr. Shaw. On roll call, the motion carried unanimously.

6. Consideration of Voting Procedure/Tabulation for Appointments to Boards and Commissions

Mr. McLendon stated that he was in favor of changing the voting procedure for appointments to Boards and Commissions, suggesting that if the number of applicants exceeded twice the number of positions, then a preliminary vote should be taken to reduce the number of applicants.

Mr. Shaw suggested a ranking process as one alternative, or using the mean of the number of votes and encouraged discussion on the voting procedure.

After lengthy discussion, Mrs. Smith suggested that all Council members consider the discussion held today and draft a sample ballot.

Mr. Wyett made a motion that this item be postponed until the June Town Council Meeting. Seconded by Mr. Shaw. On roll call, the motion carried unanimously.

7. Consideration of Clarification of the Sunshine Law as it Pertains to Public Meetings at Which More Than One Elected Official is Present

Mr. Randolph stated that he had reviewed the opinion of the State Attorney General regarding the City of Sarasota, and it had not differed greatly from the opinions that he had given in the past. Mr. Randolph suggested that if clarification of the issue of the Mayor and Council Members attending public meetings was needed, then the Attorney General could give an opinion on that issue. Mr. Randolph stated that he had no objection to seeking the opinion of the Attorney General if the Town Council so desired.

Mrs. Smith stated that council members are not invited to Civic Association Meetings as panelists.

Mr. Wyett stated there was confusion as to what Council Members could and could not do, and that the public deserved the ability to communicate with Council Members within the law. He urged that clarification be accomplished. Mr. Wyett added that Mr. Guttman, a local resident, had done research in this regard.

Mrs. Smith expressed her concern about the exchange of views at the Civic Association Meetings, since they were always held the day before the Town Council Meeting, and questions were often asked about matters that were coming up the following day.

Mr. Louis Pryor addressed the Town Council in support of the proposal that the Sunshine Law be clarified.

Mr. Wyett made a motion to direct Town Attorney Randolph to draft a letter to the State of Florida Attorney General requesting an opinion on the subject of the Mayor and Town Council Members attending public meetings and the relationship to the Sunshine Law. Seconded by Mr. McLendon.

Mr. Doney remarked that staff was also affected by queries from the Civic Association Monday meetings, as often opinions and facts change according to actual testimony at Town Council Meetings held the following day.

On roll call the motion carried unanimously.

8. Consideration of the Mayor and Town Council Members Attendance at the Florida League of Cities Meeting at Boca Raton on August 8 through August 10.

The Town Council authorized the attendance of Mayor Ilyinsky, President Smith, and Councilmen Shaw and McLendon. Mr. McDonald would be contacted regarding his attendance.

Mr. Doney stated that the Palm Beach County Municipal League Symposium for Excellence in Government would be held May 16-17, 1996, and inquired if any council members would attend.

It was decided that none would attend.

9. Consideration of Scheduling two Town Council Meetings each month on Tuesday and Thursday with the Development Review Items to be heard on Thursday.

Mr. Shaw stated that the Town Council Meetings involved many issues, resulting in long hours of meetings, and suggested that the meeting be concluded at the Development Review point, and reconvened two days later. He noted that items that needed to be re-addressed could then be heard at the end of the second day, rather than calling a Special Town Council Meeting.

Mr. Moore commented that the idea of Mr. Shaw made a great deal of sense on paper, however, in reality it would be extremely difficult, and would affect advertising requirements, as well as amendment of Ordinances.

Mr. McLendon proposed that items be pre-assigned in the hopes that things would move more rapidly.

Mr. Wyett stated that there was no way to tell people a time certain to appear, since many times discussions delayed items being heard, and agreed with the two-meeting proposal. He questioned whether full service could be given after 10-12 hours of the usual meetings.

Mrs. Smith remarked that applicants could specify how much time was needed, and time could be limited. She noted that the Ordinance addressed limiting the speaking of Council Members. The ordinance said "no member of the Council shall speak at a meeting more than twice on the same question, and for no more than five minutes." She expressed hesitation at setting up two meetings, since she would rather finish at 7-8:00 P.M., than come back for another for 4-5 hours.

Mr. Shaw commented that the problem was not the Development Review, but the lengthy meeting beforehand, and urged that the two-meeting proposal be adopted.

Mr. Wyett suggested that perhaps the meetings should be adjourned at a certain time in order to encourage more efficiency.

Mr. Moore remarked that staff could meet with applicants regarding Development Review matters, and advise them that they would have time constraints and must organize materials efficiently. If time ran out, then a Special Meeting could be called, or a month delay could be requested.

Mrs. Smith replied that would be very helpful.

Mr. Wyett suggested a procedure whereby the applicant could estimate the time needed, with a 5-minute summation at the end of the time if the applicant had not finished.

Mr. Shaw made a motion that a split adjourned meeting be implemented for the Town Council Meeting of June, 1996, with adjournment on the first day taking place before Development Review.

Mr. Moore suggested that Mr. Shaw amend his motion to July, 1966.

Mr. Shaw amended his motion to July, 1966.

The motion was seconded by Mr. Wyett.

Mr. Adrian Winterfield addressed the Town Council, suggesting that a requirement for a second meeting be held at a fixed time, with each elected official consulting with the Building Department on upcoming applications, and limit the public meeting to descriptions of applications, with no public comment or argumentation. The applicants would have an opportunity to briefly describe the basis of the application. Mr. Winterfield also suggested that members of the public identify themselves in advance if they desired to be heard at the Town Council Meeting.

On roll call, the motion failed 3/2, with Mayor Ilyinsky, President Smith and Councilman McLendon casting negative votes.

10. Consideration of the Unavailability of Storm or Wind Damage Insurance for Palm Beach Merchants.

Mr. Shaw stated that one of the major insurance carriers had sent out blanket notices of non-renewal, and that he had asked Ms. Martinuzzi to investigate. He was asking that the Council send a letter to the Insurance Commissioner, since if merchants were unable to obtain proper insurance they would go out of business.

Mr. Doney advised that Ms. Martinuzzi had been able to obtain limited information in this matter.

Barbara Martinuzzi, Risk Manager, addressed the Town Council, stating that it was her position that it was premature for the Town Council to become involved in the issue. She noted that the most recent information available was based upon articles from the Palm Beach Post pertaining to potential problems in the windstorm property insurance environment. The Palm Beach County Commission had a Windstorm Committee that would look into this matter. Presently State Farm was the only insurance carrier in Florida canceling commercial business. There was still plenty availability of commercial insurance, although affordability was a different question. She expressed concern that recommendations in respect to the insurance of the Town may be in conflict with what would be in the best interest of the residents and commercial insurance operations. Palm Beach County was not currently a participant in the Florida Windstorm Underwriting Association. Presently, she concluded that it was not in the best interest of the community to participate in the Windstorm Pool, since market availability for windstorm coverage was involved.

