

MINUTES OF THE TOWN COUNCIL MEETING HELD ON MAY 13, 1997

I. CALL TO ORDER AND ROLL CALL

The Town Council Meeting was called to order by President Smith at 9:30 A.M. on May 13, 1997. The roll was called, and the following Elected Officials were found to be in attendance: Mayor Paul Ilyinsky, President Lesly Smith, President Pro-Tem Leslie Shaw, Councilmen Jack McDonald, Sam McLendon, and Allen Wyett. Also in attendance were: Town Manager Robert Doney, Assistant Town Manager Peter Elwell, Assistant to the Town Manager David Jakubiak, Town Attorney John Randolph, Fire/Rescue Chief Vincent Elmore, Police Chief Joseph Terlizzese, Police CSEU Manager Edgar Burroughs, Parking Control Manager Henry Marchman, Finance Director James Demming, Purchasing Agent Charlie Boggs, Director of Public Works Al Dusey, Town Engineer James Bowser, Building & Grounds Manager Joe Ugi, Zoning Administrator Paul Castro, Planner/Projects Coordinator Timothy Frank, and Town Clerk Mary Pollitt.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Rabbi Moshe Scheiner of the Palm Beach Orthodox Synagogue. President Smith led the Pledge of Allegiance.

III. PRESENTATIONS

A. Recognition of Leighton Rosenthal, Architectural Commission 1988-1997

Mayor Ilyinsky presented Mr. Rosenthal with a plaque recognizing his service to the Town of Palm Beach as a member of the Architectural Commission.

Mr. Rosenthal thanked the Mayor, expressing his appreciation for the honor of serving the Town of Palm Beach.

IV. COMMENTS OF THE MAYOR

Mayor Ilyinsky requested the addition of Item D.9, under New Business, reconsideration of the matter concerning Mrs. Millane, 332 Eden Road.

Mr. McLendon made a motion to add the reconsideration of the Millane matter to the Agenda; seconded by Mr. Shaw. On roll call, the motion carried unanimously.

Mayor Ilyinsky stated that two proclamations would be issued: one designating May 15, 1997 Police Memorial Day, and the other designating the week of May 18-24, 1997 National Public Works Week. Mr. Doney read both proclamations:

PROCLAMATION

WHEREAS, Police Memorial Day was originally funded by President John F. Kennedy in honor of all law enforcement officers who have given their lives in the line of duty, and

WHEREAS, May 15, 1997 has been designated as Police Memorial Day by both an Act of Congress and Presidential Proclamation; and

WHEREAS, the fundamental duty of a police officer is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all men to liberty, equality and justice; and

WHEREAS, those men and women who have carried their cause of justice to the grave deserve

not only our respect but our heartfelt gratitude and affection;

NOW, THEREFORE, BE IT PROCLAIMED, that I, Paul R. Ilyinsky, Mayor of the Town of Palm Beach, do hereby designate May 15, 1997 as

POLICE MEMORIAL DAY

during which the flags at Town Hall and the Police Department will be flown at half-mast. All citizens are encouraged to pay tribute to police officers and honor the memory of those who have lost their lives while protecting their fellow citizens and communities.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the Town of Palm Beach, Florida, to be affixed this 13th day of May, 1997.

*Paul R. Ilyinsky
Mayor*

PROCLAMATION

WHEREAS, public works services provided in our community are an integral part of our citizens' everyday lives; and

WHEREAS, the support of an understanding and informed citizenry is vital to the efficient operation of public works systems and programs such as water, sewers, streets and highways, public buildings, parks, solid waste collection; and

WHEREAS, the health, safety, and comfort of this community greatly depends on these facilities and services; and

WHEREAS, the quality and effectiveness of these facilities, as well as their planning, design, and construction are vitally dependent upon the efforts and skill of public works officials; and

WHEREAS, the efficiency of the qualified and dedicated personnel who staff public works departments is materially influenced by the people's attitude and understanding of the importance of the work they perform.

NOW, THEREFORE, I, Paul R. Ilyinsky, by virtue of the authority vested in me as Mayor of the Town of Palm Beach, Florida, do hereby proclaim May 18 through May 24, 1997 as:

NATIONAL PUBLIC WORKS WEEK

in the Town of Palm Beach, and call upon all citizens and civic organizations to acquaint themselves with the problems involved in providing our public works and to recognize the contributions which public works officials make every day to our health, safety, comfort and quality of life.

IN WITNESS WHEREOF, I have hereunto set my hand and cause the seal of the town of Palm Beach, Florida to be affixed this 13th day of May, 1997.

*Paul R. Ilyinsky
Mayor*

V. APPROVAL OF THE AGENDA

Mrs. Smith requested a motion regarding a request for withdrawal of Item X. A.1 (Consideration of request by Mr. Mike Stein for street lights on El Mirasol) per letter dated May 1, 1997, from Mr. Mike Stein).

Mr. Wyett made a motion to approve withdrawal of Item X.A. 1 (Consideration of request by Mr. Mike Stein for street lights on El Mirasol); seconded by Mr. Shaw. On roll call, the motion carried unanimously.

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Mrs. Smith requested a motion regarding a request for deferral to June 10, 1997 of Item XIV.C.1 (Consideration of Appeal of the Landmarks Preservation Commission to Undesignate 150-A Australian Avenue; Request by Quilty Properties, Inc.) per letter dated May 2, 1997 from Attorney James Brindell.

Mr. Wyett made a motion to approve deferral of Item XIV.C.1 (Consideration of Appeal of the Landmarks Preservation Commission to Undesignate 150-A Australian Avenue); seconded by Mr. Shaw. On roll call, the motion carried unanimously.

Mrs. Smith requested a motion regarding a request for deferral to June 10, 1997 of Item XIV.D.1 (Variance 6-97) per staff recommendation that item needs to be readvertised.

Mr. Wyett made a motion to defer Item XIV.D.1 (Variance 6-97) to the June 10, 1997 Council Meeting; seconded by Mr. Shaw. On roll call, the motion carried unanimously.

Mrs. Smith requested a motion regarding a request for withdrawal of Item XIV.D.3 (Special Exception 12-97 with Variance and Site Plan Review) per letter dated April 30, 1997 from Paul A. Krasker.

Mr. Wyett made a motion to approve withdrawal of Item XIV.D.3 (Special Exception 12-97 with Variance and Site Plan Review); seconded by Mr. McLendon. On roll call, the motion carried unanimously.

Mrs. Smith requested a motion regarding a requested for deferral of Item XIV.D.9 (Special Exception 16-97) per letter dated May 7, 1997 from Attorney Robert Deziel.

Mr. Wyett made a motion to defer Item XIV.D.9 (Special Exception 16-97) to the June 10, 1997 Town Council Meeting; seconded by Mr. McLendon. On roll call, the motion carried unanimously.

Mr. Wyett made a motion that the Town Council discuss authorizing the Ordinances, Rules & Standards Committee to review the Tent Ordinance provision to the Town Code as well as the provisions for scheduling special committee meetings; seconded by Mr. McLendon, to be added as Item XI. D. 10. On roll call, the motion carried unanimously.

Mr. Wyett made a motion to discuss review of the trash collection regulations, to be added as Item XI. D. 11; seconded by Mr. Shaw. On roll call, the motion carried unanimously.

Mr. McLendon made a motion to add Item XI. D. 12 as Town Council discussion of dates to set the Ordinances, Rules & Standards Committee Meeting, and a Water Committee Meeting or Special Town Council Meeting concerning re-use water; seconded by Mr. Wyett. On roll call, the motion carried unanimously.

Mr. Wyett made a motion to approve the Agenda as amended; seconded by Mr. McLendon. On roll call, the motion carried unanimously.

VI. COMMUNICATIONS FROM CITIZENS

Mr. Stuart Shulman addressed the Town Council regarding the Water Contract with West Palm Beach stating that there were many lawyers in the Town who could provide services in this regard, suggesting that a Legal Commission be created, as well as a Financial Commission made up of money management advisors.

Mrs. Ann Herman addressed the Town Council, stating that the Par III Golf Course was alive, well, and in good financial condition despite all of the ongoing talk in the Town.

Mr. Eric Gilbertson addressed the Town Council, stating that the millage rates for school funding were too high.

APPROVED AGENDA

VII. APPROVAL OF MINUTES OF APRIL 22, 1996, MAY 2, 3, & 4, 1996, AND APRIL 8 & 10, 1997

Mr. McLendon made a correction to page 41, line 7, of the transcribed Minutes of the Town Council Meeting held on April 8, 1997. The memorandum from Mr. McLendon to Mr. Randolph mentioned was referred to as regarding the Coastal Construction Line hearing, and should have been in reference to the modification of the Department of Environmental Protection (DEP) Permit for sand transfer. Lines 6 and 7 on page 41 of the Town Council Minutes of April 8, 1997 will be amended to read as follows:

FROM: Mr. McLendon mentioned that he had sent a memorandum to Mr. Randolph relative to the *Coastal Construction Line hearing that would be held in June.*

TO: Mr. McLendon mentioned that he had sent a memorandum to Mr. Randolph relative to the *modification of the Department of Environmental Protection (DEP) Permit for sand transfer.*

Mr. McDonald stated that on page 5 of the April 8, 1997 Town Council Minutes there seemed to be an inconsistency between that and Agenda Item XI. D. 18, and he was not sure which one was correct. He stated that page 5 dealt with the Spoil Islands, and if it was compared to Agenda Item XI. D. 18 there just seemed to be a difference. He stated that it was a correction in terms of who was making the motion to review the Spoil Islands, and that there seemed to be an inconsistency between page 5 and the Agenda item, as to who made and seconded the motion. *(Personnel in the Office of the Town Clerk reviewed tapes of the Town Council Minutes of April 8, 1997, and found no inconsistencies in what was stated and transcribed from the tapes of the meeting.)*

Mrs. Smith referred to page 18 of the April 8, 1997 Town Council Minutes, stating that "on page 18 of the same minutes it says on the Status Report of the Water Franchise Agreement that Mr. Randolph stated the meeting was held between Mayor Graham and Mayor Ilyinsky and I do remember that I was there, and I didn't see you, Mr. Mayor. That would be on page 18 of the April 8th minutes, if we're going to go through and make all these corrections, not that it makes any difference to me."

