MINUTES OF THE TOWN COUNCIL MEETING HELD ON MAY 11, 1999

I. CALL TO ORDER AND ROLL CALL

The meeting of the Town Council was called to order by President Lesly Smith at 9:35 A.M. on May 11, 1999. On roll call, the following Elected Officials were found to be in attendance: President Lesly Smith, President Pro-Tem Allen Wyett, Councilmen Jack McDonald, Sam McLendon, and Leslie Shaw. Mayor Paul Ilyinsky was absent from the meeting. Also in attendance for all or a portion of the meeting were: Town Manager Robert Doney, Assistant Town Manager Peter Elwell, Assistant to the Town Manager David Jakubiak, Town Attorney John Randolph, Acting Finance Director Cheryl Somers, Fire-Rescue Chief Ken Elmore, Facility Maintenance Division Manager Joseph Ugi, Golf Course Manager Rick Dytrych, Personnel Director William Crouse, Police Chief Frank Croft, Assistant Police Chief Michael Reiter, Planning, Zoning & Building Director Robert Moore, Zoning Administrator Paul Castro, Planner/Projects Coordinator Timothy Frank, Public Works Director Al Dusey, Recreation Director Russell Bitzer, Risk Coordinator Karen Temme, Town Engineer James Bowser, and Town Clerk Mary Pollitt.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Town Clerk Pollitt. President Smith led the Pledge of Allegiance.

III. PRESENTATIONS

1. Recognition of John G. Matich, Code Enforcement Board, Member 1995 - 1999, and Alternate 1994 - 1995

President Smith presented a plaque to Mr. Matich in recognition of his years of service.

2. Presentation of 1999 Town of Palm Beach College Scholarship to Mr. Scott Eichhorn – Program Sponsored by the Palm Beach Civic Association and the Citizens' Association of Palm Beach

President Smith presented a check for $3,000 to Scott Eichhorn and read a proclamation detailing Mr. Eichhorn's achievements.

IV. COMMENTS OF MAYOR PAUL R. ILYINSKY

In the absence of the Mayor, President Smith announced the week of May 9th through May 15th is Police Appreciation week; the week of May 16th through May 26th, Public Works employees will be recognized; and Emergency Medical Services week is May16th through May 22nd.

V. APPROVAL OF THE AGENDA

The following changes were made to the agenda:

MOVE to the end of Development Review matters before *C. Other,* Special Exception No. 10-99 - Nations Bank, 140 N. County Rd.;

Motion was made by President Pro-Tem Wyett, seconded by Councilman McLendon to move Special Exception No. 10-99 - Nations Bank, 140 N. County Rd., to the end of Development Review matters. On roll call the motion carried unanimously.

MOVE to the end of Development Review matters after Special Exception No. 10-99, before *C. Other,* Special Exception No. 11-99 with Site Plan Review & Variance - The Beach Club, 755 N. County Rd.;

Motion was made by President Pro-Tem Wyett, seconded by Councilman McLendon to move Special Exception No. 11-99 to the end of Development Review matters, immediately following Special Exception No. 10-99. On roll call the motion carried unanimously.

MOVE item B.1. Variance 6-99, 1495 N. Ocean Blvd., from page 5 to page 6, to be heard with Special Exception 13-99;

Motion was made by President Pro-Tem Wyett, seconded by Councilman Shaw to move Variance No. 6-99 from page 5 to page 6, to be heard with Special Exception 13-99. On roll call the motion carried unanimously.

DEFER item XII.A.1, Resolution No. 15-99, Revisions to Rights-of-Way Standards Manual, to the June 8, 1999, Town Council meeting;

President Pro-Tem Wyett moved deferral of Resolution No. 15-99, Revisions to Rights-of-Way Standards Manual, to the June 8, 1999, Town Council meeting. The motion was seconded by Councilman McLendon, and upon roll call, carried unanimously.

DEFER item XIII.A.2, Resolution No. 17-99, Utility Pole Adjustment Policy, to the June 8, 1999, Town Council meeting;

Motion made by President Pro-Tem Wyett, seconded by Councilman McLendon, to defer Item XIII.A.2., Resolution No. 17-99, Utility Pole Adjustment Policy, to the June 8, 1999, Town Council meeting. On roll call the motion carried unanimously.

DEFER item XIII.C.3, Status Report on Town Preparation for the Y2K Transition, to the June 8, 1999, Town Council meeting;

Motion made by President Pro-Tem Wyett, seconded by Councilman Shaw to defer Item XIII..C.3, Status report on Town Preparation for the Y2K Transition, to the June 8, 1999, Town Council meeting. On roll call the motion carried unanimously.

DEFER item XV.A.1., Appeal of the Architectural Commission's Decision of March 24, 1999, Concerning 3 Golf Road, to the June 8, 1999, Town Council meeting;

Motion made by President Pro-Tem Wyett, seconded by Councilman Shaw to defer Item XV.A.1., Appeal of the Architectural Commission Decision of March 24, 1999, concerning 3 Golf Road, to the June 8, 1999, Town Council meeting. On roll call the motion carried unanimously.

ADD item XIII.C.7, Discussion of the Number of Daily Automobile Trips at Mar-a-Lago.

Motion made by President Pro-Tem Wyett, seconded by Councilman Shaw, to add Item XIII.C.7., Discussion of the Number of Daily Automobile Trips at Mar-a-Lago. On roll call the motion carried unanimously.

Motion made by Councilman Shaw, seconded by Councilman McLendon to approve the Agenda as amended. On roll call the motion carried unanimously.

VI. COMMUNICATIONS FROM CITIZENS - 3-MINUTE LIMIT PLEASE

Eric N. Gilbertson, 151 Chilean Ave., commented that the taxes Palm Beach residents are paying, and the increases, are forcing some of the residents out of their homes.

VII. PRESENTATION BY MR. LEO NOBLE REGARDING CONCURRENCY ISSUES RELATED TO PALM BEACH COUNTY SCHOOLS

Mr. Noble explained the history and meaning of concurrency, basically meaning that the capital improvements necessary to service the development were in place concurrent with the impacts of that development. He advised that involvement from the school board and staff from the cities/municipalities was required to implement a concurrency plan. Mr. Noble responded to various questions from the Town Council members.