Ms. Sue Ellen Clarfeld, President of Truffie's, addressed the Town Council, stating that she had been a merchant in Town for nine and one-half years. She had done further research in this regard, and that the Insurance Commission had been held up in the State of Florida through political play. The catastrophic insurance was incidental, it was the fire, theft and liability that was not obtainable. She added that the merchants needed help and Town support. She recommended that the Town Council think friendly towards the merchants.

Mrs. Smith replied that since the issue had just been brought up this morning, perhaps a group of merchants could write to the Council, to put it on the record, and the Council would look into the matter. She noted that the Town Council had not been aware of a problem before this time.

Mr. Doney stated that Mr. Shaw had made an inquiry about 2-3 weeks ago, asking that Ms. Martinuzzi investigate the matter, and he had not felt it was appropriate, based on what he knew at the time, that staff investigate a matter on behalf of certain individual residents or commercial interests; therefore, the matter had not been completed for discussion today.

Mrs. Smith stated that there was no blame attached to this matter; she was merely saying that the Palm Beach Town Council was hearing about the matter for the first time, and it was not up to any individual member of the Council to have staff members investigating various matters, but a determination of the entire Council.

Mr. McLendon remarked that the Merchant Association as a group should advise the Town Council as to any problems, and that the Town Council would like to be of service to them.

Mrs. Smith asked Ms. Clarfeld if she had spoken to the Chamber of Commerce?

Ms. Clarfield replied that she was not a member of the Chamber of Commerce or any Merchant Association, and this matter had been brought to the attention through the mail to merchants in the community. Mr. Shaw happened to walk in the store one day and had been approached at the time. She was asking that the Town Council be made aware that the issue was major and affected both commercial and home insurance for people living near the ocean.

Mr. Ned Barnes of the Civic Association, addressed the Town Council, stating that he spent nearly six months attempting to have Commissioner Nelson address the Civic Association in regard to this issue. He noted that he would continue to try having the Commissioner speak next season.

Mr. McLendon suggested that further information be obtained and suggested that the owner of Truffie's write a letter to Mr. Doney outlining the problems and concerns, for further consideration by the Town Council.

11. Consideration of Discussion of Independent Auditor's Recommendations for Implementations.

Mr. Shaw commented that perhaps it would be better to review the auditor's report at a Special Workshop, having all accountants involved present to compare notes of findings and recommendations.

Mrs. Smith replied that at the June Town Council Meeting a date could be chosen for a Workshop.

Mr. McLendon asked why Mrs. Crozier could not study the two reports, go over each section and address them, coming back to the Town Council if she had particular problems.

Mr. Doney stated that he and Mrs. Crozier had discussed the Nowlen, Holt, & Miner reports, and had previously met with Mark Veil, with the current auditing firm for the Town. They would be meeting with Mark Veil tomorrow regarding the Nowlen, Holt, & Miner reports, and there was a draft of an implementation work program regarding how each management recommendation would be addressed. Once that report was refined, it was the intention of Mr. Doney that a report to Council be presented at the June Town Council Meeting, for discussion. At that time the Council could then direct alternate or additional actions as appropriate at that point.

Mr. Doney noted that funding would be required on some of the items, because there was a cost benefit ratio to some of the implementations. There were certain recommendations in the management letter that would identify what the costs of implementation were as compared to the benefits received, and analysis would be taking place in this regard.

Mr. Doney advised that Nowlen, Holt, & Miner management recommendations would be identified, both as to what changes had already been implemented and requesting Council authority required to implement other items.

Mrs. Smith asked if everything would be ready for the June meeting?

Mr. Doney replied that he was hopeful for the June meeting.

Mr. Shaw asked that Mr. Veil provide a copy of the report concerning the internal control structure. He suggested a comparison of the two reports.

Mrs. Smith stated that the item would be on the June Agenda, and it could be decided at that time whether the Council would have a workshop with the accountants.

Mr. Doney stated that the scope of services for the Annual Audit at the end of September 30, 1995 had requirements that were different than the agreed upon procedures that were identified when Nowlan, Holt & Miner had been asked to investigate certain matters; therefore review of some internal controls were different from the Annual Audit requirements. The two auditors would identify the differences and explain them.

12. Consideration of Scheduling a Meeting Date to Review the Declaration of Use Agreement for the Mar-a-Lago Club.

Mr. Wyett suggested that an opinion be rendered by the Attorney General of the State of Florida regarding conflicts of interest between sitting members of the Town Council who were also members of the Mar-A-Lago Club in reference to the review of the Declaration of Use Agreement.

Mrs. Smith established that the meeting would have to be within 30-days of the date of notice, suggesting May 29, 1996 at 9:30 A.M.

Mr. Shaw made a motion that a letter be sent to the State Ethics Commission for clarification regarding review of the Mar-A-Lago Declaration of Use Agreement by Council members also belonging to the Club; seconded by Mr. McLendon. On roll call, the motion carried unanimously.

At this time, Item XB.5 (approval of Budget calendar) was continued. Mr. McLendon made a motion to approve the Budget Calendar; seconded by Mr. Shaw. On roll call the motion carried unanimously.

Mr. Randolph informed that Resolution 28-96 was not ready for today.

Mr. Doney announced that Moses Hagood, 1994 employee of the year, had passed away on May 13, 1996, and a memorial service would be held on May 15, 1996 at 2:30 P.M. at the Royal Poinciana Chapel.

XII. APPROVAL OF THE WARRANT LIST AND FUND EXPENDITURES FOR APRIL 1996

Mr. Wyett made a motion to approve the Warrant List and Fund Expenditures for April, 1996; seconded by Mr. McLendon. On roll call, the motion carried 3/1, with Mr. Shaw casting a negative vote.

Mr. Shaw explained that his negative vote was in protest of the manual cross-outs and changes, and that he had spoken with Mr. Doney and Mrs. Crozier about changing the computer system so that the reports would be generated in a final form.

XIII. COMMUNICATIONS FROM CITIZENS -

Mr. Eric Gilbertson, 151 Chilean Ave., addressed the Town Council, distributing his written comments to the School Board on May 1, 1996, as well as his proposed comments to the School Board on May 15, 1996. In addition, there was attached a report of violence at public schools, and Mr. Gilbertson pointed out that Palm Beach Public had a very low level of violence, suggesting that children should continue to have the opportunity to attend this school.

Mr. John Matich addressed the Town Council regarding the amount of trash on Palm Beach streets, displaying photographs that he had taken on Friday, commenting that he had noticed that it had taken the Public Works Department more than three hours to collect trash in two condominiums on South Ocean Blvd. He pointed out that trash could be put out three days ahead of time in off-season periods, which was very unsightly. He suggested that the Town Council change the ordinance regulating trash and amend it to allowing trash to be put out only one day before pick-up all year around. Mr. Matich recommended that a chipper be used for lawn debris.