Line 23 on page 18 of the Town Council Minutes of April 8, 1997 will be amended to read as follows:

FROM: Town Attorney Randolph reported that staffs of the Town and the City of West Palm Beach had met on two occasions in regard to the Water Franchise Agreement, with Mayor Ilyinsky being involved with the discussions.

TO: Town Attorney Randolph reported that staffs of the Town and the City of West Palm Beach had met on two occasions in regard to the Water Franchise Agreement, with Mayor Ilyinsky *(please see addendum to Town Council Minutes of April 8, 1997 with above quoted statement of Mrs. Smith, which was made at the May 13, 1997 Town Council Meeting)** being involved with the discussions.

Mr. Wyett made a motion to approve the Approved Agenda; seconded by Mr. McLendon. On roll call, the motion carried unanimously.

The Approved Agenda was approved with the noted correction on page 41 of the April 8, 1997, Town Council Minutes.

VIII. LICENSES, PERMITS, AND AGREEMENTS

A. Charitable Solicitations

1. The International Society of Palm Beach; No. 232-98

B. Other

1. Authorization for the Mayor, Council President, Town Manager, and Chief of Police to Execute Mutual Aid Agreement for Palm Beach County Law Enforcement Agencies Combined Operational Assistance and Voluntary Cooperation

** Since actual statements made at public meetings cannot be edited, an addendum was added to the Town Council Minutes of April 8, 1997, with the statement of Mrs. Smith made at the Town Council Meeting of May 13, 1997.*

REGULAR AGENDA

IX. PUBLIC HEARINGS

A. Landmark Designation of 4 Golf Road; Resolution No. 30-97

Planner/Projects Coordinator Timothy Frank addressed the Town Council, confirming proof of publication.

At this time Town Clerk Pollitt administered the oath to all those who would be testifying.

Mr. Frank continued with the presentation, stating that the Landmarks Preservation Commission had studied the property at 4 Golf Road, determining that the following criteria for designation of landmarking in the Town of Palm Beach had been met: Criterion A: exemplifies or reflects the broad cultural, political, economic, or social history of the nation, state, county or town. Criterion D: is 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, the architect was Marion Sims Wyeth and

master builder Harry Raymond Corwin. At this point no negative commentary had been received from the owners of the property. Historic Preservation Consultant Jane Day would continue with the presentation.

Historic Preservation Consultant Jane Day addressed the Town Council, stating that the property at 4 Golf Road had been built in 1922, and was part of the Golfview Road Development Company that was set up in the early 1920's with E.F. Hutton, to build luxury estates adjacent to Paris Singer's Everglades Club. The house was a Mediterranean Revival style residence, constructed of hollow clay tiles, and topped with a barrel tile roof. The only alterations to the property occurred in 1968 when a sun room was added, and in 1970 when a pool was added. She noted that the owners were in support of landmarking. Mrs. Day thanked the Preservation Foundation for allowing her to review the plans for the house.

Mr. McDonald stated that he could not see the house and had no idea what it looked like.

Mrs. Day replied that it was true that the house could not be seen from the street, and that she could get more pictures for the file if desired. She stated that she believed it was important to keep the house, as it contributed to the street scape, was below the flood plane, and was a great benefit to the property owners.

Mr. McDonald responded that it was hard to approve something that could not be seen.

Mr. Shaw made a motion that the designation report be accepted as part of the record; seconded by Mr. McLendon. On roll call, the motion carried unanimously.

Mr. McLendon commented that the letter of transmittal to the Town Council did not contain anything about the reaction of the owner to the proposed designation, and that it was important for the Town Council to know whether the owners supported such designations.

Mrs. Day explained that a written letter from the owners had not been obtained, however, she had received a phone call, as did Mr. Frank, during the landmarking process confirming support of the program. She advised that in the future she would ask for written confirmation from owners.

Mr. Shaw commented that the landmarking process was an effort to preserve the house, and that surrounding vegetation was temporary--the existence of vegetation should not be used as a criteria for not landmarking.

Mr. McLendon made a motion to approve Resolution 30-97; seconded by Mr. Shaw.

Mr. Randolph read Resolution 30-97:

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 16, 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 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

On roll call, the motion carried unanimously.

B. Landmark Designation of 19 Golf Road; Resolution No. 31-97

Planner/Projects Coordinator Timothy Frank presented the property located at 19 Golf Road, which the Landmarks Preservation Commission found met the following criteria for designation: Criterion A: exemplifies or reflects the broad cultural, political, economic, or social history of the nation, state, county or town. Criterion 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. Criterion D: is representative of the notable work of a master builder, designer or architect, whose individual ability has been recognized or who influenced his age. The architect was Maurice Fatio, and Mr. Frank noted that there was no owner opposition in regard to the landmarking of this property.

Historic Preservation Consultant Jane Day continued with the presentation, stating that the house at 19 Golf Road was entirely different from the other properties in that area. During the 1930's styles in the economic climate within the Town of Palm Beach, and the nation, changed. The house at 19 Golf Road was a Monterey style house, built in 1938 for Robert and Catherine Appleton, and it was aptly called the 19th Hole, because it sat on the south side of Golfview Road, facing the Everglades Club Golf Course.

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

Mr. Shaw made a motion to approve Resolution 31-97 designating the property at 19 Golf Road as a Landmark in the Town of Palm Beach, as it met Criteria A, C & D of the Landmarks Preservation Ordinance; seconded by Mr. McLendon.

Mr. Randolph read Resolution 31-97:

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

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LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY HEREINAFTER DESCRIBED MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, 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 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

On roll call, the motion carried unanimously.

Mr. Shaw requested that as new properties in an area were landmarked, the properties that had already been landmarked in the same area should be noted as well.

X. OLD BUSINESS

A. Other

1. Consideration of Request by Mr. Mike Stein for Street Lights on El Mirasol (*Deferred from April 8, 1997*) - **Withdrawn per letter dated May 1, 1997, from Mr. Mike Stein. Withdrawn.**
2. Consideration of Florida Power & Light Company's Estimate to Place Overhead Wires Underground on Emerald Beach Way (*Deferred from April 8, 1997*)

Town Engineer Jim Bowser addressed the Town Council, stating that staff had brought forward an opportunity to place an overhead electrical line underground on South Ocean Blvd., at Emerald Beach Way. The property owner had been contacted to request participation, and while he supported placing lines underground in the Town he had incurred costs that prevented him from participating financially in the estimated costs of \$17,000 (\$7,000 from Florida Power & Light, \$10,000 to put two conduits underneath the roadway for BellSouth/Comcast and FP & L).

Mr. Shaw questioned franchisee obligations for the use of the conduits.

Mr. Bowser explained that the policy had normally been that companies would pay for both aerial and underground facilities occupying rights of ways, however, there was an exemption for those companies with current franchises with the Town.

Mr. Shaw asked if there was a reliability benefit in addition to the aesthetic benefit?

Mr. Bowser replied that there was not a significant reliability improvement; it was more of an aesthetic item.

Mr. McLendon made a motion to oppose the placement of the line underground in this area; seconded by Mr. Shaw.

On roll call, the motion carried unanimously.

3. Consideration of Proposal for Franchise Fee Auditing and Compliance Review

Assistant to the Town Manager David Jakubiak addressed the Town Council, stating that estimated fees for audits of revenues from utility companies franchised with the Town had been received from three companies, with varying ranges. He suggested that if one or more audits was desired, Town staff could issue an RAP to obtain proposals from other companies and report back to the Town Council at the June Town Council Meeting with a recommendation. He explained that he did not believe the audit information obtained to date was comprehensive.

Diane Christie, Director of System Development for Comcast Cable explained that affiliate revenue wording in the franchise was a concern to Comcast attorneys. She noted that Comcast owned other entities besides cable systems, and the affiliate revenue coming through the cable system operation had a 5% franchise fee attached to it; affiliate revenue coming into the corporate office did not. She assured the Town Council that the franchise with Palm Beach included all gross revenues coming in through the cable system, whether it was revenue received by Comcast, advertising revenue, or premium service revenue; all gross revenues coming through the cable system had a franchise fee attached to it. Ms. Christie commented that the City of West Palm Beach hired an independent auditing firm to do the audit, which took quite a few months to accomplish. She suggested that the accountant could break down revenue for an annual time period, which she would provide to the Town Council.

Mr. Wyett made a motion to defer this item to the June 10, 1997 Town Council Meeting in order to give time for the figures to be obtained; seconded by Mr. McLendon.

Mr. Shaw suggested that revenue summary reports be obtained from the cable and telephone companies.

On roll call, the motion carried unanimously.

In response to the inquiry of Mr. McLendon concerning franchise revenue and utility tax revenue, Finance Director James Demming explained that there were some excludable items in the definition of revenues; in the area of telephones, the franchise fee would probably be on the local service, whereas the utility tax may be based on interstate long distance and other services, so that there would be two

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different revenue sources applying to the telephone. Electric fees were computed using base and fuel charges.

Town Manager Doney explained that there were certain excludable revenue items from the computation of the amount of utility taxes and franchise fees that the Town received, and each utility would have to be studied on its own.

Finance Director Demming would provide revenue reports for the electric and telephone companies at the June Town Council Meeting.