APPROVED AGENDA

VIII. APPROVAL OF MINUTES OF APRIL 13 AND 16, 1999

IX. APPROVAL OF CHECK REGISTERS FOR APRIL 1999

X. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL COMMISSION AT ITS MEETING OF APRIL 28, 1999

Motion was made by President Pro-Tem Wyett, seconded by Councilman McLendon to approve the "Approved Agenda." On roll call the motion carried unanimously.

REGULAR AGENDA

XI. PUBLIC HEARINGS

1. Designation of the Brazilian Beautyleaf Historic/Specimen Tree at 14 South Lake Trail and Correction of Number of Specimen Trees on 20 Blossom Way; Resolution No. 14-99 *(Deferred from April 13, 1999)*

Mr. Harry Chauncy, 241 Bradley Place, addressed the Town Council on behalf of Alex Dreyfuss, the owner of the property at 14 South Lake Trail. He explained that Mr. Dreyfuss had been out of town for several weeks, and he requested a deferral to the June 8, 1999, Town Council Meeting.

President Pro-Tem Wyett moved deferral of this issue to the June 8, 1999, Town Council meeting. The motion was seconded by Councilman McDonald. On roll call the motion carried unanimously.

2. Request for Relocation of the Kiegelia Pinnata (Sausage) Historic/Specimen Tree at 323 Eden Road

The Town Council approved the request for relocation with the condition a $6,000 bond to be in effect for one year from the date of relocation be established.

Public Works Director Al Dusey reported that a request had been received from the property owner at 323 Eden Road to relocate the historic specimen tree on that property. Consultant Robert Haehle had evaluated the tree, and had made recommendations as to what would need to be done to improve the likelihood of survival of the tree on such a move, which amounted to a 75% chance of survival.

Attorney Ron Kolins addressed the Town Council, distributing a picture of the tree in question, a letter from the landscape consultant, Mr. Haehle, wrote to Mr. Ugi, a copy of a letter written by consultant, Mr. Raworth Wall, President of Newlands Design Group, dated April 28th, to Town Manager Doney. Mr. Kolins recalled that a request had been made approximately six months ago to de-landmark the tree in question. Now, he requested that the tree be moved to another location on the same lot, which was currently over the area where a swimming pool was contemplated.

Mr. Wall commented that it appeared to him that the tree in question was in relatively good condition, and would require some trimming, pruning, and special care before relocation, with a program made out for its survival.

President Pro-Tem Wyett moved approval of the relocation of the Sausage Tree. The motion was seconded by Councilman McDonald.

Councilman McDonald asked what reparation would be made to the Town if the tree was not relocated successfully?

Attorney Kolins suggested that a bond could be put up in a specified amount, expiring if the tree did succeed.

Attorney Randolph advised that survivability bonds had been accepted in the past.

Mr. Wall suggested that a tree that may be under duress in some other location be moved to the site on Eden Road.

Attorney Kolins agreed that a $6,000 bond would be put up for the time period of one year from the time that it is moved. If the tree survived, the bond would expire. If the tree did not survive, the applicant could either give the Town $6,000, or replace the tree with one of similar quality.

Councilman McDonald stated that he preferred the $6,000.

Public Works Director Dusey advised that replacement with a tree of similar quality would be preferable from a staff perspective, so as not to set a precedent for people wanting to rid themselves of historic/specimen trees for the exchange of dollar amounts.

Attorney Kolins responded that he did not believe it would set such a precedent, since this was not payment for removal of a tree, but was guarantee for the survivability of a tree that was simply being moved on the same property.

Clarification of the motion was made, that approval of the relocation of the Sausage Tree was granted, with the condition that a bond in the amount of $6,000 be put into effect for one year from the date of the relocation. The seconder of the motion agreed with the clarification.

Councilman Shaw expressed concern regarding the precedent issue, and suggested that there be an understanding that if the tree did not survive, another similar tree would be brought in to replace it, and clarified that the bond money would be used to purchase a replacement tree and move the standing tree.

President Smith clarified that, should the Sausage Tree die, Mr. Wall and Mr. Ugi would agree on a replacement tree.

On roll call the motion to approve the relocation of the Sausage Tree, provide a $6,000 bond, and replace the tree with a similar tree if necessary, carried unanimously.

3. Proposed Settlement of Mr. Joseph Jones', Public Works Department, Workers' Compensation Claim

Town Manager Doney reported that he concurred with the settlement recommendation as set forth in the memorandum of Risk Coordinator Karen Temme, dated April 29, 1999.

President Pro-Tem moved approval of the settlement in the amount of $25,000, inclusive of all attorney fees and costs. The motion was seconded by Councilman Shaw. On roll call the motion carried unanimously.

XII. OLD BUSINESS

1. Resolutions

    1. Resolution No. 15-99 - Revisions to Rights-of-Way Standards Manual *(Deferred from April 13, 1999)* - **Request for Deferral to June 8, 1999, per letter dated May 4, 1999, from Mr. Sid Poe, BellSouth**

This item was deferred to the June 8, 1999, Town Council meeting earlier in this meeting.

2. Other

    1. Royal Park Bridge Status Report by the Public Works Director

Public Works Director Al Dusey reported that assistance from Congressman Shaw had been requested regarding the drawbridge openings on the bridges across the Atlantic Intracoastal Waterway. Mr. Dusey suggested that there be no further action at this point, as the temporary structure would more than likely be in place by the time the Coast Guard could make any revisions in drawbridge openings, and bridge openings would be less disruptive at that time, since more lanes of traffic would be opened.

President Smith responded that the suggestion of Mr. Dusey would be followed for the time being.

Ms. Gail McKenna, PCL Project Manager, reported that the temporary bridge work was on schedule, and things were moving forward.