Mr. Adrian Winterfield addressed the Town Council, stating that he was confused with the scheduling regarding the Mar-A-Lago application. If a request was submitted to the Ethics Commission, he suggested that the hearing could be postponed until an answer was received. He referred to Chapter 112, Section 3 "Doing Business With One's Agency", which explicitly prohibited an employee from doing business, or providing services, to his own agency. During recent hearings a statement had been made to the effect that the Town Attorney had authorized execution of a contract with a corporation known to be owned and operated by an employee of the Town. He suggested that a full explanation be provided.

XIV. DEVELOPMENT REVIEWS

A. Major Matters Previously Considered by the Architectural Commission at Its Meeting of April 24, 1996 - Minutes Available in Town Manager's Office

Mrs. Smith referred to a letter received regarding the April ARCOM meeting, which alleged substantial violations of the Sunshine Law, suggesting the meeting be reviewed. Mrs. Smith had submitted the letter to the Town Clerk for the record, and stated that after review by the Town Council, discussion could take place at the June Town Council Meeting.

The major matters were:

B6-96 Enclose Courtyard, New Loggia and Tennis Pavilion, at 1300 North Ocean Way, requested by Mr. and Mrs. Paul Van Der Grift - deferred.

B11-96 New Storefront at 224-A Worth Avenue, requested by Revillion, Inc. - approved.

B12-96 New Duplex at 253 Seminole Ave., requested by Seminole Estates, Inc. - approved.

B13-96 Demolition and New Residence at 1204 north Ocean Blvd., requested by Dr. and Mrs. Marvin Rosenberg - deferred.

B17-96 and C60-95 Demolition and New Residence at 286 Jamaica Lane, requested by Sid H. Eibl - deferred.

B19-96 New Residence at 1415 South Ocean Blvd., requested by Mrs. Arnold Miller - removed from Agenda.

B20-96 Demolition and New Residence at 137 Peruvian Avenue, requested by Mr. and Mrs. Richard Grant, Jr. - approved

B23-96 Facade Renovation at 411 Sea Breeze Ave., requested by Turner Land Company, Inc. - deferred

B24-96 New Residence at 600 Island Drive, requested by EMC Mortgage Corp - approved.

B25-96 Addition at 102 Flagler Dr., requested by Thomas and Silvia Hirschmann - deferred.

B7-96 Re-study Front Entry at 288 Via Las Brisas, requested by Addison Development - deferred.

B27-96 New Residence at 1100 North Ocean Blvd., requested by Mr. and Mrs. Richard E. Smith - deferred.

B28-96 Changes to Existing Residence at 866 South Ocean Blvd., requested by William and Harriet Martin - approved.

B29-96 Addition at 757 Island Drive, requested by Mrs. John V.A. Haggin - approved.

B30-96 Demolition and New Residence at 206 North Ocean Blvd., requested by Sandsong Investments, Inc. - deferred.

B31-96 Demolition and New Residence at 233 Miraflores Drive, requested by Jonathan F. Rappaport - deferred.

B32-96 Addition at 570 North Lake Way, requested by Lois Mills - deferred.

B33-96 New Residence at 151 Atlantic Ave., requested by Lucy Berkstorm - deferred.

B34-96 Demolition of Existing Residence at 6 & 7 Ocean Lane, requested by The Garden City Company, Inc. - approved.

B35-96 New Residence at 537 Island Dr., requested by Mr. and Mrs. John Rakolta, Jr. - deferred.

B36-96 Addition and Entry Gate at 760 Island Dr., requested by Nasser Kazeminy - deferred.

B37-96 New Residence at Lot 1.2 Primavera Estates (Via Sunny), requested by Mr. and Mrs Mispah Ahdab - deferred.

B38-96 New Residence at 167 Dolphin Rd., requested by Northwood University - deferred.

B39-96 Addition at 377 North Lake Way, requested by Alan L. Shulman - deferred.

B40-96 745 Hi-Mount Rd., requested by Richard Furland -No ARCOM application received - deferred.

Mr. Shaw made a motion to approve the Major Matters from the Architectural Commission Meeting of April 24, 1996; seconded by Mr. Wyett. On roll call, the motion carried unanimously.

B. Time Extensions

1. Variance No. 56-93 with Site Plan Review - Aspinwall Property, 3000 South Ocean Boulevard; request by Mr. James R. Brindell for an eighteen (18) month time extension from the April 30,1996 expiration date (Deferred from April 9, 1996 Meeting)

Attorney James Brindell addressed the Town Council, on behalf of Mrs. Valerie Aspinwall, stating that terms of the contract with the buyer had been negotiated, and three provisions were pertinent:

1. The closing date of the contract would be within 30-days of a confirmation by the Town of the granting of an extension.

2. The buyer would acknowledge that the conditions of the September 16, 1994 Site Plan Approval by the Town of Palm Beach were acceptable. The closing of the contract would not be contingent upon the buyer obtaining any changes in those conditions.

3. The buyer would want an extension of no more than six months, rather than the eighteen months asked for.

Mr. Brindell reviewed the conditions of the September 16, 1994 Site Plan Approval, which addressed objections raised by residents.

Mr. Brindell asked that the present item be treated as a continuation of the April 9, 1996 Meeting, at which a number of exhibits were introduced.

Mr. Randolph stated that the matter under consideration today was not a quasi-judicial determination, therefore, exhibits were not needed as there were no criteria being given consideration. The simple question was whether or not an extension would be granted. He pointed out that when considering the extension asked for today, negotiation of conditions of the Site Plan Approval could not be done, as that may turn the matter into a quasi-judicial hearing. He advised that the sole question today was whether to grant an extension or not.

Mr. Brindell stated that the issue of the conditions of the Variance and Site Plan had been litigated, and that an extension was being asked for today. He asked Mr. Kent Huffman to address the plans of the buyer.

Attorney Kent Huffman, representing the purchasers, addressed the Town Council, stating that an extension was being asked for in order to permit the building of a restaurant on the property.

Mr. Wyett asked Mr. Huffman whom he was representing?

Mr. Huffman replied that, at this point, his client was a corporation called 3000 South Ocean Blvd., Inc., which had been formed for this particular venture. The person who had asked him to come to the meeting today was Gary Ross.

Mr. Shaw stated that there was a potential buyer, who had no client, who wanted to keep a variance open so that a client could be found.

Mr. Huffman replied that the initial intent of the venture had been to bring in a chain restaurant. Subsequently, it had been determined that the objections were not so much as to a restaurant, but to the character of the establishment itself. As a result, these issues were still pending.