4. Status Report on Water Franchise Agreement Negotiations with the City of West Palm Beach

Town Attorney Randolph recalled that it had been decided at the April Town Council Meeting that staffs from the town and the City of West Palm Beach would meet to attempt to re-draft the Water Franchise Agreement, incorporating some of the discussions that had taken place at the two previous meetings. West Palm Beach City Attorney Brown had confirmed that he and Mr. Randolph would meet on May 14, 1997 to conclude the wording of the Franchise Agreement. Upon completion of that, there would be a third meeting scheduled, with the hopes of coming back to the Town Council at the conclusion.

Mrs. Smith explained that the Town Council could decide at any time to break off the negotiations with West Palm Beach and go ahead with the filing of the pending lawsuit.

Mr. Wyett commented on the slow progress of negotiations to date, and suggested that West Palm Beach be put on notice that patience was being lost. He made a motion to hold a third meeting with staffs before the next Town Council meeting, which was seconded by Mr. McLendon.

Mrs. Smith pointed out that circumstances had dictated the delay in meetings, and commented that perhaps the suggestion for a third meeting should not be included in a motion.

Mr. Wyett then withdrew his motion, noting that he would like to resolve that the Town Council would want to hold a third meeting as soon as possible, preferably before the next Town Council meeting.

Mr. Randolph would keep the Town Council informed as to the schedule for the next meeting .

5. Status Report on Town of Palm Beach vs. City of West Palm Beach Regarding Downtown Master Plan

Town Attorney Randolph reported that there had been communication with the City Attorney's office in regard to the Downtown Master Plan, with discussions regarding a settlement agreement. In addition to the Downtown Master Plan, the City also had the Traffic Concurrency Exception Area (TCEA) designation, and in order to preserve the status of the Town an objection to that plan would be filed as well. He anticipated that both issues could be resolved in one settlement agreement.

XI. NEW BUSINESS

A. Resolutions

1. Resolution No. 32-97 - Authorize Execution of Joint Participation Agreement with the Florida Department of Transportation for Resurfacing of Royal Palm Way

Public Works Director Al Dusey addressed the Town Council, stating that staff had been authorized to pursue a reimbursable agreement with Florida Department of Transportation (FDOT) to resurface Royal Palm Way from County Road to the bridge. A copy of the proposed agreement was presented, along with a resolution authorizing the President of the town Council to execute the agreement. The intention was to complete the project during the current season, pending the renovations being completed on the bridge.

Mr. Wyett made a motion to approve Resolution 32-97, authorizing execution of a joint participation agreement with FDOT for resurfacing of Royal Palm Way; seconded by Mr. McLendon.

Mr. Randolph read Resolution 32-97:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA AUTHORIZING THE TOWN COUNCIL PRESIDENT TO EXECUTE THE JOINT PARTICIPATION AGREEMENT WPI-4118874 WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR THE RESURFACING OF ROYAL PALM WAY, STATE ROAD 704, FROM SOUTH COUNTY ROAD TO THE ROYAL PARK BRIDGE, AUTHORIZING THE FUNDING OF THE PROJECT FROM THE UNDESIGNATED FUND BALANCE AND THE CAPITAL IMPROVEMENT FUND TO BE REIMBURSED BY THE FLORIDA DEPARTMENT OF TRANSPORTATION.

On roll call, the motion carried unanimously.

B. Appointments

1. Golf Commission - One Member Term to Expire November 1998

Arthur Gross was appointed to fill the late Eugene Pollock's term. The term will expire in November, 1998.

C. Sealed Bids

1. Sealed Bid No. 97-11 - Trimming of Palm Trees

Public Works Director Al Dusey reported that the five year contract to trim the coconut palms had expired, and had been rebid. Award was being recommended to B.G. Katz Property Maintenance at the rate of \$8.70 per tree for an estimated total of \$14,790.00. The contract was a five year contract with four one year options to renew.

Mr. McLendon made a motion to approve Sealed bid 97-11; seconded by Mr. Wyett. On roll call, the motion carried unanimously.

D. Other

1. Consideration of Request by Comcast Cablevision, Inc. for Transfer of Control of Cable Franchise Agreement

Assistant to the Town Manager Dave Jakubiak reported that the Town Franchise Agreement required the prior written consent of the Town before a transfer of stock assignment could be made at Comcast Cablevision System. He noted Director of System Development for Comcast Cablevision, Diane Christie, was present to answer any questions, however, staff had no objections to the request.

Mr. McLendon made a motion to approve the request by Comcast Cablevision, Inc. for the transfer; seconded by Mr. Wyett. On roll call, the motion carried unanimously.

2. Consideration of Request for Town Council to Hear Appeal by Mr. Robert W. Safrin, Executive Director of the Society of the Four Arts, Regarding Commercial Yard Trash Fees

Robert W. Safrin, Executive Director of the Society of the Four Arts, addressed the Town Council, appealing the charges that had been levied against the Society of the Four Arts for the collection of debris and trash, mainly in the form of clippings of grass and shrubbery from the gardens. He noted that the charge amounted to about \$13,000 per year, which had come to the Society as a complete surprise, and which they considered excessive. He remarked that they had checked with Waste Management Company to see what they would charge to pick up on a weekly basis, which would be approximately \$136.00 a month, or \$1,600 per year. He asserted that the botanical and sculpture gardens were Town enhancing, and were for the benefits of the residents as well as visitors to Palm Beach. He questioned the classification of the Society of the Four Arts as a commercial enterprise; the Society spent approximately \$50,000 per year in maintenance for the botanical and sculpture gardens, admitting people free of charge, and based on those figures a commercial venture would quickly go out of business.

Mr. Wyett agreed with Mr. Safrin, as he did not believe it was the intent of the Town Council to impose charges on non-profit Town-serving operations, and made a motion that the charges to nine other non-profit organizations in the Town be removed, including the Society of the Four Arts; seconded by Mr. McLendon for discussion.

Director of Public Works Al Dusey asked that any similarly situated organizations be included in the request. He explained that there was certain criteria that had to be met at the County level for this type of exemption.

Mrs. Smith remarked that the Resolution had only recently been passed, and had been pushed through without enough thought being given to the tax exempt organizations in Town, and how the Resolution would affect them; perhaps the Council had moved too fast under pressure from trash in the streets. She noted that the Garden Club contributed to the Society of the Four Arts for maintenance of the botanical gardens, which attracted most of the visitors to the Four Arts.

Mr. McLendon asked if the Resolution stated "commercial" or "non-residential"?

Mr. Dusey replied that the Resolution was specifically for commercial.

Mr. McLendon pointed out that all of the properties mentioned by Mr. Wyett were tax exempt properties, so the normal trash pick-up was not charged to them because the normal trash pick-up was based on an ad valorem tax basis.

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Mr. McDonald commented that he saw no reason to rush through a motion today, and believed the point raised by Mr. McLendon was very valid. He made a motion to defer the appeal request to the June Town Council Meeting.

Mrs. Smith stated that the season was beginning where large amounts of yard trash would be accumulating, and she questioned how payments would be made for trash pick up before the next Town Council Meeting?

Mr. McDonald replied that the same procedure should be followed as is currently, with the understanding that if the collection policy was changed the properties would be credited. He added that it did not seem fair that even non-profit organizations should have their trash picked up without paying any fees whatsoever.

Mr. Safrin stated that the Society of the Four Arts recognized that the Town was providing a service in picking up the trash, and they were willing to pay a fair share of the charges, which he determined to be approximately \$2,500 per year.

Mr. Dusey mentioned that a number of commercial facilities were not planning on using the Town trash removal service, and would pay for removal on their own.

Mr. Safrin stated that he would appreciate some adjustment on charges for the past month.

At this time Mr. McLendon withdrew his second to the motion of Mr. Wyett.

Mr. Wyett withdrew his motion, as he believed a more detailed study was needed. He recommended that any action of the Town Council be retroactive to today.

Mr. McDonald commented that organizations could make individual arrangements if they were not satisfied with Town charges, however, at the present time the request of Mr. Safrin should be considered.

Mrs. Smith suggested that a compromise would be to bill the Four Arts for the loads picked up during the last month, and then the Four Arts would be welcome to explore alternatives to yard pick-up while the Town Council was deferring Resolution 23-97 for further study. Mr. Safrin agreed with the solution.

Mr. Shaw questioned whether the charge for loads should be on a per annum or per collection basis?

Mrs. Smith passed the gavel to make a motion that the Four Arts be billed for yard trash pick up for the last month only, with the opportunity to explore alternatives while the Town Council was referring the yard trash issue for further study (to the Ordinances, Rules & Standards Committee); seconded by Mr. McDonald. Mr. McDonald stated that the Four Arts would continue to pay for any trash pick up between now and when they could make other arrangements.

On roll call, the motion carried unanimously.

3. Consideration of Proposed Donation by the Garden Club of Palm Beach for Upgraded Xeriscape Plantings at Bradley Park and for Median North of Lake Worth Road

A representative of the Garden Club of Palm Beach addressed the Town Council, stating that the Garden Club had been interested in Town beautification for almost 70 years. With the help of the Town, the Garden Club was proposing to explain and encourage the xeriscape concept through upgrading xeriscape plantings at Bradley Park and the median north of Lake Worth Road. She introduced Landscape Architect George Sanchez, who would explain the details.

Landscape Architect George Sanchez exhibited a plan of the proposed design for the project and explained the details of the project.

Mr. Shaw made a motion to approve the donation of the Garden Club for the plantings at Bradley Park; seconded by Mr. McLendon. On roll call, the motion carried unanimously.

After further explanation by Mr. Sanchez, Mr. Wyett made a motion to approve the plantings in the median north of Lake Worth Road; seconded by Mr. Shaw.

Director of Public Works Al Dusey stated that the Public Works would supply the labor if the Garden Club would pay for the materials.