    2. Water Supply Issues – Status of Draft Agreement Between the Town and the City of West Palm Beach and Related Matters

Town Attorney John Randolph recalled that the Town Council had directed that a draft agreement be developed, in an attempt to resolve outstanding issues between the Town of Palm Beach and the City, relating to the Water Franchise. He explained that staff from both entities had been working on the matter, and a document had been received from the City of West Palm Beach. Amendments to that were being prepared, and it was anticipated that the amendment document would be forwarded to the City of West Palm Beach at the end of the week. He noted that the 60-days that was included within the original motion to move forward specified that this matter must be concluded by May 21,1999. He advised that neither the City of West Palm Beach, nor the Town of Palm Beach would have meetings prior to that date in order to give consideration to the final draft.

City of West Palm Beach Deputy City Attorney Claudia McKenna commented that the City of West Palm Beach had a meeting scheduled for May 17, 1999, and the next meeting was scheduled for June 1, 1999. She suggested that perhaps an extension could be put in place, with both the City of West Palm Beach and the Town of Palm Beach giving consent.

In response to the suggestion of President Pro-Tem Wyett to remove the surcharge as of June 1, 1999, Attorney McKenna explained that when the City of West Palm Beach adopted the rate ordinance that was presently in effect, that increased the base rates, the City Commission voted not to impose the surcharge on the increase. That part of the surcharge activity was due to expire approximately three weeks ago, and the City Commission voted to extend that through May 31, 1999. At this point, there was only the surcharge on the old rates. She noted that she did not have the authority to say that the City of West Palm Beach would remove the rates, and that she would bring the proposal to them. Presently, under the draft agreement, it was contemplated that the surcharge would be removed prior to July 1, 1999, as it was the intent of the City of West Palm Beach to have it removed as quickly as possible. She noted that if the agreement was executed by both parties on May 21, 1999, then the surcharge would come off by July 1, 1999.

Councilman McLendon asked what had been done to minimize non-water department costs in the budget and rate making process, and what had been done regarding a formula for the future wholesale rate?

Attorney McKenna replied that consultants had prepared a formula for the wholesale rate, which would not take effect for 30-years, based on discussions that the Town of Palm Beach consultant and the consultants for the City of West Palm Beach had prior to the March 19, 1999 meeting of the Town Council. She noted that the formula had not yet been transmitted for review by Attorney Randolph. She also explained that there was a provision in the proposed document that said that if the City of West Palm Beach changed its rates, they would be obligated to give the Town of Palm Beach 30-days notice; if the rate change was based on a rate study that was done in accordance with prevailing industry standards, then the Town of Palm Beach would not have a basis for objecting; if the City Commission arbitrarily raised the rates, there would then be a basis for objecting. She explained that it was the hope that a built in protection had been included for the Town of Palm Beach that would require the City of West Palm Beach to do any rate increase based on a rate study, which must be done in accordance with industry standards; therefore, there was some degree of protection built into the document that was intended to give the consumer as much protection as possible, in order to avoid a situation where rates were increased arbitrarily.

Attorney Randolph advised that there was a proposal that the section in discussion would be eliminated; the Town of Palm Beach wanted the same right to object as a user in the City of West Palm Beach would have; these things were going back and forth at the staff level.

President Smith noted that lengthy discussion had taken place regarding this issue, and the attorneys for the City of West Palm Beach were very aware of what the Town of Palm Beach wanted, and what had been discussed, and concerns regarding protection of the residents for increased rates. She suggested that the draft document could come back for review at a later date.

Councilman Shaw moved that the Town Council accept the request of the City of West Palm Beach to extend the 60-days for ratification of the agreement at the June 1, 1999 City Commission Meeting. The motion was seconded by President Pro-Tem Wyett. On roll call the motion carried unanimously.

3. Establishment of a Performance Evaluation System for the Town Manager *(Deferred from April 16, 1999)*

President Smith clarified that a meeting would be set today for discussion of a performance evaluation system for the Town Manager.

Councilman Shaw moved that the establishment of a performance evaluation system for the Town Manager be set for the July 13, 1999, Town Council Meeting. The motion was seconded by President Pro-Tem Wyett. On roll call the motion carried unanimously.

4. Alternatives for Town Use of the "Old Boynton Landscape Property" and Related Issues Regarding Town Facilities in the Midtown Area *(Deferred from February 9, and April 16, 1999)*

After lengthy discussion, motion was made by Councilman Shaw, seconded by Councilman McLendon to approve the amount of $17,500 to be funded from the General Contingency Fund for the study of the recommendations as set forth in the memorandum of Assistant Town Manager Elwell, dated February 2, 1999, for alternative uses for the Boynton Landscape Property, with staff being responsible for identifying which of the recommendations would be included. On roll call the motion carried unanimously.

Following is a verbatim transcript of the discussion:

ELWELL: You have in your backup a February 2, 1999, memorandum. This item has been deferred a couple of times. You are well aware of the background on it, and I won't belabor that this morning. I'd like to take a minute, though, to review the outline that was attached to that memorandum in brief, to place before you what we think are the questions we'd like you to address today so that staff can have some direction in what the next step in this planning process will be. It's very early, as you know, and there are some preliminary steps required before we would get to the stage where you would be making any kind of firm decisions about the future use of these properties.

On the outline there are some assumptions and constraints that are identified at the top of the first page. At the bottom of the first page are probably the key factors that are driving the decision making at this point in the process, which are the particular space needs that staff has identified, looking into the future for what will be needed to provide the current levels of service – and some cases where circumstances have changed in terms of our ability to provide the current level of service, and in the case of the Planning, Zoning & Building Department, an increased level of service that has been recognized as being necessary in order to address the level of development activity in the town.