Mr. Moore clarified that the Variance with Special Condition of a Site Plan Review was for one nonconforming use to move to another nonconforming use within a two-year time period. If the request for extension was denied today, the matter would be finished. There would be no option to request another variance, as time would have elapsed.

Mr. Wyett stated that the Town Council had graciously given an additional 30-days to provide information. Now, an additional six months was being requested. Mr. Wyett remarked that it was not the character of the restaurant that was the topic today, but rather whether the Town Council would grant an extension.

Mr. McLendon suggested that some further extension could be granted, however, not the six month request.

Mr. Shaw asked what steps an applicant would have to take to stop the clock and still comply with a Special Exception?

Mr. Moore replied that in this case, the Variance and Site Plan Review would be activated by the issuance of a building permit.

Mrs. Smith asked if there were any members of the public wishing to speak?

Attorney Ray Royce, representing the Darby Corporation, the owner of the Beachcomber Apartments, addressed the Town Council. He distributed printed material regarding his presentation, setting forth two reasons why the extension should not be granted, as well as five legal reasons. Practically, a restaurant would create noise, odors, and traffic which would be injurious to the Beachcomber Apartments. Additionally, the Town was being asked to accommodate an applicant who had sued the Town two times. Mr. Royce submitted that his client, as well as others living in the area, should not be further burdened with additional delays.

Mr. Royce specified that the extension could not be granted legally because the variance was requested and granted pursuant to Town Code Sections 8-11 and 10-13, which provided that the variance must meet additional findings that Mr. Royce submitted could not be met. The findings concerned kitchen and cooking facilities in residential areas, implementation of *timely* commencement of work authorized, Site Plan approval of a Ruby Tuesdays Restaurant only, and intensification of nonconforming use. Referring to the Florida Statutes, Mr. Royce cited the Comprehensive Land Use Planning Act, including FS 163.3194 dealing with consistent action regarding land use designations by local government--the Aspinwall property was to be used for residential purposes only. Mr. Royce suggested that any further action would be inconsistent with the land use plan and contrary to Florida Statutes.

Mr. Royce summarized that the Town Council had denied re-zoning applications on the property from residential to commercial three times. Mr. Royce suggested that it was now time to bring the matter to an end.

Mr. Rodney Fink, Co-Chairman of the Citizens Association South of Sloan's Curve, stating that many new problems to the area would be created by the approval of a restaurant in this area--escalated traffic, noise, and crime problems. On behalf of the Citizens Association South of Sloan's Curve he requested that the Town Council keep the property zoned residential.

Attorney Max Schorr, Counsel to Citizens Association South of Sloan's Curve urged that the Town Council turn down the application before them today.

Mr. Ned Barnes, of the Civic Association, stated that the Civic Association supported the rezoning of 3000 South Ocean Blvd. to RD-2, and was in support of the residents in opposition to the use of the property for restaurant purposes.

Ms. Eileen Curran, 3170 South Ocean Blvd., addressed the Town Council, stating that traffic in the area was frequently excessive, and expressed concern with safety, citing 1,200 instances of police activity in 1995 in the beach area. She urged that the Town Council consider the residents in any decision made.

Attorney Karen Roselli, representing the Palm Beach Hamptons Condominium Association, addressed the Town Council, stating that residents of the condominium would be directly and substantially affected by the development of the Aspinwall property, and were concerned with the usage of the property. She expressed the vehement opposition of the residents to the extension of the Variance and Site Plan, and concurred with the legal arguments made by Mr. Royce.

Town Clerk Pollitt stated that a phone call had been received in opposition to the Aspinwall request, from Mrs. McGregor, a resident, who urged that it not be approved.

Mr. Kent Huffman stated that his clients were prepared to go ahead, that the area was currently crime ridden already, and the suggestion that a restaurant in that location would create a problem was ludicrous. He remarked that the City of Lake Worth planned a multi-story parking garage on the property adjacent to the north side of the Aspinwall property.

Mr. Brindell stated that the arguments raised by Mr. Royce were an effort to re-litigate the whole issue of the variance and site plan again, and that the Beachcomber property value was enhanced dramatically by the rezoning, enabling them to increase intensity of use of units, allowing them to have a dining room, which was no different from a restaurant, and they could also have a bar, beauty shop, and newsstand. Mr. Brindell commented that was apparently acceptable, whereas a restaurant or dining room on the Aspinwall property would somehow ruin the neighborhood. Mr. Brindell declared that the more legitimate development was, the less of a crime problem there would be, and a restaurant would only benefit the area. He commented that Mrs. Aspinwall had no intention of giving the Town a hard time through lawsuits; reasonable use of her property had been the issue. He urged that the extension be granted.

Mr. Wyett commented that expert testimony had identified that there was a reasonable use for this property, other than commercial use, and made a motion to deny the extension; seconded by Mr. Shaw. On roll call, the motion carried unanimously.

C. Variances, Special Exceptions, and Site Plan Reviews

Old Business

1. Amended Variance No. 3-96 - Bartlett Burnap, 740 Hi-Mount Road (January 24, 1996 ARCOM Agenda Item B.66-95 - Demolition or Moving of House); to allow a sub-basement, defined as a level completely below the lowest street elevation in front of the lot, at 2.95' above the permitted elevation. R-B District. (Deferred from February 13, March 12, and April 9, 1996 Meetings}.

Attorney Robert Deziel, representing the owner of the property, Bartlett Burnap, addressed the Town Council, stating that the house was currently being demolished, and the purpose of the sub-basement was to provide for utility purposes only, in compliance with the definition of sub-basement. Mr. Deziel requested that the Variance be amended to reflect a reduction in size of the sub-basement, as well as the submission of a mechanical drawing by Wojcieszak & Associates, Inc.

Mr. Deziel specified two hardships in the application:

A severe drop in the grade from the north side of the property to the south side of the property at the street frontage, totaling 6-7 feet.

The sloping of the property in the northeast corner from 28 ft., down to 5 ft. at the southeast corner.

Mr. Deziel stated that the variance was an absolute minimum variance, involved two legitimate hardships, had undergone revision from the original plan, and diligent work had been accomplished with the staff and Town Council to formulate a workable solution. Mr. Deziel, therefore, requested that the application be approved.

Mr. Moore stated that the revised plans had been reviewed, and the mechanical layout was in compliance with code, with the exception of the storage area, and staff had no objection.

Mr. Wyett stated that he had reviewed the plans, that the applicant had gone overboard in attempting to comply, and made a motion to approve Variance 3-96.

Mr. Shaw questioned if the storage area would be removed?

Mr. Deziel responded affirmatively, and that the area had been an architectural error.

Mr. Wyett added that it would be permissible to substitute the storage area with greater excavation where the piping would run, since it was a chilled water system requiring access.