Mr. McDonald pointed out that there had been a problem with heights of plants obstructing vision, and asked if the plants would be slow growing?

Mr. Dusey replied that the plants would be lower than 30 inches.

On roll call, the motion carried unanimously.

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4. Consideration of Request from Royal Poinciana Theatre for an Additional One (1) Year Extension of Lease Agreement to Continue Wednesday Matinee Program from December 23, 1997, to April 5, 1998

Attorney Phil O'Connell, Jr., representing PTG-Florida, Inc., requesting a fourteenth amendment to the Agreement with the Town for a one-year extension of the Wednesday Matinee Program from December 23, 1997 to April 5, 1998. He noted that Mr. Shaw had suggested modification of traffic routing, and that would be considered by management in conjunction with the Police Department.

Mr. Shaw made a motion to approve the request for the fourteenth amendment to the Lease Agreement with the Town, to include the parking mitigation program currently in effect regarding vendors, notifications, and traffic control; seconded by Mr. McLendon. On roll call, the motion carried unanimously.

5. Consideration of Authorization for Town Manager to Execute One-Year Extension Agreement for Auditing Services with Caler, Donten, Levine, Druker, Gravett, Porter & Veil, P.A. for Fiscal Year Ending September 30, 1997

Town Manager Doney referred to the memorandum of James Demming, Finance Director, dated April 29, 1997 regarding the renewal of the Town Auditor Contract. He explained that the letter of proposal to extend the auditing services with Caler, Donten, Levine, Druker, Gravett, Porter & Veil, P.A. for a one year period was included in the information provided to the Town Council, and staff recommended authorization for execution of the agreement.

Mr. McLendon made a motion to approve authorization for the Town Manager to execute a one-year extension Agreement for Auditing Services with Caler, Donten, Levine, Druker, Gravett, Porter & Veil, P.A. for the fiscal year ending September 30, 1997; seconded by Mr. Wyett. On roll call, the motion carried unanimously.

6. Consideration of Authorization for Town Manager to Execute Two-Year Extension Agreement for Banking Services with First Union National Bank of Florida for Fiscal Years Ending September 30, 1997, and September 30, 1998

Town Manager Doney referred to the memorandum of James Demming, Finance Director, dated May 8, 1997 with the recommendation that the Town Council approve a two-year renewal of banking services agreement with First Union National Bank for the period of July 1, 1997 through July 1, 1999, and authorize the Town Manager to execute the necessary documentation to implement the renewal. He explained that this involved the day to day banking services, and not the investment management services agreement, which was a separate issue.

Mr. Shaw pointed out that banking services were not only to the Town but to the employees as well, and suggested that the bank put in an ATM at the Public Works Facilities to help employees with some of their banking needs, and possibly at the three Fire Stations.

Mrs. Smith stated that she did not feel comfortable hearing this item without a representative from the bank present to answer any questions, and asked if there was any particular reason a representative from the bank was not present? She suggested that a phone call be placed to the bank requesting the presence of a representative at the Town Council Meeting.

Mr. Wyett made a motion that this item be moved to be heard at the Town Council Meeting next month, in order to notify the bank that a representative prepared to address the Agreement as well as the ATM situation was desired; seconded by Mr. Shaw. On roll call, the motion carried 4/1, with Mr. McDonald dissenting.

7. Consideration of Traffic/Safety Study at the Par 3 Golf Course

Mr. McDonald began his comments with the following statement: "Planes crash, trains de-rail, and ships sink, but the most dangerous travel, mile by mile, is walking." He noted that there was more traffic at the Par 3 Golf Course than ever before, and any safety measures that could be taken should be considered; it had been several years since any traffic studies had been done and he suggested that it was now time to pursue another study.

Director of Public Works Al Dusey stated that the Florida Department of Transportation (FDOT) had been asked to consider certain things in the past, such as the installation of traffic signals, etc., noting that he did believe that traffic had certainly increased in the area. He suggested that FDOT again be contacted to request safety measures; another approach would be to pay for a traffic study through a traffic engineer and provide that information to FDOT to come up with some solutions to the traffic concerns.

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Police Chief Terlizzese reported that two accidents had been reported during the past year in the Par 3 area. He stated that every time a golfer went from the back nine to the front nine it was necessary to cross the highway, which was especially difficult for some of the older golfers, as motorists were not the most polite in stopping for users of the crosswalk. He suggested that a cross light that would operate on demand be installed.

Mr. Wyett concurred with Police Chief Terlizzese, and suggested that FDOT be requested to install a demand traffic light.

Mrs. Smith suggested that a request be made to FDOT to put the cross walk signposts on the roadways for pedestrian crossings in order to alert drivers that pedestrians were crossing.

Police Chief Terlizzese replied that he did not have a problem with that, however, FDOT had ordered that the cross walk posts be taken off the roadway.

Mrs. Smith responded that perhaps with a new administration the response would be different, and whatever could be done to maintain the safety of pedestrians should be done.

Mr. Shaw made a motion that FDOT be contacted to request replacement of the cross walk posts, as well as an on demand cross light at the Par 3 Golf Course; seconded by Mr. McLendon.

Mr. Rodney Fink, Co-Chairman of the Citizens Association addressed the Town Council, stating that for several years the Citizens Association has heard many comments from residents concerning the need for action regarding the traffic problems at the Par 3 Golf Course. He commented that he understood that a traffic study had been completed during the summer months by the FDOT, which had concluded that the traffic pattern did not warrant any change. He suggested that any such survey should take place at the height of the season.

Mrs. Smith asked how many people played golf at the Par 3 Golf Course last year?

Director of Recreation Russell Bitzer replied that approximately 40,000 rounds of golf had been played.

On roll call, the motion carried unanimously.

8. Consideration of the Clean-up of the Spoil Islands Leased by the Audubon Society

Town Engineer James Bowser addressed the Town Council reporting that staff had written to the Audubon Society requesting a commitment to clean-up the Spoil Islands, as requested by Town Council President Smith. He noted that the response from Richard T. Paul, Manager of the National Audubon Society was included in the back-up provided, which indicated that island clean-up was usually done as part of site preparations for any restoration work. Mr. Bowser advised that the Town was currently working with the County on a restoration project which, unfortunately, was many years away. Mr. Bowser reported that he was able to contact Mrs. Rosa Durando with the local Audubon Society, who indicated that the local society had provided some clean-up activities, and she indicated that the local chapter would work towards scheduling another clean-up.

Mr. Bowser gave the following staff recommendations:

A follow-up letter sent to the Audubon Society requesting a clean-up, and requesting full compliance with the lease agreement. The key points for compliance would include:

1. Active management of the islands, to include regular cleaning and participation in the development of restoration plans.
2. Posting of signs at the islands stating that the islands are a wildlife sanctuary and are not to be used for any other purpose.
3. That the Audubon Society makes rent payment.
4. That compliance be completed within 60 days of notification. If they failed to do this, staff would recommend that the Lease Agreements be canceled, and staff would then coordinate the clean-ups and the posting of the islands as wildlife sanctuaries.

Mayor Ilyinsky remarked that he had noticed people and boats using Fisherman Island frequently, and to deprive the public of using the islands would be a disaster.

Mr. Bowser replied that certain segments of islands could be posted for use by the public, and others could be posted as being off limits, however, that would be a Town Council decision.

Mr. McDonald commented that the Lease Agreement was silent on maintenance and clean-up of the islands, and suggested that it be revised to incorporate some of the suggestions made by Mr. Bowser. He asked if the Audubon Society had been paying the rent (\$1.00/year) stipulated in the Lease Agreement?

Mr. Bowser replied that he had no knowledge of that.

Mrs. Smith commented that Rosa Durando would follow up with the concerns, and would be able to provide information about

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the proposed hiring of the sanctuary manager by the Audubon Society. She pointed out that the taking over of the management of the island was a huge project, and questioned if there was available Town staff to accomplish that. She stated that she believed the Audubon would do a very good job now that they were on notice of the status of the islands.

Mr. McDonald made a motion to have the Town Attorney negotiate a revision to the Lease Agreement with the Audubon Society that would incorporate the recommendations made by the Town Engineer, and that would allocate responsibility for maintenance of the island; seconded by Mr. Wyett. Mr. McDonald included the comments of the Mayor, suggesting that the motion cover all of the islands other than Fisherman's Island, with the possibility that Fisherman's Island could be used as a passive use for people. On roll call, the motion carried unanimously.

Mr. Bowser would contact Rosa Durando, and report back to the Town Council.

9. Reconsideration of Millane matter (332 Eden Road).

Mayor Ilyinsky commented that Town Administration had followed Town policies exactly in dealing with this issue. He explained that there had been some confusion regarding this issue, and suggested that the Town make some accommodations to Mrs. Millane through payment of one-half of the \$7,194.93.

Public Works Director Al Dusey explained that it was not known when the original sewer connections had been made; it probably had been done in the 1930's or 1940's.

Mr. Shaw expressed concern with what costs would have been from a private contractor, as opposed to costs submitted by the contractor for the Town on the project.

Mr. Bowser explained that he could not determine whether another contractor may have been any more or less than the costs submitted by the contractor for the Town, however, he considered the fee for the project a fair charge.

Mr. Wyett suggested that Mrs. Millane be accorded the same consideration that any other resident with a similar problem would be given.

Mr. McDonald agreed that there were many different facets to this issue, and expressed concern about paying half the bill.

Mr. McLendon suggested that when the storm sewer had been exposed it should have been noticed whether sewage was flowing out of the pipe, and stated that he was therefore agreeable to paying part of the bill.

Mr. McDonald replied that there was enough confusion and ambiguity in this issue to allow payment of one-third of the bill.