Primarily what we're looking at is a need for larger space for the Planning, Zoning & Building Department, and then for the Fire-Rescue Department at the Central Station, at the north end of this building. There is a safety issue related to the space available to fit modern equipment into the bays, and the safety of pulling the vehicles out of those bays. We've had some additional discussion about this factor since the outline was put together, and the one thing I would like to stress to you – first of all, let me digress, and say that if you have particular questions about either of these two things, Mr. Moore is here to talk about Planning, Zoning & Building's needs; Chief Elmore can address the safety issue and the related concerns for the Fire-Rescue Department, but I'd just like to state a little stronger today than it is stated in the outline, the need to really take a hard look at this situation with the Fire-Rescue Station. There are some liability issues related to getting the vehicles safely in and out of the bays there, and we think that's something that really needs to be considered in terms of planning for the long term for what facilities are needed here in the center of Town.

On the second page of the outline there are some related issues – I don't think it's necessary to take time on them this morning, but some other benefits that would accrue in terms of the use of space – existing space – if there was a new building created, either on the Beaumont Lot across the street here, or down at the Boynton Landscape property. There would be, then, some space available in this building for re-use, and there are some things we think would be beneficial for the Town operations in re-utilizing that space.

Then we describe alternative concepts. I can review those in detail if you'd like, but I think it would be more efficient simply to say that the several alternatives presented address how there might be a new facility created for Planning, Zoning & Building, and/or a new facility created for the Central Fire-Rescue Station, while, at the same time, maintaining as a primary goal of this process, preserving as much of the Boynton Landscape property as possible, perhaps even all of it, as open space or park area.

On the third page of the outline there are some timing considerations. The circumstances changed related to the potential that the Town might occupy this site before actually receiving title to it. It's being used, at this time, related to the construction at Neiman Marcus, and there may be some flexibility there, but we're really looking now, not so much at what the Town might do in the very near term here, but rather as a planning process that we're embarking on, and looking to the future, utilizing the site when the Town would receive ownership. So, that early occupancy is not really an issue any longer.

Which brings us to the recommendations. The funding – the discussion there basically just advises that we're going to need some more direction, and this will need to be better defined before we can address funding in detail, although there are several options available to the Town of how to pay for whatever you might authorize. But, to get us to the next step, we believe that it would be important to hear from you today feedback about the alternative suggestions of how the space needs might be met, and particularly whether there are any of the alternatives that you find so objectionable that you don't want them considered any further. We're prepared to talk in some detail about what the costs would be. I can review those with you in a moment, or we can do that in a question and answer. But, depending on whether or not you want to exclude any of these concepts at this time, the range of costs could be from several thousand dollars up to as high as $25,000, right now, to do the very preliminary work. It wouldn't result in any kind of sketches of buildings or anything like that, but you'd get some square footages and some description of the space utilization that the architects could describe for you of what types of facilities could be provided on these sites, and what type of re-use would occur, or could occur, within the Town Hall for these initial expenditures, along with cost estimates that would be sufficient for budgeting purposes, but would need to be refined as the detailed design of the projects move forward.

SMITH: All right. I think, Mr. Elwell, this would be the time to hear from the Council on what their thoughts are on the use of this property.

SHAW: In a nutshell, my preference is for alternative "A." As far as the open space of the Boynton Landscape property, I think that it may be an interesting exercise in discussion to see if it would be a good location for a visitor's bureau, some resident service facility, possibly – I don't mean as a sub-station for police, but maybe as a place where people could go if they're looking for information from the Town, possibly staffed by the Chamber of Commerce. As far as the funding situation, Item 1 and Item 4, I could approve. The others, I would not.

McLENDON: I question what's going to take the place -- if you do Item A, what's going to replace the existing Town parking availability at Beaumont?

ELWELL: In what's currently the Fire-Rescue facility? What would move into that space?

McLENDON: I thought that would be considered for Planning & Zoning expansion, where they would go then.

ELWELL: I'm sorry, I'm confused by the question.

SMITH: I don't think we heard the question, Mr. McLendon.

McLENDON: The Planning & Zoning expansion and needs. Where would that then go? I had visualized them using that.

ELWELL: Right. The Alternative "A" would provide a new Fire-Rescue facility on the Beaumont Lot across the street, freeing the space that's occupied on the first and second floor of the north end of this building, and part of analyzing how we would proceed then to utilize that space most effectively would be the next step. The architects would need – if you, as a group, decide that Alternative "A" is really what you want to pursue, and you don't need to keep your options more broadly at this time, what we would propose is that the architects take a look at this initial feasibility preliminary analysis of the Beaumont site for a Fire-Rescue station, and then re-using Town Hall. I can't tell you today what their recommendations would be as far as whether Planning, Zoning & Building would move into that space, or whether other Town functions would move into that space, and Planning, Zoning & Building would expand somehow within the first floor. That's exactly what we would need. The kind of advice that we would need to receive from the architects as far as addressing the long term needs of the Town staff in the way that is going to make the building most functional in the future.

WYETT: I don't have too many different comments. I just have been studying what the Town needs to do from a practical point of view, and if I understand the recommendations from our Fire Chief that he needs a better Fire Station right here, that has first priority to me. I think we ought to limit investigation to whether the Fire Station there would be the proper place and proper size. We also should look at whether we could put a third floor on the Fire Station for office space, should we need more office space than vacating this building provides.

ELWELL: Excuse me, there is a third floor now, but it's utilized by administrative staff. That's where the Information Services Manager and the Risk Coordinator are located. It could possibly be expanded.

WYETT: No, I don't mean here. No, I'm talking about the new building.

ELWELL: Oh, I'm sorry – the new building – you're talking about what size that ought to be, potentially for services other than Fire-Rescue. I understand.

WYETT: Right. Because while you're building it, even if you don't have complete need of all that space, it's not – you know, the roof is the same – it's only a little bit more walls and a few other things, so the incremental cost isn't great. And I would limit it at that point, because I have a feeling that we got that Boynton property for purposes of being a park. We vacated a park, and therefore, we have reduced some small fraction of the open space, and if we could avoid building on that, and instead create another nice park like we have across the street; I think that's the Earl E.T. Smith Park, I think that would be appropriate for Town use of that property, and consistent with the grant of that.

McDONALD: Number "A", but I have a question, Mr. Elwell, about where the Beaumont parking would be moved to?