Mr. Deziel replied that would be acceptable.

Mr. Wyett amended his motion to approve Variance 3-96, with the condition the storage area in the sub-basement be removed, allowing excavation to be deeper than shown to allow space for mechanical pipes, and finding hardship by the grade of the property; seconded by Mr. Shaw.

Mr. Adrian Winterfield addressed the Town Council, stating that one fact mentioned at the last meeting regarding this variance had been omitted--that was, if there was additional excavation no variance would be required. He respectfully submitted that the purpose of the variance was to enable an owner to use a lot that was otherwise unusable.

On roll call, the motion carried unanimously.

2. Variance No. 5-96 - Mr. and Mrs. John Carter, 269 Pendleton Avenue; to allow construction of a storage shed providing a 7'2" west side yard setback in lieu of 15' required. R-B District (Deferred from March 12 and April 9, 1996 Meetings)

Variance No. 5-96 was withdrawn per oral request to Mr. Moore.

3. Amended Variance No. 8-96 - Mr. and Mrs. Thomas Hirschmann, 102 Flagler Drive; to allow construction of a garage addition providing a 7.5' and 10' side yard setbacks in lieu of 15' required; to allow a porch replacement and addition providing a 11' south side yard setback in lieu of 15' required; and, to allow a 27% front yard landscaped open space in lieu of 40% required. R-B District (Deferred from March 12 and April 9, 1996 Meetings) - Request for Withdrawal per letter dated May 6, 1996, from Robert E. Deziel

Variance No. 8-96 was withdrawn, by motion, under V. Approval of Agenda. (See page 2)

4. Special Exception No. 3-96 With Variance and Site Plan Review - Sandsong Investments, Inc., 206 North Ocean Boulevard; to allow construction of a single family residence pursuant to Section 5.48II.B. of the Town Zoning Code. A variance is requested to allow 20% of the first floor to be retained as a one story in lieu of the 50% required; and to allow 85% of the second story to meet the special exception overall height requirements in lieu of the 50% allowed. R-B District (Deferred from March 12 and April 9, 1996 Meetings)

Attorney Robert Deziel, representing Sandsong Investments, Inc., addressed the Town Council, exhibiting a photo of the neighborhood, as well as a rendering of the new home prepared by the Smith Architectural Group. Mr. Deziel confirmed the original Site Plan approval request and the Special Exception request, requesting to amend the variance request as follows:

Delete the Variance Request for the percentage of second story allowances, and in its place allow a 3 ft. height variance for the one story living room beam, so as to allow for a 17 ft. beam height in lieu of the 14 ft. required. The overall height of the roof would be less than that allowed by code; the code provision had not been widely used before this project and flexibility was needed to insure that the project met the most important requirement of Section 5.48, that the project achieve architectural excellence. Mr. Deziel emphasized that hard work had been accomplished in order to minimize the Variance, and to design a project that would result in the good of the Town.

Mr. Shaw questioned the height of the living room, recollecting that the height had been 16 ft.

Mr. Deziel responded that Mr. Shaw was correct, and wished to make the amendment, on the floor, to 17 ft., with the understanding that the overall roof height would not exceed that allowed for a one story area.

Mr. Moore stated that the request had been modified, and staff had no objection.

Mr. Shaw made a motion to approve Special Exception 3-96, citing the hardship as the lay of the land, and that this was a reduction in density. Mr. Wyett seconded the motion. On roll call, the motion carried unanimously.

5. Variance No. 11-96 - Yvonne Kazeminy, 760 Island Drive; to allow construction of a wall with two driveway entrance gates setback 5' from the pavement in lieu of 18' required. R-B District (Deferred from April 9, 1996 Meeting)

Mrs. Smith asked if there had been any ex-parte communication in this regard?

Mr. Shaw and Mrs. Smith had both spoken to Mr. Deziel

Attorney Robert Deziel, representing Yvonne Kazeminy, addressed the Town Council, stating that the property was at the foot of Everglades Island on Island Drive, and the request was for two driveway gates with a 5 ft. sideback in lieu of the 18 ft. required. Mr. Deziel was amending the request at this time to request an 8 ft. setback on the east driveway and a 10 ft. setback on the west driveway. The purpose for the gates was to provide security and privacy for the property, located at the foot of cul-de-sac. The east gate needed a variance to mitigate the complications caused by an FPL easement, and the west gate needed a corresponding variance to provide for architectural symmetry. There was extensive existing landscaping that would have to be removed from the property in order to accommodate the Town code. In addition there was a severe grade differential between the front property line at the cul-de-sac going up the two driveways. The irregular shape of the property was also a hardship that ran with the land. The variance was also needed for neighborhood conformity. In summary, Mr. Deziel stated that the purpose of the 18 ft setback for gates was to avoid hazardous situations in thoroughfares so as to disallow vehicles from interfering with traffic; his clients had experienced a major problem with sightseers turning around and if the gates were put at 18 ft., cars would still use the area as a turn around.

Mr. Gerald Mazzara, the architect and designer of the gate system, addressed the Town Council, stating that the materials of the gate would be stucco concrete, copper lights, and copper finish. The 18 ft. setback would involve the FPL power pole which would interfere with the architectural design as well require removal of much of the landscaping. The gate had been designed to fit into the existing architecture and landscaping. The cul-de-sac serviced three homes, with no traffic movement from the neighboring properties to the portion of the cul-de-sac where the Kazeminy driveways were located.

At this time, Town Clerk Pollitt swore in all who would be giving testimony regarding variances and special exceptions.

Mr. Moore stated that staff comments were as follows: Arcom and Landmarks - can be designed to meet code; Town Engineer - maintain code required 18 ft setback; Town Manager - concurred with comments of Town Engineer, and requested further information on the hardship; Building Department - no hardship identified, except for the cul-de-sac. Mr. Moore added that the Town Council had seen fit, in the past, to grant variances for the location of gates in areas with extremely low traffic movement and/or cul-de-sacs.

Mr. Shaw commented that he understood that the problem was with the left hand gate only, with the right hand gate conforming to code.

Mr. Deziel agreed, and explained that the architect had drawn plans accordingly. A survey had been done of all the homes and driveways on Everglades Island, finding that 67% of the driveways had gates, with all gates aligned symmetrically. Mr. Deziel emphasized that the proposed variance on this property would make the whole street look better, with the property fitting in with the rest of Island Drive.

Mr. Shaw asked if the FPL pole was the terminus of the lines?

Mr. Deziel replied negatively, and that the possibility of eliminating the pole had been investigated, but was extremely expensive.

Mr. Shaw made a motion to approve the variance, with the amendment that the left (west) gate be set back 18 ft. from the street, and the east gate be 8 ft. from the street. Mrs. Smith passed the gavel, and seconded the motion.