Mrs. Smith stated that she did believe the Town should notify property owners in writing, with return receipt requested, on any notices of work that would be done. She agreed with the recommendation that the Town pay part of the bill on the basis that the Town could possibly have been at fault.

Mr. McLendon made a motion that the Town pay one-half of the bill. The motion died for lack of a second.

Mr. McDonald made a motion to approve the amount of \$2,500 as payment for settlement of this matter; seconded by Mr. McLendon. On roll call, the motion carried 4/1, with Mr. Wyett dissenting.

10. Consideration for the Ordinances, Rules, & Standards (ORS) Committee to review the Tent Ordinance and the Provisions for Scheduling Special Committee Meetings

The Town Council scheduled an Ordinances, Rules, & Standards (ORS) Committee meeting for Thursday, June 12, 1997, at 10:00 a.m. to consider the following issues:

1. Charitable Solicitation Permits: \$25 late fee, audits, method of issuing.
2. Code Enforcement Board fines.
3. Conditions or requirements for calling Special Commission or Board Meetings.
4. Review the issue of Commercial Yard Trash charges for non-profit entities.
5. Telecommunications Ordinance.

It was decided to delay consideration of the Tent Ordinance issue, as well as the Restaurant Valet Parking issue, which were additional items that would be considered at a future date.

The consideration of the Solid Waste Survey Results would be scheduled to be heard at a Public Works Committee meeting at a

future date.

Mr. McLendon reported that he would like to set a meeting to report on and consider a proposed reclaimed water system for irrigation. Mr. McDonald made a motion to include consideration of water re-use in the Special Town Council Meeting scheduled for July 29, 1997; seconded by Mr. Shaw. The motion was withdrawn. It was decided to schedule a meeting in this regard at a future date.

XII. COMMENTS OF THE TOWN COUNCIL MEMBERS

Mr. McLendon questioned the billing from Palm Beach County regarding the Sand Transfer Plant and suggested the billing should be monthly with the amount of sand transferred shown on the bill. He stated that he was not sure what the agreement with the County to operate the Sand Transfer Plant covered, and suggested that the Mayor approach the County concerning operating expenses of the Sand Transfer Plant.

Director of Public Works Dusey explained that the Agreement required the County to notify the Town quarterly as to the amount of sand pumped, as well as the financial issues that were occurring (anticipated versus actual). In addition, they were supposed to notify the Town on any day that they were unable to pump for any reason. They had not been doing those things, and he had forwarded a letter to the County again this morning to request that information be provided on a regular basis.

Mr. Wyett endorsed the editorials of the Palm Beach Daily News regarding the Par 3 Golf Course, and assured the residents of the Town that the Par 3 Golf Course would be here as long as the island was here.

XIII. APPROVAL OF WARRANT LIST AND FUND EXPENDITURES FOR APRIL 1997

Mr. Wyett made a motion to approve the Warrant List and Fund Expenditures for April 1997; seconded by Mr. Shaw. On roll call, the motion carried unanimously.

XIV. DEVELOPMENT REVIEWS

A. Major Matters Previously Considered by the Architectural Commission at Its Meeting of April 23, 1997 - Minutes Available in Town Manager's Office

The major matters were:

Deferrals and Continuations - Major Projects:

- Be-97 Application by Mr. and Mrs. Normal Bahary, 160 Kings Road, for change in style from contemporary to Spanish and the addition of a two-car garage - approved.
- B16-97 Application by Mr. James Woolems, 1080 North Ocean Blvd., for demolition of existing residence and construction of new two-story Mediterranean style residence - deferred.
- B17-97 Application by Classic Homes and remodelers, Inc., 215 Southland Road, for new two-story Bermuda style residence - deferred.
- B18-97 Application by Mr. and Mrs. Beard, 410 Chilian Avenue, for new two-story Mediterranean Revival residence - approved.

New Business - Major Projects:

- B19-97 Application by Haisfield Investment Partnership, 231 Royal palm Way, for removal of windows, new smooth stucco, new barrel tile roof, cornice work at parapet, new balconies, and brick accent panels - deferred.
- B20-97 Application by Malasky Homes, 286 Jamaica Lane, for new two-story residence - approved.
- B10-97 Application by David Frisbie, 611 Tarpon Way, for new residence and landscape - approved, landscaping plan will come back for approval.
- B14-97 Application by Jonathan Deitcher, 175 Via Palma, for addition of second floor over the garage - deferred.
- B21-97 Application by Mr. and Mrs. Friedman, 901 north Ocean Boulevard, for new guest house, add new dining room, new garden shed, and an open roof canopy over an existing roof deck - deferred.

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- B22-97 Application by Cartier, 214-218 Worth Avenue, for removal of existing pink marble facade, installation of new verde marble and limestone facade, addition of new display windows and signage, addition of new balustrade - deferred.
- B31-97 Application by Llwyd Ecclestone, 1070 North Ocean Boulevard, for new two-story residence, pool, and cabana - approved footprint - agreement to be in writing for review of Town Attorney - (See ARCOM Minutes 4/23/97 for details).
- B23-97 Application by Edward and Laurie Lutz, 233 Arabian Road, for enclosure of foyer and covered entry addition, roof and wall finishes to match existing - approved.
- B24-97 Application by Gerald Tsai, 1000 North Lake Way, for renovation of existing residence - approved.
- B25-97 Application by Robert M. Foman and Lewis A. Foman, 974 South Ocean Boulevard, for demolition of main residence - deferred.
- B26-97 Application by Fred Keller, 241 La Puerta Way, for deletion of some windows and increase of square footage to garage - deferred.
- B27-97 Application by Harold Oelbaum, 528 North Lake Way, for 398 square feet of additions and interior alterations, stucco on concrete block construction, new exterior terrace, and new stucco banding on existing building - approved.
- B28-97 Application by Mr. and Mrs. Schur, 1090 North Lake Way, for demolition of existing residence - approved.
- B29-97 Application by John Crompton, 1581 North Ocean Boulevard, for demolition of residence - approved.
- B30-97 Application by Philippe and Marta Malouf, 1490 Via Manana, for second story addition to an existing two-story house - approved.
- B32-97 Application by Skip Gozzo, 127 Ocean View Road, for new Bermuda style residence - deferred.
- B33-97 Application by Mr. and Mrs. Harding Wilinger, 324 El Bravo Way, for new second story addition over existing garage - approved.
- B34-97 Application by Ronald Lauder, 115 Flagler Drive, for addition of two level open loggia at east elevation, demolition of courtyard addition, addition of pool, cabana, tennis court, and renovation of existing house - approved; landscaping plan will come back for ARCOM approval.
- B35-97 Application by Addison Development, 211 Via Tortuga, for demolition of existing residence and construction of new residence - project deferred; demolition approved.
- B36-97 Application by Addison Development, 236 Via Las Brisas, for new two-story Mediterranean style residence - deferred.
- B37-97 Application by Addison Development, 228 Via Las Brisas, for addition to existing structure - approved.
- B38-97 Application by Addison Development, 234 Via Las Brisas, for new two-story Mediterranean style residence - deferred.
- B39-97 Application by Euro Homes, 232 Everglade Avenue, for demolition of existing apartment building - approved.

Mr. Shaw commented that he had noticed as hurricane shutters were going up there did not seem to be any aesthetic criteria, and he hoped that the Architectural Commission would be noting this fact.

Mr. Wyett made a motion to approve the Major Matters previously considered by the Architectural Commission as noted in the minutes of the April 23, 1997 Architectural Commission Meeting; seconded by Mr. Shaw. On roll call, the motion carried unanimously.

B. Time Extensions

1. Special Exception No. 3-96 - 206 North Ocean Boulevard; Request by Mr. Robert E. Deziel for a One-Year Time Extension

Attorney Robert Deziel addressed the Town Council, representing Sandsong Investments, Inc., the owner of the property at 206 North Ocean Boulevard, requesting a one-year extension to Special Exception 3-96, which had been approved on May 14, 1996. He noted that he had met with staff to discuss the extension as a result of the complexity of the contemplated construction, as well as the relocation of the Coastal Construction Line.

Zoning Administrator Paul Castro stated that staff recommended approval of an extension relating to the construction of the house.

Mr. Wyett expressed concern regarding the extension, as the residents on Seminole were entering court relative to their petition for beach access, and the owner of the property could have solved the problem by giving a gate. Because of the special nature of the circumstances in this case, he requested a deferral or a denial.

Mr. Deziel responded that a deferral or denial would create a \$6,000,000 problem for his client. These types of request had come before the Town Council previously, and had been customarily granted. He noted that the residents of Seminole had access to a gate at Root Trail, which was one block away, as well as access through a gate on Everglades, which was one block away. He explained that the Town Council had asked that the neighbors be worked with in developing a plan for a third access across the property of his client. He had then conversed with the attorney representing them, however, an action for an injunction had been filed.

Mr. Wyett proposed that the one-year extension be granted with the provision that Seminole residents be allowed a three foot opening for a gate which they would pay for.

Mr. McDonald made a motion to approve Special Exception 3-96 for a six month time period; seconded by Mr. McLendon. On roll call, the motion carried 4/1, with Mr. Wyett casting a negative vote.

C. Appeals

1. **Consideration of Appeal of the Landmarks Preservation Commission to Undesignate 150-A Australian Avenue; Request by Quilty Properties, Inc. - Deferred to June 10, 1997, per letter dated May 2, 1997, from Mr. James R. Brindell. The Town Council deferred this item to the June 10, 1997, Town Council meeting.**

D. Variances, Special Exceptions, and Site Plan Reviews

All those who would be speaking to Variances, Special Exceptions, and Site Plan Reviews stood to be administered the oath by Town Clerk Pollitt.