ELWELL: We would need to incorporate into the planning for the Fire-Rescue facility some type of parking. Mr. Moore can address this more specifically than I can. I think we would need to be looking at underground. There's a potential, depending upon the zoning requirements/restrictions, that there may be able to be parking on the roof of the building, or some combination, and we would need to look at that.

SMITH: We don't want roof top parking. Mr. Moore, we don't want to look out at roof top parking. How many spaces are there in the basement of the Police Station? There is underground parking in the Police Station.

ELWELL: I don't know the answer to that.

SMITH: Well, I mean, we would obviously probably do the same thing.

ELWELL: Chief Croft is here. I don't know the answer to the question about the Police Station. That would be an issue that would need to be addressed as part of the planning process, to make sure that there isn't a net loss of parking, and, if possible, we would try to increase the parking. That's obviously a challenge for the architects to tell us whether or not it's possible, and how it might be accomplished.

McDONALD: How many spaces are there now?

ELWELL: I'd have to confirm that. Something on the order of 50, but I'd have to confirm in our files exactly how many.

McDONALD: That's a lot of spaces, plus the Fire Department. Maybe Mr. Moore can – where are we going to put the parking, Mr. Moore?

MOORE: Robert Moore, Director of Planning, Zoning & Building, for the record. These options, and Peter got stuck coming up here to explain all of these options – these options were discussed with Ken Elmore, Al Dusey, myself and Peter to try to look at a broad picture, to try to be able to offer you some choices.

Starting with the Boynton Landscape property, that's about 20,000 square feet. About 9,000 square feet of park space was on Worth Avenue, which, at bare minimum, would need to be transferred over there. There are several options you can do concerning that particular piece of property, not limited to a building, not limited to a surface parking on part of it, and certainly not limited to underground parking garage on part of that property as well, if not the entire property. Coming over here to the Beaumont Lot, Chief Elmore has made it explicit that in the future his ability to back in and out, which is extremely limited now – we can't shave those columns any longer. Mr. Dusey confirms it. Our records confirm it — that future fire rescue vehicles are going to have to have a more modern station. The current parking configuration over there is not a configuration to Code. We have some meters. We have some stacked parking for employees. We have some leased spaces, and whatever parking number would be there – quite honestly, we would also have – I would venture a guess at this point – at least 30 Town vehicles on the street, in addition to what is over in that particular lot. So, it's a little bit like if you're going to rob Peter over here to help Peter and put him over there, you've got to figure out a place to put Paul. The land is there – it's the methodology in which you wish to use the land. Personally, I would not take the approach of excluding anything at this point in time. I think the suggestion and the amount of money was in the vicinity of about $25,000, a large figure, if taken by itself, a very small figure if taken on the entire picture that we're planning for into the year 2000 and for the future for Ken, the future for us, and certainly future for the rest of Town Hall.

It would be my suggestion that we let the architects that we've hired look at all of these options and bring them back with some more specific figures as to options that you may want them to go further with in the future. Certainly, we have told the development community that we will expand and we will provide the proper space, the proper number of employees, in the Planning, Zoning & Building Department. Certainly this is an effort that would warrant spending that money for that alone. We need to go ahead and address that particular issue. In the meantime, we're going to pick up Ken in the process, in the Fire Department. So, I wouldn't exclude anything at this point in time. I would let the whole picture be looked at, and recommend that the Capital Improvement Fund go ahead and fund it, but with the money coming from the Contingency Fund, and have that certainly be addressed as far as Planning, Zoning & Building's contribution to the plan for the final dispensation of where Ken goes, and certainly where we go.

So, it would be my recommendation, in summary, that rather than try to figure it out here in Town parking spaces, that you let us go the next step, get some firm figures, firm counts on parking, firm potential for where to put these particular people, and authorize the $25,000.

McDONALD: I thought Mr. Elwell wanted us to pick one of the alternatives here.

ELWELL: Let me clarify that. It wasn't our intent to ask you to pick one. Rather, if there were any that you felt were objectionable to the degree that you didn't want to consider them any further, then we'd save the time and money by not studying those. Certainly, if you're inclined to keep your options open at this point, I'd echo what Mr. Moore just said – that in the context of the kind of long term planning that we're doing here, and the major investment that you will ultimately be making in whatever facilities we might be constructing, $25,000 is an inexpensive way to get started and really see the options that are available to you in more detail.

SMITH: All right. I thought that if the amount went over a certain amount, I think $15,000, you'd have to put it out for bid. Why couldn't it be done in pieces, so we could use the architects we've just hired.

ELWELL: We can, Mrs. Smith. Back in February, the one action that you took, when you deferred the substance of this matter, you did authorize that the CCNA process go forward. It did, and you've now selected Digby Bridges, Marsh & Associates to continue as the Town's architectural firm, and they're on board, ready to go, and could do this work – you know, they'd provide a more detailed proposal to Mr. Dusey about exactly how they would accomplish this, and on what time table, but they could do the $25,000 job without any further action by you.

SHAW: You keep referring to $25,000, but if I look at your list, some of them automatically get eliminated at the point that Fire-Rescue establishes that they cannot stay here. So, if the statement is made, and we accept that from all parties, that Plan B is not going to work, then there is no purpose in spending Item 3, which is to move Planning, Zoning & Building across the lot so that the Fire-Rescue stays here.

ELWELL: That's correct. If you accept that as established, and you are committing yourselves at this time to relocating Fire-Rescue, then you're right, that could be eliminated.

SHAW: Well, I don't think it's a question of our committing. I think it's a matter of following your recommendation. Your recommendation is that there are certain issues that need to be addressed, and one is the location of Fire-Rescue, so when I made my suggestion of accepting "A" it's because I took to heart your consideration that "B" was not a practical solution, and that automatically eliminates some of the funding. Now, I also think that some of the others are a little redundant, like 5 and 6 become redundant when you look at "A" being a suggested point. So, without nitpicking it as to whether it's $18,000 or $20,000, I think the approach is to accept your opinion, have you go forward with it, as Mrs. Smith said, and get some firm figures, and if you need an allocation of funding, based on these guidelines, to recommend that you pull the funding from the Reserve Funds, not to exceed, and I don't think you really need, based on your numbers, more than $15,000, once you work with these. That was a motion.