Mr. Wyett stated that architecturally it was too much gate, too close together, too institutional looking, and suggested that a one gate entrance would be more appropriate, with re-landscaping.

On roll call, the motion carried 3/1, with Mr. Wyett casting a negative vote.

Mr. Moore brought attention to item C. Variances, Special Exceptions, and Site Plan Reviews, Old Business, 2. Variance No. 5-96 - Mr. and Mrs. John Carter, 269 Pendleton Avenue. He stated that the Carters had phoned and advised that they would be withdrawing this application, and recommended that the verbal request to withdraw be honored.

Mr. Wyett made a motion to approve withdrawal of Variance 5-96; seconded by Mr. Shaw. On roll call, the motion carried unanimously.

New Business

6. Variance No. 12-96 - Nancy DeMoss, 185 Woodbridge Road; to allow installations of gates providing a 6' 8" setback from the pavement in lieu of 18' required by Section 5.36(b) of the Town Zoning Code. R-A District - Request for Deferral to June 11, 1996 Meeting per letter dated April 30, 1996, from Francis X. J. Lynch

Variance No. 12-96 was deferred to the June 11, 1996, Town Council meeting, by motion, under V. Approval of the Agenda. (See page 2)

7. Variance No. 13-96 - Mrs. Hollis Russell, 224 Colonial Lane; to allow construction of an expansion to the carport providing a 15' front yard setback in lieu of 25' required, and a 4' side yard setback in lieu of 12.5' required. R-B District

Mr. Joe Mattei, representing the owners of the property, addressed the Town Council, distributing photographs of the property. He stated that currently the carport covered only one car, and that extension would not be further to the street, but the area would be wider in order to encompass two cars. Some of the hardships connected with the property were that a garage had never existed, and the lot was 75' x 82'.

Mr. Paul Castro, Zoning Administrator, stated that one letter of objection had been received from a neighbor. Staff found no hardship in terms of allowing the existing carport to be further expanded, and recommended denial.

Mr. Wyett remarked that when there was no hardship and a letter of objection, the Town could be open to damages.

Mayor Ilyinsky asked for clarification.

Mr. Randolph responded that when there was someone objecting to any variance, there may be the potential for a lawsuit.

Mr. Shaw made a motion to deny Variance 13-96; seconded by Mr. McLendon. On roll call, the motion carried unanimously.

8. Variance No. 14-96 - Little Island Corp. & Euro Homes, Inc., 232 and 242/246 Everglades Avenue; to allow construction of two duplexes, each duplex structure to be built on 11,944 sq. ft. in lieu of 13,333 as required. R-C District - Request for Deferral to June 11, 1996 Meeting per letter dated May 8, 1996, from Dean Vegosen.

Variance No. 14-96 was deferred to the June 11, 1996, Town Council meeting, by motion, under V. Approval of the Agenda. (See page 2)

9. Variance No. 15-96 - Robert Meister, 8 South Lake Trail; to allow construction of an accessory structure and a whirlpool providing a 27' front yard setback for the structure and 3' setback for the whirlpool in lieu of 35' required. R-A District

Mr. George Sanchez addressed the Town Council, referring to exhibits of the property and requesting that the variance be granted because of the extensive gardens and garden structure, and the placement of the existing pool.

Mr. Moore read the following staff comments: Architectural Commission - does not meet any of the criteria for granting a variance; can be designed in a manner which would conform to codes. Town Engineer - need a survey showing property lines and easements for further review. Building Department - no hardship.

Mr. Joe Brennan, architect, addressed the Town Council, stating that the property went from the Lake back over 550 ft., and that it was very difficult to find a place to put a small building, since the property included a fantastic garden and landscaping. In addition, the property was very long and narrow, so that by the time the setbacks were considered the remaining area in the middle was considerably landscaped. The hardship was that the entire property was landmarked with an extensive garden area, and there was no other place on the property to add the very small addition being requested.

Mrs. Smith stated that she had no problem with the expansion of the pool house because the entire property was landmarked, however, she did object to the placement of the Jacuzzi and suggested that there were many other areas that would not require a variance.

Mayor Ilyinsky stated that the gardens on this property were some of the most beautiful in Palm Beach.

Mr. Wyett made a motion that the pool house expansion be approved, with the hardship being that the property was landmarked and there was no other location for the pool house, but denying the Jacuzzi, recommending that a conforming location be found for it; seconded by Mr. Shaw.

Ms. Anne Metzger, adjacent property owner, addressed the town Council, stating that her concern had been the Jacuzzi, however she was now comfortable with the pool house location.

On roll call, the motion carried unanimously.

10. Variance No. 16-96 - Saks Fifth Avenue Petite Shop, 150 Worth Avenue, The Esplanade, #201; to allow Saks to locate a new occupancy within 210' of the Saks Men's store and adjacent to the Saks main store, in lieu of 1,500' minimum separation required. C-WA District - Request for Postponement to June 11, 1996 Meeting per letter dated May 1, 1996, from Kim Anderson

Variance No. 16-96 was deferred to the June 11, 1996, Town Council meeting by motion under V. Approval of the Agenda. (See page 2)

11. Variance No. 17-96 - Saks Fifth Avenue Petals Bistro, 150 Worth Avenue, The Esplanade, #227; to allow utilization of space within 210' of the main Saks store and zero feet from the Saks Mens store, in lieu of the 1,500' minimum separation required. C-WA District - Request for Withdrawal per letter dated May 1, 1996, from Kim Anderson.

Variance No. 17-96 was withdrawn, by motion, under V. Approval of the Agenda. (See page 2)

12. Special Exception No. 7-96 - C.H.M. Satellite, Inc., 139 North County Road, The Paramount, #6; to allow an office/professional occupancy on the first floor, with no frontage on or entrance

directly to a sidewalk fronting a street. C-TS District

Ms. Ann Marie Volano, representing C.H.M. Satellite, Inc., addressed the Town Council, stating that the office space requested would be used as a retail conference center with state-of-the-art technology. She explained that the equipment would include a line provided by Bell South, which would be connected to two pentium computers and would provide a conference meeting center to members of the community, allowing them to use the center to conduct out of town, or out of state meetings. Family members would also be invited to use the facility to keep in touch with those located in various parts of the country, and eventually worldwide.

Mr. Moore asked if the firm would need any antennas or satellite dishes?

Ms. Volano said there would be no need for antennas or satellite dishes; it would all be done via telephone wire.

Mr. Moore stated that the Town-serving issue must be addressed, and recommended that a market survey would be in order, since this was a new business.

Mr. Shaw commented that this change of use would reduce parking requirements, since office use had less parking requirements than retail space. Mr. Shaw suggested that the landlord submit written acceptance that the space was being reclassified.