Old Business

1. **Variance No. 6-97 - Michael Kalisman, 146 Dunbar Road; located in the R-B Zoning District; to allow construction of an addition thereby expanding a nonconforming accessory building providing no side yard setback in lieu of 15' required, and to allow two entry gates setback 15' in lieu of 18' required. (Deferred from March 11, 1997 and April 8, 1997) - Deferred to June 10, 1997, per Staff's recommendation that this item will need to be readvertised. The Town Council deferred Variance No. 6-97 to the June 10, 1997, Town Council meeting.**
2. **Special Exception No. 8-97 - Palm Beach Public School and the Baptist Church in Palm Beach, tenant, 240 Cocoanut Row; located in the R-B Zoning District; to allow the Church to hold educational activities and worship service on Sunday mornings from 9 to 11 a.m. in the School's gymnasium and to allow off-site parking for church services on the School property on the east side of Cocoanut Row. (Deferred from April 8, 1997)**

Ex-parte communication was declared by Mr. Wyett with Attorney Reid Moore regarding the move to the cafeteria; by Mr. McLendon with Attorney Reid Moore concerning the advantages of the changes that had been made in the application; by Mrs. Smith with Reid Moore, the attorney for the church, regarding the application; by Mr. Shaw with Attorney Reid Moore, concerning the discrepancy in the lease agreement and the application; by Mr. McDonald with Attorney Reid Moore, and Mr. Ted Metzger regarding the possibility of approval.

Attorney Reid Moore addressed the Town Council, stating that it had been suggested at the last Town Council Meeting that it would be more appropriate that the proposed usage be in the cafeteria as opposed to the gymnasium, and a new lease had been executed with Palm Beach Public School and the Baptist Church in Palm Beach to change the site. Councilman Shaw had pointed out that there was a short term on the lease; the School Board of Palm Beach County issued leases on a year to year basis as of July 1st of each year, and a new lease would be provided as of July 1, 1997 through June 30, 1998 and every year thereafter. He pointed out that there was enough parking within the school site, so there would be no need for on-street parking for the proposed use.

Zoning Administrator Paul Castro reported that the location across the street from the gymnasium provided much more parking, substantially more than what was required, and staff recommended approval with the condition that no

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That the lease extending to July 1, 1997 be reviewed after the next six weeks, with Attorney Moore coming back to report to the Town Council regarding any complaints concerning noise or traffic from residents on Seaview.

Mr. McDonald made a motion to approve Special Exception 8-97 on a provisional basis, to the July Town Council Meeting; seconded by Mr. McLendon.

Attorney Reid Moore suggested that a six month provisional time period be used, rather than the six week time period.

Mr. McDonald amended the motion to approve Special Exception 8-97 on a provisional basis, to the August Town Council Meeting, at which time the operations would be reviewed. Mr. McLendon, the seconder of the motion agreed to that amendment. On roll call, the motion carried unanimously.

3. Special Exception No. 12-97 with Variance and Site Plan Review - CPS Properties, 312-322 Royal Palm Way; located in the C-OPI Zoning District; to allow construction of a third story addition, new front facade, and landscaped islands in parking lot at a front setback of 2' in lieu of 5' required. (*Deferred from April 8, 1997*) - **Withdrawn per letter dated April 30, 1997, from Mr. Paul A. Krasker, Special Exception No. 12-97 with Variance and Site Plan Review was withdrawn.**

4. Special Exception No. 13-97 - Interoffice of Palm Beach, Inc., 125 Worth Avenue; located in the C-WA Zoning District; to allow office use on the third floor and, further, to allow occupancy of 6,614 sq.ft. in lieu of 2,000 maximum permitted by special exception on this third floor. (*Deferred from April 8, 1997*)

Ex-parte communication was declared by Mr. McLendon via a telephone call from Mr. Greer with a potential objection; by Mr. McDonald with Attorney John Dotterer regarding possible opposition to the application.

Attorney Greg Kino addressed the Town Council, representing Interoffice of Palm Beach, Inc., proposing 6,374 sq.ft. of gross leasable area for an executive suite office facility (a misprint on the Agenda indicated 6,614), which was a shared office concept providing support office personnel and services, consolidating smaller office spaces into one area. The floor space would be divided into 20 executive suite offices, each averaging about 180 sq.ft. He explained that a Special Exception was a permitted use to which an applicant was entitled unless the Town Council determined, according to zoning standards, that the use would be adverse to the interest of the public. He advised that every special exception standard had been addressed in the application, however, staff had indicated that the Town-serving aspect should be focused upon. A short list of witnesses would provide testimony, to include Linda Chiles, Regional Manager of Interoffice Management, Betsy Burden of Caldwell & Pacetti, representing the property owner and co-applicant, Ardelle Stoller, Property Manager, and Stanley Geberer, Marketing Analyst.

Linda Chiles, Regional Manager of Interoffice Management, addressed the Town Council, passing out brochures while explaining the concept and history of the company.

Attorney Betsy Burden of Caldwell & Pacetti, addressed the Town Council, representing the landlord, the owner of the building as the co-applicant for the Special Exception. She emphasized that the landlord was very sensitive and concerned about the class and quality of tenants in the building and was thoroughly satisfied with Interoffice Management. She noted that she had spoken with Mr. Brad Greer, a tenant in the building, who had indicated that he had no problem with the Special Exception request.

Ardelle Stoller, leasing agent/property manager, addressed the Town Council, distributing a market study from brokers who had given consensual approval to the proposed Special Exception. She explained that another executive service located in the 205 Worth Avenue Building had an occupancy rate of 100% with a waiting list, and information concerning them was included in the market study. She noted that the other executive services in the Town were very similar. She concluded that the services provided by Interoffice of Palm Beach, Inc., would be an asset to the building as well as the community.

Stan Geberer, of Fiskind & Associates, an economic consulting firm, addressed the Town Council, informing them that a market analysis had been conducted to determine whether the residents or the tenants of the Interoffice space would meet the 50% Town-serving criteria. Letters had been sent out to residents and businesses in the Town of Palm Beach concerning the demand for such space, and responses had indicated that the 50% criteria would be met. In addition, there would be some customers of those tenants who would be Town residents.

Mr. Kino clarified that Mr. Geberer had indicated that there was certainly enough demand to meet the 50% criteria, and the demand was Town-serving from Town persons.

Zoning Administrator Paul Castro addressed the Town Council, stating that most of the information provided by the applicant was received late yesterday, and although he had briefly gone through the analysis he had not had sufficient time to substantially review the information. He noted that from what he had read so far it appeared that the applicant had done substantial work in sending out inquiries related to the proposed business. In terms of the specific site itself, the floor plan that had been originally provided had received comments from the Fire Department that the building would need to be fire sprinklered as it was being renovated, as well as the provision for two remote means of egress from the office suite portion of the space. Substantial information had been submitted related to the Town-serving criteria, and Mr. Castro indicated that the documentation provided would indicate that the business would be Town-serving in the future, however, staff recommended that the applicant come back over a period of time to demonstrate the Town-serving requirement, as well as

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Mrs. Smith asked Mr. Kino if the floor plan just handed out was identical to the one that the Building Department had previously?

Mr. Kino replied that the floor plan was identical to the original floor plan submitted, other than the placement of furniture. He indicated acceptance of the conditions for approval which had been discussed to this point, noting that the reconfiguration required for the two remote ingress/egress points would add approximately 150 sq.ft., making a total of 6,524 sq.ft. Mr. Kino noted that a revised square footage figure had been sent via letter to the Town, giving the 6,374 sq.ft., which would now have the additional 150 sq.ft. added to it.

In response to the question of Mr. McDonald regarding the statements concerning traffic of the tenants, Mr. Kino responded that the foundation for that statement were the responses from the survey, which indicated that 62% of those respondents said that they would have customers visiting their space at some point in time; approximately half of that 62% said that they would have customers once or twice per week; the others indicated that, yes, they would have customers. The estimation for the number of customers visiting the entire office service would be approximately 200 customers per week, or 40 per day for the 20 suites involved.

Mr. McDonald asked how this information compared with other offices operated?

Ms. Chiles replied that it was the experience in all of the centers across the country that traffic was very minimal in the suites.

Mr. McDonald asked if there would also be 40 car trips a day?

Mr. Geberer replied that it would be 40 trips per day; whether the customers would all come by cars was unknown, and since 99% of the customer visits would be from Town persons it could be expected that they could easily walk.

Ms. Burden explained that traffic and parking would be reduced by the nature of this office, because of the centralized support staff.

Mr. Castro pointed out that some of the offices in the suites did have individual secretarial areas in them.

Ms. Chiles responded that the adjoining suite configuration was actually more for two individuals working on the same business, for example, two attorneys, two sales representatives; revenue was based on defraying from leasing to an individual who would be bringing in their own clerical support.

Mr. Wyett expressed concern regarding the approval of going from 2,000 to 6,500 sq. ft.

Mr. Shaw expressed concern over the use of the space, inquiring whether office space would be operating on a shared concept, where executives in other cities could now share office space in Palm Beach?

Ms. Chiles explained that historically international agreements had been entered into, that should the companies choose to expand to another major market Interoffice Management would work with them on a discounted basis for office space in those markets. She pointed out that the nature of industries located in Palm Beach did not justify some of the existing national accounts to do business in the area; she did not foresee that the conference rooms would be used for a day by such accounts. She noted that all the common areas were shared by the clients within the space.

In response to the question of Mayor Ilyinsky concerning the location of the space, Mr. Larry Leneve, real estate broker and representative for Paul Swindley, owner of Interoffice Management, addressed the Town Council, explaining that Mr. Swindley had asked him to locate a site in Palm Beach for an Interoffice facility. Mr. Leneve indicated that West Palm Beach had not been a consideration; Mr. Swindley was a resident of Palm Beach, and believed there was an absolute market for the facility in Palm Beach.