WYETT: Second.

ELWELL: If you do wish, and I think it is making a commitment. I think it's important that you understand the commitment you're making. It's not one that you can't step back from and switch directions on at a future time, but if you accept the concerns that we've offered you about the safety and liability issues related to getting the vehicles in and out, then, in fact, eliminating "B" from the options you're considering is making a commitment to construct a new Fire-Rescue Station because of the need to address those safety issues. And, there's nothing wrong with that. You just need to know that you're taking a step in that direction today, if you do it. If you do it, I agree that number 3 and number 5 on the list of costs for these preliminary studies that would be done would be eliminated, because they relate directly to the Option "B", where Fire-Rescue would stay where it is, and the total value of those two is $7,500. So, the authorization we would look for today would be $17,500, from the General Contingency, into the Capital Improvement Fund, so that 1, 2, 4, and 6, from that list can be completed.

SHAW: Four and 6 ought to go together also, and I'm sure if you're doing –

ELWELL: Well, actually, they're not; they're separate studies, because one presumes only Fire-Rescue leaves the building, and so how the space might be reconfigured would be different in that circumstance then if both Fire-Rescue and Planning, Zoning & Building left the building.

SMITH: Mr. Shaw, why don't we leave this up to staff. I don't want to go through 3, and 4, and 6 doesn't apply.

SHAW: Because they're asking for funding.

SMITH: I know they're asking for funding, but you made a motion to give them an amount. Let them figure out which way it's going to be divided in the study. I mean, let's not nitpick whether one is going to be $4,000 or one is going to be $2,500. Let them work it out.

ELWELL: That's fine. The only thing I would request is that that number be $17,500, and not $15,000.

McLENDON: I'll second the motion with the $17,500.

SMITH: Please give them the discretion to figure out what the different reports, and before I call the question I want to say I'm adamant that the Boynton property, which I asked for as a park, stays as a park – total park, because this was one of the things that's going to be a great benefit, I believe, to the Town, and to its residents, particularly in the central area, the historic district, and that's going to be my thought, that it stays as a park, and I'm sure you'll look at that as you go into the various ways that it could be done.

WYETT: Will the study for the new Fire Station include a study of traffic problems of coming out on the north/south road we have here?

ELWELL: The traffic pattern related to how the Fire-Rescue equipment – the route of the Fire-Rescue equipment, will be addressed. We won't be doing more detailed traffic studies about any kind of impact on general traffic.

WYETT: No. Right now, fire trucks backing out have almost like a plaza.

ELWELL: Absolutely, as part of even the initial, conceptual thinking about how to situate a Fire-Rescue station, and the components of that, how big it needs to be, and how it might fit on a lot, a very primary consideration of that will be how the vehicles would flow through the building.

WYETT: I echo Mrs. Smith's sentiments about a park is going to be there.

ELWELL: Let me ask you, then. I'm sorry to belabor this a little longer, but if – you know, for two of you to say that, and if there's a third who feels that it's the park, and it's just got to stay a park, and we don't want to consider putting a building there, then you might want to go back to just focusing on the Option A, which would accomplish that.

SMITH: But on the other hand, it could be a question that somebody might say that that building is a terrific building and they want to see it stay there. I don't know. I mean, my thing is that the building should come down, and that it should be a park, but, I'm only one person sitting on the Council.

MOORE: Peter and I are not at odds on this particular issue, but I would encourage you to leave the Boynton Landscape property, and I know your sentiments on it, and Mr. Wyett's. In the study, and the reason that I mention that, is that you may also have a total park on top of an underground parking structure. I will tell you– so leave that in, if you would.

SMITH: Well, that's a possibility. I'm just saying that I'm not telling you to exclude it, I'm just telling you that that's my feeling. I wouldn't care if we had three floors of parking underneath it, particularly if somebody else paid for it, but I'd like to see a park on top. A park for the people. Right. Thank You.

SHAW: And if there were a count, you have three votes – I mean, you have my sentiments on that too. That's what I said originally, that that is not to be –

SMITH: But I think we all feel the same way. Right. And if I could ask just one more question. Does Chief Elmore have a truck too big to get into the Fire Station? I mean, are you squishing this truck in? Like toothpaste?

DONEY: No.

SMITH: He said yes and you said no. I guess it all depends who is driving the truck, right?

ELMORE: That's exactly right, and I'm glad I'm not driving it.

SMITH: Is it too long?

ELMORE: Well, you can't use the water cooler when the truck is in the bay, because part of the truck sits over the water cooler, but that's a minor problem.

SMITH: You couldn't move the water cooler?

ELMORE: It's very crowded in there, and the main problem is the narrowness of the doors. The truck, from mirror to mirror, and we had the mirrors moved in as much as they possibly can, I believe, is 9'3", and when you measure the doors it's 9'6", so it's real hard to back that truck in. It's only about 3-4 inches clearance.

ELWELL: Again, the issue there is not how hard it is to get in and out, or that there might even, in the future, be a need for larger vehicles, depending on the equipment that's added, but there's a safety issue too in the coming out, because it is so narrow. It's also hard to see past the columns for pedestrians, etc.

SMITH: Right. All right.

ELWELL: Do we understand then, the motion to be $17,500 to proceed with the pieces of this we believe are necessary to come back to you based on the discussion today, with some additional information to help you go further. That general.

SMITH: Yes. That general. Thank You. Mrs. Pollitt?

********End of Verbatim Transcript********

XIII. NEW BUSINESS

1. Resolutions

1. Resolution No. 16-99 - Comprehensive Coastal Management Plan Update Acceptance

Public Works Director Al Dusey reported that three public meetings had been conducted, with numerous questions and responses, and the time had now come for the Town Council to accept the Comprehensive Coastal Management Plan (CCMP) Update, which would not commit he Town to any course of action, but would simply say that this was the blueprint plan. He stated that he believed that the document was technically accurate, and that there was no testimony that he had heard that would lead him to think that the document should be amended in any way. He noted that there was considerable concern about financing issues, which was an entirely separate issue. Mr. Dusey explained that the State could be approached with a document accepted by the Town Council, in order to seek State funding.