Mr. Shaw made a motion to approve Special Exception 8-96 with the conditions that written acceptance be obtained from the landlord, that a written statement be provided that no satellite dishes be used, and that a marketing survey would be provided to the Town to prove Town-serving; seconded by Mr. Wyett. On roll call, the motion carried unanimously.

13. Special Exception No. 8-96 - Palm Beach National Bank & Trust, 125 Worth Avenue; to allow expansion of the bank's occupancy from 8,477 sq. ft. to 9,691 sq. ft. C-WA District

Mrs. Smith recused herself because this bank was a competitor of the bank she sat on the board of, and passed the gavel to Mr. McLendon.

Mr. Moore pointed out that the applicant would need three affirmative votes to pass, and the applicant could be offered the opportunity to defer until the full Council could be present.

Mr. David Palmer, of Livingston Builders, representing 125 Worth Avenue Limited Partnership, addressed the Town Council, stating that denying this request would be a hardship to Palm Beach National Bank for three reasons:

1. The Trust Department was currently located on the second floor in tight quarters, making it difficult for them to service the Town. This request had already been brought before the Town Council, and had already passed as Special Exception 8-93, which allowed expansion to 9,981 sq.ft., which was just a few square feet under what was currently being requested.

2. The movement of the Trust Department to another building would take the continuity of business away from the bank.

3. Restraining the bank from being able to operate in a manner that would best service clients would greatly diminish competitive abilities with other banks in the Town that occupy substantially more square footage.

Mr. McLendon asked if the Town-serving feature would be diminished?

Mr. Palmer replied that this would add to the ability to service the clients in Town, and that the bank was currently more than 50% Town-serving.

Mr. Moore commented that there was no necessity to prove a hardship, since this was a Special Exception, and not a Variance, and that Special Exception 8-93 had already been approved. Mr. Moore added that Mr. Palmer must address the Town-serving issue, and provide an audit done by a CPA that would prove that the bank was Town-serving.

Mr. Shaw made a motion to approve Special Exception 8-96, subject to the Town-serving audit being received; seconded by Mr. Wyett. On roll call, the motion carried 3/0.

14. Special Exception No. 9-96 - Margaret Bilotti, 196 Via Del Mar; to allow a kitchen in an accessory structure. R-A District

Mr. Denis Quinlan, of Tara Management, addressed the Town Council, stating that there were two buildings on the site and completion of construction of the guest house was expected in one month, with renovation of the main house continuing until approximately November, 1996. The owners were requesting approval of the addition of a kitchenette to the guest house so that they could occupy it while the residence was being completed.

Mr. Wyett made a motion to approve Special Exception 9-96, subject to the execution of a Standard Kitchen Agreement; seconded by Mr. Shaw.

Mr. Moore commented that the Standard Kitchen Agreement would have to be entered into by the owners of the property, which would prohibit rental of the unit, and that it would be occupied by either domestic employees or relatives.

On roll call, the motion carried unanimously.

15. Special Exception No. 10-96 with Site Plan Review & Variances - John Grace, 230 Sunrise Avenue; to allow modification to Special Exception approval #10-93 by permitting an increase in the building size and number of supplementary parking spaces, and the size of the roof trellis to cover the new parking area. Two variances would be required: 1) provide 5.9' rear yard setback in lieu of 10' required, and 2) allow 20,069 sq. ft. lot coverage in lieu of 17,497 maximum allowed. Site Plan Review: Applicant seeks to relocate the dumpster, meter room, and new stair to provide landscape open space and reduce the leasable area. C-TS District

Attorney Ray Royce, representing the applicant, addressed the Town Council, stating that Mr. Grace currently had an approval for a building, and the modification he was requesting was to add a second floor or to add to the rear of the building so that thirteen additional parking spaces could be provided on the second floor. Mr. Royce exhibited drawings of the area, showing the intended modifications. The request would require two variances: 1) to take the rear yard required setback of 10' and reduce it to 5.9', and 2) a variance to increase the lot coverage from 17,497' to 20,069'. Mr. Royce noted that there were special circumstances peculiar to the land and area, and the situation would provide additional supplementary parking to an area with a serious parking problem. The hardship was in the fact that there was a difficult parking situation; the Palm Beach Hotel had been built before any parking was required, and the proposed supplementary parking would be exclusively used for the Palm Beach Hotel. The actual size of the building would be decreased, more landscaping would be provided, the dumpster would be relocated, and stairs would be tucked underneath the building.

Mr. Moore commented that the Town Engineer had a concern with the structures and/or trees and hedges contemplated in the rear to screen properties to the south, questioning whether any planting would take place in the easement?

Mr. Richard Leja, of the Lawrence Group Architects, responded that only grass would be planted in the easement area.

Mr. Moore stated that the surplus parking should be tied to the commercial space by agreement that would run with the property as long as the spaces existed. Mr. Moore explained that the current use of the parking lot prior to the development agreement was for commercial space. The ownership of the commercial space and the ownership of this particular property were one and the same, so the use in the commercial district would be reinforced for commercial parking associated with the Palm Beach Hotel.

Mrs. Smith stated that as she understood the plan, the parking on the lot was for the commercial space in the Palm Beach Hotel.

Mr. Royce replied that it had been proposed to make it available as supplementary parking for the commercial space in the Palm Beach Hotel.

Mrs. Smith ascertained that this parking was the *only* parking for the commercial space in the Palm Beach Hotel.

Mr. Moore replied that was correct, and that the Building Department was not treating the parking as supplemental parking, but required parking for the commercial space in the Palm Beach Hotel--not the condominium hotel units, but the commercial space.

Mr. Royce agreed that the new parking spaces would be parking places that were tied to and served as parking for the commercial units in the Palm Beach Hotel, for as long as the commercial units existed and as long as the building at 230 Sunrise existed.

Mr. Castro clarified that there would be 13 additional parking spaces over and above what had been previously approved with this redesign, however, the overall parking would be 31 spaces more than what was needed for the commercial space on the specific site.

Mr. McLendon asked how many spaces were needed for the commercial units in the hotel?

Mr. Royce replied 38 spaces were needed.

Mr. Moore stated that the benefit for the Town would be that permanent parking spaces would be provided for the commercial units for the Palm Beach Hotel. Mr. Moore added that there was another condition--Mr. Bowser had suggested an additional condition on one of the parking spaces on the entry to the ramp; the addition of a curvature to eliminate one parking space.

Mr. Royce agreed, with the understanding that the net increase would now be 12 parking spaces.

Mr. Wyett asked what provisions were being made for use of the space by residents in the area, and would the space become available for residents of the hotel or other apartments in the area where parking was a problem?

Mrs. Smith pointed out that would be shared parking.