In response to the concerns of Mr. Shaw regarding the Town-serving requirement, Mr. Randolph explained that he knew of no specific requirement in the Town Code that one residential lease tenant be signed on before a non-residential lease tenant could be signed on. He advised that the burden of the applicant was to convince the Town Council through submission of evidence that not less than 50% of the customers of the proposed use would be Town persons. One of the procedures done in the past had been to require an affidavit to be submitted each year that indicated the Town-serving requirement had been met.

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Mr. Geberer, in response to the question of Mrs. Smith, addressed the marketing surveys regarding the inclusion of names and addresses, assured her that names and Palm Beach addresses, or a telephone number with a Palm Beach exchange were used. The letters went only to Palm Beach addresses.

Mrs. Smith explained that her concern was the affirmative answer to the question regarding office space being leased for less than a year, as that would be too transient, offering little protection for the Town.

Attorney Burden stated that she had discussed the situation with Mr. Dotterer regarding his concerns, and would continue to do that. She believed most of the concerns were more of a private matter with the landlord, and she offered to attach as a condition of approval that the Town-serving ordinance would be met by Interoffice Management.

Mr. Wyett proposed that the square footage be reduced.

Attorney Kino stated that a one year minimum lease would be agreeable; there would not be any stockbrokers, since they were special exceptions needing individual approvals from the Town and occupational licenses; the 10% discount offered by Interoffice Management had been offered as a motivation to respond--Interoffice Management rates were 40% higher than existing executive suite services.

Zoning Administrator Paul Castro clarified that 26 parking spaces would be required off-street for the space, and there was not a parking problem related to the subject space. He noted that financial institutions and some other uses in the district were special exception uses and would specifically be required to demonstrate Town-serving on a yearly basis.

Mr. Shaw expressed concern that the Town-serving requirement be met through a one for one process, whereas a first tenant may not be a Town resident, but the second one would be.

Mr. Randolph reviewed the Special Exception section of the Town Code. He noted that the application automatically required a Site Plan Review (Section 6.40 of the Town Code). He explained that this was a quasi-judicial hearing, subject to review by a Court; any motion made would want to review the findings in order to determine whether there was competent substantial evidence to support the findings.

Mr. Wyett made a motion to allow 4,000 sq.ft. of space initially; after the Town-serving requirement had been proven as well as parking and traffic accommodations were found acceptable, the client could come back to the Town Council to request the additional space. The motion died for lack of a second.

Mr. Shaw made a motion to approve Special Exception Application 13-97 with the following conditions:

1. There be no mail box or drop service provided.
2. There be no interoffice marketing of space between other facilities of the company.
3. Parking would be provided on the basis of one space per office, in addition to the fact that if each suite went over 250 sq.ft. a second parking space would be provided, with four spaces allocated for staff.
4. That the methodology of Town serving would be one for one lessees (one resident to one non-resident), to return to the Town Council within six months with evidence of Town-serving requirement.
5. Any staff requirements be included.

The motion was seconded by Mr. McLendon. On roll call, the motion failed 2/3, with Mr. McLendon and Mr. Shaw casting affirmative votes; Mr. McDonald, Mrs. Smith and Mr. Wyett casting negative votes.

Mr. Wyett made a motion to defer Special Exception 13-97 for further study on the basis that the diagram submitted was incomplete, and that other conditions had not yet been spelled out. The motion died for lack of a second.

Mr. Wyett re-stated his motion: defer Special Exception 13-97 to the June Town Council Meeting in order to give the petitioner the opportunity to provide more information; seconded by Mr. McLendon. On roll call, the motion failed 2/3, with Mr. McLendon and Mr. Wyett casting affirmative votes; Mr. McDonald, Mr. Shaw, and Mrs. Smith casting negative votes.

Mr. Shaw made a motion to approve Special Exception 13-97 with the following conditions:

1. Incorporation of staff recommendations that fire sprinklers are required for the area; Occupational Licenses are required for the individual tenants.
2. There will be no mail box or drop sites.
3. There be no interoffice marketing.
4. Leases be signed for at least one year.
5. A minimum of thirty (30) parking spaces.
6. The Town-serving requirement would be met with a return to the Town Council in six months with a summary of the

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2. There will be no mail box or drop sites.
3. There be no interoffice marketing.
4. Leases be signed for at least one year.
5. A minimum of thirty (30) parking spaces.
6. The Town-serving requirement would be met with a return to the Town Council in six months with a summary of the lessees to prove the Town-serving requirement.

The motion was seconded by Mr. McDonald. On roll call, the motion carried 4/1, with Mr. Wyett dissenting.

New Business

5. Variance No. 12-97 - Sydnor Settle, 369 S. Lake Drive; located in the R-D(2) Zoning District; to allow construction of enclosure of a portion of the penthouse terrace, contrary to Section 5.32(c) of the Town Zoning Code.

Architect Ames Bennett addressed the Town Council, stating that the building in question was a six-story building, with most of the apartments having enclosed terraces. The penthouse had an extra large terrace, a portion of which was being requested to enlarge one room inside. Other tenants had done this over the years, however, under the present zoning the building was non-conforming.

Ex-parte communication was declared by Mr. McLendon with Mr. Bennett in this regard.

Zoning Administrator Castro stated that the request was basically to expand the dining room area by placing an approximately 60 sq. ft. addition just outside of that area, taking up a small portion of the already covered awning area. The variance request was minimal, and staff recommended approval, with the applicant demonstrating the hardship relative to the Zoning Code.

Mr. Bennett explained that the hardship was that the other tenants in the building had already exercised the same privilege over the years, and since the Zoning Code had changed the applicant was precluded from doing that.

Mr. Wyett made a motion to approve Variance 12-97; seconded by Mr. McLendon. Mr. McDonald stipulated that the Condominium Association must agree, which Mr. Bennett confirmed. On roll call, the motion carried unanimously.

6. Variance No. 13-97 - Dr. & Mrs. William Kaye, 302 Eden Road; located in the R-B Zoning District; to allow a beam elevation of 19.59' above the finished first floor on the addition which is higher than the elevation approved under Variance No. 19-94.

Lisa Kaye, 302 Eden Road, addressed the Town Council requesting clarification on a height issue regarding a variance that had already been granted by the Town Council. The variance allowed a two-story addition, with a setback of 5' into the west side of the property. The present request was to go up 19.5' to the top of the dormer windows, and 18' to the top of the first tie beam, both of which were well within the Zoning regulations. Mrs. Kaye produced exhibits of the proposed addition. She noted that the reason for her appearance today was to clarify the height of the addition; all of the neighboring properties had given permission and support for the variance request.

Zoning Administrator Castro explained that when the applicant had originally come before the Town Council for a setback variance to the side yard a drawing had been provided as an exhibit, which had been referenced in the approval letter as being a part of the application. Based on that letter and exhibit, staff believed that the additional two feet requested could not be approved without Town Council approval. Mr. Castro noted that the hardship was related to the land itself, and staff had no objections to the request.

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Ex-parte communication was declared by Mrs. Smith with Mr. Jack Grace, by Mayor Ilyinsky with Mr. Jack Grace, by Mr. McLendon with Mr. Jack Grace. Mr. Wyett was out of the room. *(At a later time in the meeting Mr. Wyett declared ex-parte communication with Mr. Jack Grace regarding Special Exception 14-97).*

Mr. Charles Palmer, chef/owner/operator, addressed the Town Council, stating that the proposed restaurant would be a very upscale, fine dining establishment specifically designed for the Palm Beach location. He offered to answer any questions from the Town Council.

Mr. Joe Pollack, Traffic Engineer, addressed the Town Council, exhibiting a graphic demonstrating the parking situation. He explained that the building was approximately 6,900 sq. ft., and under the standard use the building would require 35 parking spaces. With the request to use 4,585 sq. ft. of the building for restaurant use, that would require 55 parking spaces per the Town Code, and the remaining retail space in the building would require 12 parking spaces. The typical code requirement would be to add the two numbers together to require 67 parking spaces. By virtue of the previous approval, the owner of the property had agreed to make 12 of the parking spaces on the property available to the condominium retail units at the Palm Beach Hotel, resulting in a shared parking situation of the 12 spaces. Town Code allowed for shared parking, and observations had been made of the retail business existing along Sunrise Avenue to determine demand and variation. The conclusion had been that there were many variations in parking demand within the day and time of year, specifically as it would relate to a restaurant versus retail space--most of the retail business along Sunrise Avenue closed at 5:00 P.M. so shared parking was conceivable. Mr. Pollack referred to a chart had been prepared to exhibit the shared parking with time of day and uses illustrated, establishing that shared uses of the parking spaces at 230 Sunrise Avenue would not result in conflicting or overlapping usage, and that available parking was adequate.

Mr. Louis Goodkin, real estate consultant, addressed the Town Council, stating that a formal market analysis had been done, and it was estimated that 45% of the total patronage on an annual basis would be local Palm Beach residents and employees; local hotel guests would be responsible for 27% of the total, and 28% of the total would be day trip visitors.

Mr. Royce clarified that the market analysis reflected that approximately 72% of the people served would be Town persons as defined in the Town Code.

Mr. Eugene Lawrence, architect for the building and restaurant, addressed the Town Council, exhibiting a Site Plan of the building and proposed restaurant. He reviewed the passenger loading facilities in the front of the building. He pointed out that the floor plan was tuned to Palm Beach, minimizing nuisance to the neighbors--the kitchen was located in the southeastern quadrant, which was over 50' from the property line. He passed out some photographs of the building for Council review.