President Pro-Tem Wyett moved approval of Resolution No. 16-99. The motion was seconded by Councilman McLendon.

Town Attorney Randolph explained that approval of the resolution would commit the Town to acceptance of the plan at this point, so that in the application for State funding the State could see that there was a plan upon which to base the project. This was a resolution only, and if an amendment needed to be made at some time, any such amendment could be adopted.

Town Attorney Randolph read Resolution No. 16-99:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, ACCEPTING THE COMPREHENSIVE COASTAL MANAGEMENT PLAN UPDATE, DATED JUNE 1998, AS PREPARED WITH THE PROFESSIONAL AND TECHNICAL ASSISTANCE OF THE COASTAL ENGINEERING CONSULTANT, APPLIED TECHNOLOGY & MANAGEMENT, INC.

Councilman McLendon referred to the communications from Mr. Cooley in regard to the CCMP, and expressed concern regarding any associated legal problems.

Town Attorney Randolph replied that he had seen those communications, and explained that the Shore Protection Board had given consideration to the specific case referred to by Mr. Cooley. He advised that he had reported to them on that case and advised them as to the status, and he believed that they had not wished to rely upon the uncertainties of litigation in pursuing this matter, and thought that they should go forward without having to rely upon what may happen in the future regarding that litigation. Mr. Randolph referred to the reference of Mr. Cooley that the Town may be facing a potential lawsuit by way of the turning over to the State certain of the beach front properties because that then would take away any cause of action that the Town or beachfront property owners might have against the Federal government. He advised, however, that he did not believe the adoption of this Resolution, at this time, would have any effect on that. He suggested that at a point in time when easements may be granted to the State, consideration could be given to whether that would be a prudent step, however, the action being taken today would not finalize anything in that regard.

Mr. Eric Gilbertson commented that the plan was unrealistic and expensive, and made residents very uneasy.

On roll call the motion to approve Resolution No. 16-99 carried unanimously.

a. Special Town Council Workshops Held March 17, 1999, at the Four Seasons Resort; March 18, 1999, at Town Hall Council Chambers; and April 20, 1999, at St. Edward's Parish Hall

President Smith commented that she understood that Town staff would respond to all questions raised at the three workshops, and there would be a report issued with those questions and answers.

Assistant Town Manager Peter Elwell commented that there had been a number of questions, as well as a number of statements made, which needed response. He advised that a question and answer type document was planned, which would be available as soon as possible. The draft document would be presented to the Town Council before publication.

President Smith clarified that meetings would then be held in the Fall for further discussion, and suggested that the question and answer document be presented at the August 10, 1999, Town Council meeting, at which time the next public meeting would be scheduled.

Town Attorney Randolph advised that a non-bonding straw ballot referendum would occur at the Town February election, which would be a question that would go to the electorate which would say something like – do you approve going forward with this improvement – and perhaps even having a check off system which would indicate whether lesser improvements, rather than the whole project, would be acceptable. If that was what was contemplated, a decision would need to be made by December regarding the language of the resolution. He explained that the Town Clerk prepared the resolution calling the election in January, and in that resolution there should be the final question that would go to the electorate. He noted that the question should be considered by the December meeting, so that preparations could be made to put it on the resolution/ballot in January.

b. Additional Special Town Council Meeting(s) in October 1999

Discussion will take place at the August 10, 1999, Town Council meeting concerning additional Special Town Council Meetings.

2. Resolution No. 17-99 - Utility Pole Adjustment Policy

This item was deferred to the June 8, 1999, Town Council meeting under "Approval of The Agenda" earlier in this meeting.

2. Appointments

1. Architectural Commission - One Alternate Member Term to Expire March 2001

Councilman McDonald moved deferral of the appointments to the Architectural Commission, as he believed that the list of potential candidates was inaccurate. The motion was seconded by Councilman Shaw. On roll call the motion carried unanimously.

2. Code Enforcement Board - One Regular Member Term to Expire April 2001

Mr. Richard Allison was appointed as a regular member of the Code Enforcement Board, with his term to expire in April 2001.

Mr. Scott Sloane was appointed as an alternate member of the Code Enforcement Board.

3. Other

1. Charter Review Commission Report dated April 19, 1999

Mr. Doyle Rogers, Chairman of the Charter Review Commission, presented the report of the Charter Review Commission to the Town Council. He read his transmittal letter into the record:

Dear Mayor, Madam President, and Members of the Town Council:

It is with great relief that the Charter Review Commission which you appointed has finished its assigned task, and submits the report which is attached. The Commission has made a diligent effort to review every section of the current Charter in the interest of the future governance of the Town. We were saddened when our fellow commissioner Thomas M. Keresey died last April, after contributing both wisdom and humor to our esoteric discussions. Further, we regretted that our former Commissioner Yvelene deMarcellus Marix, a former Mayor, resigned from the Commission because of her opposition to the consideration of any changes in the Charter. As Chairman of the Commission, I extend my appreciation and respect to our Vice Chairman, and fellow commissioners, for their intelligent focus on the obligation which we undertook, upon our appointment to review the Charter of the Town of Palm Beach. We have persevered since our organization meeting of April 17, 1997. During this period of time every current commissioner attended all seventeen meetings, with the exception of one excused absence because of an out of State family wedding. On behalf of the Commission, I extend our special thanks to the Town Manager, Robert Doney, and Assistant Town Manager, Peter Elwell, and their office staff, for managing the flow of information and all arrangements for Commission meetings. The Town Clerk, Mary Pollitt, and her assistants for recording the proceedings and printing the minutes, and to John "Skip" Randolph, Town Attorney, for his valuable advice and consultation during our meetings. Our commission members have been requested to attend the May 11, 1999, Town Council Meeting to respond to any questions which arise from your review of the recommended revisions to the Charter. We sincerely hope the Town Council will adopt the recommendations of the Charter Commission, and thereafter put the revised Charter on the ballot for a referendum vote at the next general election.