Mr. Wyett replied that shared parking was considered for commercial purposes, and that he was referring to residential purposes in non-business hours, and he asked if residents in the area would be allowed to use the spaces after business hours?

Mr. Moore stated that would not be in concert with the Town Zoning Ordinance, and would not be permitted under the ordinance.

Mr. Wyett suggested that the situation be re-visited during Zoning Season, and questioned the situation with Publix allowing use of the parking lot by residents or visitors after business hours, asking if a non-business use could be assigned to the parking at 230 Sunrise?

Mr. Moore responded that any kind of agreement would be out of the purview of the Town Council.

Mr. Royce replied that they were willing to be cooperative, but did not wish to violate the law.

Mr. Shaw asked if consideration had been given to putting in underground parking?

Mr. Royce responded that had been considered, and it was the opinion of Mr. Lawrence that the cost would be prohibitive.

Mrs. Smith asked if separate motions were needed on the two proposed variances?

Mr. Randolph replied that one motion would suffice, as long as the reason was stated within the motion, however, the Special Exception would be done by a separate motion.

Mr. Shaw expressed concern for power lines that may be involved in the easement.

Mr. Leja recollected that there was not a designated distance for the easement, and that there were power lines very close to the property line.

Mr. Moore stated that they would have to stay outside of the easement.

Mr. Castro stated that there was no set easement in the location, and normally the Public Works Department maintained a prescriptive easement of 2-1/2' on either property, and the parking lot itself could not be put underneath the power lines because the Public Works Department would not allow that. He noted that the building would be close, but the power lines would not be touching the building.

Mr. Shaw made a motion to approve the Variance to provide 5.9' rear yard setback in lieu of 10' required, as part of Special Exception 10-96 with Site Plan Review, with the hardship being the parking situation in the area; seconded by Mr. McLendon. On roll call, the motion carried unanimously.

Mr. Shaw made a second motion to approve the Variance to allow 20,069 sq.ft lot coverage in lieu of 17, 497 maximum allowed. As part of Special Exception 10-96 with Site Plan Review, with the hardship being the parking situation in the area; seconded by Mr. McLendon. On roll call, the motion carried unanimously.

Mr. Shaw made a third motion to approve Special Exception 10-96 with Site Plan Review to relocate the dumpster, meter room, and new stair to provide landscape open space and reduce the leasable area; seconded by Mr. Wyett. On roll call, the motion carried unanimously.

16. Special Exception No. 11-96 with Variance - Edward Cook, 340 Royal Palm Way; to allow a financial use (bond brokerage) occupancy and to allow a four (4) space parking variance. C-OPI District

Attorney Jim Brindell, on behalf of the applicant, addressed the Town Council, stating that he would like the record to include acceptance of the application. Mrs. Smith confirmed that it was accepted.

Mr. Brindell explained that the whole area involved had many financial institutions, and the space in question had financial uses in the past. The building suffered from parking problems, in that it was originally constructed under one set of standards, and now the standards had been changed. There was a lease provision for the right to use 27 parking spaces; they were technically required to have 22 parking spaces; the space currently was vested for 18 parking spaces. A variance was now
being requested for the four spaces.

Mr. Castro stated that staff believed the nature of the business would not attract a great deal of vehicular traffic and had no objection to the Variance request, however, in terms of the Special Exception staff suggested that the Town Council request Town-serving documentation within a certain amount of time in order to ensure that the operation was indeed Town-serving.

Mr. Brindell agreed.

Mr. Shaw made a motion to approve Special Exception 11-96 with Variance; seconded by Mr. Wyett. On roll call, the motion carried unanimously.

17. Special Exception No. 12-96 - Sonia Rykiel (Apparel Shop), 150 Worth Avenue, The Esplanade, #103; to allow occupancy exceeding 2,000 sq. ft. by permitting expansion from 1,976 to 2,141 sq. ft. C-WA District

Attorney James Brindell, on behalf of Sonia Rykiel, addressed the Town Council, stating that additional square footage was needed for merchandise storage and alterations.

Mr. Moore stated that as long as the Town-serving aspect was proven, there was no problem.

Mr. Wyett made a motion to approve Special Exception 12-96; seconded by Mr. Shaw. On roll call, the motion carried unanimously.

18. Special Exception No. 13-96 - Beebe's Tavern, 150 Worth Avenue, The Esplanade; in lieu of the 2,000 sq. ft. maximum permitted, to allow a continuation of the restaurant occupancy of 5,243 sq. ft. granted by Special Exception #7-95 with the continuation of the required parking agreement which permitted required parking across the street as needed. C-WA District - Request for Withdrawal per letter dated May 8, 1996, from Kim Anderson

Special Exception No. 13-96 was withdrawn by motion under V. Approval of the agenda (see page 2).

D. Other

1. Consideration of Potential Study Items for 1996-97 Zoning Season and Proposed 1996-97 Zoning Calendar

Mr. Moore stated that the Zoning Study Items had been presented to the Town Council, noting that there was the Comprehensive Plan, the Breaker's PUD, and quite a few other study items for next year that were delayed from the current year. He asked that the dates be noted, as well as the second 5:01 P.M. hearing would be after the seating of the new Council because of advertising dates and hearing requirements. He advised that the advertising had begun for the Special Town Council Meeting, and Mr. Rampell's office had been so advised. Mr. Rampell advised that he was not prepared to go forward until the June 11, 1996 Town Council Meeting, or thereafter.

Mrs. Smith responded that notification in writing from Mr. Rampell must be received, and until that time no action would be taken.

XV. ANY OTHER MATTERS

There were none.

XVI. ADJOURNMENT

The meeting was adjourned at 7:50 p.m.

Mary A. Pollitt
Town Clerk

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

LAST NAME—FIRST NAME—MIDDLE NAME Smith, Lesly S.	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Town Council
MAILING ADDRESS N. Ocean Blvd.	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY
CITY Palm Beach COUNTY Palm Beach	NAME OF POLITICAL SUBDIVISION: Palm Beach
DATE ON WHICH VOTE OCCURRED 5/14/96	MY POSITION IS: ☒ ELECTIVE ☐ APPOINTIVE

WHO MUST FILE FORM 8B

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

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

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

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

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

* * * * * * * * * * * * * * * *

ELECTED OFFICERS:

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

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

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

* * * * * * * * * * * * * * * *

APPOINTED OFFICERS:

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

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

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

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

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

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Lesly S. Smith, hereby disclose that on May 14, 1996:

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

___ inured to my special private gain or loss;

___ inured to the special gain or loss of my business associate, ________;

___ inured to the special gain or loss of my relative, ________;

___ inured to the special gain or loss of a bank of which I am a director, by whom I am retained; or

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

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

5/14/96

Date Filed

Lesly S. Smith

Signature

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