Zoning Administrator Paul Castro stated that staff comments were all related to the impact that the proposed restaurant would have on the neighborhood, as well as how the traffic circulation would interrelate with the new restaurant that was being constructed at 251 Sunrise. He noted that the applicant had provided the shared parking analysis, which discussed the concept as it related to peak hours within the building itself and the outlying commercial spaces across the street. Staff recommended, as with all restaurants, that the applicant come back over a certain period of time to demonstrate the Town serving status to the Town Council, after a Certificate of Occupancy had been issued and operation of the restaurant commenced; building requirements relating to the grease traps and traffic circulation issues must be resolved. With those conditions, staff did support the request.

Mr. Castro recalled that in the past dumpster lids were required to be plastic in order to alleviate some of the noise problems.

Mr. Wyett made a motion to approve Special Exception 14-97 with the following conditions:

1. Scrubber/odor control of the most modern method be installed.
2. Garbage and glass control, with garbage being stored on site between the hours of 6:00 P.M. and 8:00 A.M.
3. Hours of operation to include cooking being stopped at 12:00 A.M.

Mr. McDonald seconded the motion, adding the changes recommended by the Building Department and Mr. Shaw:

4. The dumpsters will have plastic lids.
5. The restaurant must meet the Town-serving requirement by the May, 1998 Town Council Meeting.
6. That the use of space exceeding 2,000 square feet will not be a grand-fathered use.

Mr. Wyett accepted those additions to his motion.

Mr. Randolph pointed out that there were two special exceptions and asked if both would be incorporated in one motion?

Mr. Wyett agreed.

It was clarified that the restaurant must meet the Town serving requirement by the May, 1998 Town Council Meeting.

Mr. Castro pointed out that any subsequent applicant would have to come back for a special exception for a restaurant, for exceeding 2,000 square feet, or for the shared parking concept.

Mr. Randolph noted that there were several conditions within the shared parking ordinance which needed to be met under Section 6.21(1).

On roll call the motion carried unanimously.

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On roll call the motion carried unanimously.

Mr. Shaw pointed out that the restaurant at 251 Sunrise would now need to seek available parking spaces, which was one of the conditions for approval granted to them.

Mr. Grace confirmed that he had not heard from the restaurant at 251 Sunrise in regard to parking.

Mrs. Smith clarified that the parking spaces would now not be available to them.

Mr. Castro explained that he had reviewed the minutes of the meeting wherein the conditions of approval for the restaurant at 251 Sunrise had been discussed, and the conditions placed were that the applicant would investigate the possibility of providing shared parking across the street, and to date that had not been done. Before the doors could open, that applicant would have to come back before the Town Council to discuss shared parking somewhere in the area. If it was not available within the building at 230 Sunrise, it could be available somewhere else in the neighborhood.

8. Special Exception No. 15-97 with Site Plan Review - William Koch, 974 & 975 South Ocean Blvd.; located in the R-A Zoning District; to allow construction of a residence on a lot 172,236 sq.ft. which is in excess of four times the minimum lot area of 20,000 sq.ft.

Attorney Doyle Rogers addressed the Town Council, stating that the application for Special Exception 15-97 was being made because the lot in question was eight times the minimum lot requirement for the R-A Zone, and could well accommodate the proposed residence. A site plan was displayed for review by the Town Council.

Ex-parte communication was declared by Mr. Wyett with Mr. Rogers, by Mr. McLendon with Mr. Rogers, by Mrs. Smith with Mr. Rogers, and by Mr. McDonald with Mr. Rogers and Ms. Schuler.

Mr. Rogers noted that in order to stay in the current residence during the completion of the new residence, Mr. and Mrs. Koch entered into a Development Agreement with the Town and assured the Town that upon completion of the new residence the old residence would be demolished, with a Letter of Credit satisfactory to the Town being provided.

Architect Bridges displayed the Site Plan for the proposed project. He described the particular locations of parking, setbacks, and explained that lot coverage was 6.2%, whereas 25% lot coverage was allowed.

Zoning Administrator Paul Castro gave the following staff comments: The Town Council had approved

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Mrs. Smith suggested that perhaps a portion of the house could be saved.

Mr. Bridges explained that moving the house had been considered, but it would be very difficult.

Mrs. Smith asked Mrs. Volk why she had not spoken at the time when the property was being subdivided and going through plat approval?

Mrs. Volk replied that she had no idea that the house was in jeopardy; this had all come as a great shock to her, and she had only heard about the proposed demolition three days ago. When the Fomans had applied for subdivision approval she had not considered it a threat to the house.

Mr. Bridges stated that it was difficult, as an architect, to be in the position of considering demolition, however, the house could not remain if the proposed project took place. The current house could not be adapted to the use desired by the Kochs.

Mr. Vegosen stated that there had been ample opportunity to landmark the house, however, that had not occurred, and the property could be dealt with as the owners saw fit

Mrs. Volk stated that the Landmarks Commission had a policy of not examining houses until they were 50 years old, however, that policy should be changed in order to consider distinctive and unique houses.

Architect Ames Bennett noted that the record of the plans was available to another builder, who could recreate the house.

Ms. Laurie Volk addressed the Town Council, stating that it was inappropriate to allow a real estate deal to influence decisions. She asserted that the scape of the Town would be gone in a very short space of time if an evaluation of the entire process was not undertaken.

Mr. Wyett made a motion to approve Special Exception 15-97, suggesting that the Landmarks Commission review their rules and regulations for future preservations; seconded by Mr. McLendon.

Mr. Shaw again expressed concern with the height, mentioning that although the house could actually go to 43' to the tie beam, plus 10' for the pitch of the roof he did not want it to be assumed that the Town Council was approving the maximum by Code; when it went before the Architectural Commission the dimensions would have to be in keeping with houses to the north and south.

Mr. Wyett amended his motion to incorporate the Unity of Title, and Development Agreement. On roll call, the motion carried unanimously.

Mr. McDonald suggested the Building Department encourage owners to save houses rather than demolish them.

Mrs. Smith voted yes to the motion, with the stipulation that owners of new houses could submit them for landmark designation, requesting that a video be taken of the current house before demolition, so that it could be kept in the records.

9. Special Exception No. 16-97 - Nancy DeMoss, 185 Woodbridge Road; located in the R-A Zoning District; to allow the addition of driveway gates providing a front yard setback from the street pavement of 8' in lieu of 18' required. - **Deferred to June 10, 1997, per letter dated May 7, 1997, from Mr. Robert E. Deziel. The Town Council deferred Special Exception No. 16-97 to the June 10, 1997, Town Council meeting.**

10. Special Exception No. 17-97 - Smith Architectural Group, Inc., 200 Phipps Plaza, 206B/205; located in the C-TS Zoning District; to allow occupancy expansion from 2,774 sq.ft. to 3,308 sq.ft. in lieu of the 2,000 maximum allowed.

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

Attorney Robert Deziel addressed the Town Council regarding Special Exception 17-97, incorporating by reference all of the conditions and terms in the application submitted to the Town.

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

Mr. Deziel mentioned that he had a letter from the accountant of Mr. Smith indicating approximately 95% of his work was defined as Town-serving.

Zoning Administrator Paul Castro commented that the Town-serving documentation would have to be provided each year. A Town-serving document had been received for this year.

Architect Jeff Smith explained that the original office he had leased was 1,512 sq.ft. The additional bay to the east had been acquired by Special Exception, bring the total to 2,774 sq.ft. Now the space next door had become available, which was the reason for

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Architect Jeff Smith explained that the original office he had leased was 1,512 sq.ft. The additional bay to the east had been acquired by Special Exception, bring the total to 2,774 sq.ft. Now the space next door had become available, which was the reason for the request today.

Mr. Wyett made a motion to approve Special Exception 17-97 with the condition that the Town Council would review the use of the space if the space was vacated by the current tenant; seconded by Mr. McLendon. On roll call, the motion carried unanimously.

11. Site Plan Review No. 4-97 with Variance - Martin Mochorowski, 1494 North Lake Way; located in the R-A Zoning District; to allow construction of a 7,080 sq.ft. residence on a 100' wide lot in lieu of 125' minimum required.

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

Architect Ames Bennett addressed the Town Council, stating that the property was located in the R-A Zoning District, going from North Lake Way to the Inlet. He explained that the property was 300' deep by 100' wide in lieu of 125' minimum required. He gave a brief history of the property: it had originally been developed in 1951 by Randy Schafer. The swimming pool was designed by Mack Ritchie, former Mayor of Palm Beach, and the boat dock was designed by James Borowski, Professional Engineer. The house was sold circa 1964, at which time Palm Beach architect John Volk designed some interior alterations to the building. In 1951 the property had met all Town Codes.

Mr. McDonald made a motion to approve Site Plan Review 4-97 with Variance.

Zoning Administrator Paul Castro commented that the proposed wall must be of the appropriate height, adequate space must be provided between the property line and the wall, an adequate hedge must be provided; if gates were used they would not be included in a variance. Gates would have to be set back 18' from the pavement.

Mr. McDonald incorporated the recommendations of the Building Department into his motion. Mr. Wyett seconded

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the motion. On roll call, the motion carried unanimously.

E. Other

1. Consideration of the Tentative Schedule for the 1997-98 Regular Zoning Hearings and Preliminary Study Items

Mr. McLendon made a motion to approve the tentative schedule for the 1997-98 Regular Zoning Hearings and Preliminary Study Items; seconded by Mr. McDonald.

Mr. Shaw recommended adding another study item: that restaurant parking requirements be readdressed, as well as the differential between requirements of restaurant parking daytime and evening.

Mr. McDonald suggested that the issue of saving houses from demolition by relocating or landmarking them be added to the study items.

Mr. Castro requested that the December 2 and 3 dates noted on the tentative schedule for the Zoning hearings be changed to Thursday, December 4, 1997.

XV. ANY OTHER MATTERS

There were none.

XVI. ADJOURNMENT

The meeting was adjourned at 7:20 P.M.

Mary A. Pollitt
Town Clerk

Prepared by:
Susan Eichhorn
June 4, 1997