Mr. Rogers stated that he realized that many of the council persons had only recently received the Charter Revisions, and had not had an opportunity to review it; therefore, discussion would not take place at this time. He recognized the members of the Charter Commission who were in attendance: Mr. Rodney Fink, and Mr. William Guttman. He requested that the Charter Commission be de-commissioned, so as to be free of the restraints of the Sunshine Law.

Councilman McDonald moved that the Charter Commission be sunsetted. The motion was seconded by Councilman Shaw. On roll call the motion carried unanimously.

President Smith clarified that discussion would take place regarding the recommendations of the Charter Commission at the July 13, 1999, Town Council meeting. She thanked Mr. Rogers, and the members of the Charter Review Commission for their diligent work.

2. Request by Royal Poinciana Theatre for an Additional One (1) Year Extension of Lease Agreement to Continue Wednesday Matinee Program Through the 1999/2000 Season - Alternate Sixteenth Amendment

Councilman Shaw moved approval of the request by the Royal Poinciana Theatre for an additional one year extension of their Lease Agreement to continue the Wednesday Matinee Program through the 1999/2000 season (Alternate Sixteenth Amendment). The motion was seconded by President Pro-Tem Wyett. On roll call the motion carried unanimously.

Attorney Phil O'Connell addressed the Town Council, stating that the landlord had asked that an alternative be requested that the agreement would continue from year to year, unless the Town Council had a concern during any particular year.

Police Chief Croft reported that there had been no concerns/objections by the Police Department for many years, and suggested that the idea of bring this issue to the Town Council each year may be re-evaluated.

President Smith responded that the only concern was the future of the Poinciana Club in the Royal Poinciana Playhouse, and changes in that situation would be a reason to evaluate the Lease Agreement extension request yearly.

On roll call the motion carried unanimously.

3. Status Report on Town Preparation for the Y2K Transition - **Town Staff Recommends Deferral to June 8, 1999, per Town Manager Doney's note dated 5/3/99**

This item was deferred to the June 8, 1999, Town Council meeting earlier in the meeting, under "Approval of the Agenda."

4. Proposal by Police Chief Croft to Convert Payment of Police Department Special Detail Assignments to Overtime

The following is a verbatim transcript of the proposal by Police Chief Croft to convert payment of Police Department Special Detail Assignments to overtime:

DONEY: Yesterday, Chief Croft, Mr. Crouse and I had met to try to identify the various issues that are coming before you for policy consideration, and I believe, unfortunately, that we were only able to complete this memorandum late yesterday afternoon and this morning, and I believe that the memorandum dated May 11, 1999, regarding this subject, which has been signed by Mr. Crouse and Chief Croft does identify a workable program that would allow the Town Council the policy considerations that it needs to make, but also give you the protections that need to happen, so if the Town Council is inclined to approve this recommendation, we could then implement the program as it is identified in the May 11th memorandum from Chief Croft and Bill Crouse. Chief Croft and Bill Crouse are present and if you have any questions, we'll be glad to answer those questions.

WYETT: I have a question on what you just said – are you saying we have the information now, or you want to do it next month?

DONEY: Yes, the information now. We can enumerate those items right now if you want. I'm sorry for the – it was delivered this morning, and I apologize for our just getting the memorandum to you this morning. I'll be glad to read the enumerated items.

SMITH: Why don't you do that, Mr. Doney, because I think it is a very important issue and we need to have everything out in the public record.

DONEY: Thank you. The memorandum is dated May 11,1999, from Mr. Crouse and Chief Croft to me:

As a result of our meeting on May 10, 1999, attended by you, Chief Croft and myself, our discussion regarding special detail pay for police officers concluded with the following recommendations:

1. *The police chief will implement a procedure that will assure fair and consistent assignment of special detail work to eligible employees (eligible employees to include all police officers and sergeants).*

2. *The use of special detail service will be charged a $50.00 per hour fee, to become effective immediately.*

3. *The eligible employee working the special detail will be paid overtime, as required under the Fair Labor Standards*

Act.

4. *The balance of the fee not paid to the employee will be utilized by the Town to cover administrative costs.*

5. *The time worked in such assignments will be recorded as "assigned overtime detail."*

6. *The actuarial costs of including overtime detail in the calculations for determining average final compensation in terms of pensions and the impact on the retirement system will be determined by the actuary for the retirement system.*

7. *The inclusion of overtime detail in determining pensions is to be cost neutral to the Town of Palm Beach retirement system, and the Town as a whole.*

8. *At such time as the actuarial costs are determined, if such costs exceed the $50.00 per hour rate, an increased rate will be charged in order to maintain cost neutrality to the Town.*

I would add an item to that, and that would be a policy consideration would be brought to the Town Council if you wish to increase that rate at a future date. And, if you have any questions regarding this, Chief Croft is present, Mr. Crouse is present, and I'm here. We'll attempt to answer those questions.

SHAW: My first reaction is that I think this really should be deferred until Tax & Finance, because I think that it has tremendous ramifications, and would not like to see that we jump on it. I think the part that concerns me the most, and if I understand the concept of cost neutral (Mr. Crouse can confirm this) that it will not in any way affect the retirement plan. But, it also says on the point above it, it will be determined – that the impact on the retirement system will be determined by the actuary for the retirement system. I find this something that really needs to be confirmed – that it is not going to affect the retirement system, and that this is simply a voluntary assignment. I don't believe the Town has an obligation to meet all the needs. I think that if we cannot meet those needs to the residents, to the businesses that are requiring the service, then they should go into the market place to resolve their need for additional police, and that in no way can it be construed as a burden to the Town and to the residents, and without having those assurances, I don't believe that we should be discussing this.

DONEY: Mrs. Smith, I believe with Chief Croft and Mr. Crouse we can address those questions now, if you wish.

SMITH: Chief Croft – because we do have a Pension Board Meeting, don't we, this Friday?

DONEY: This Friday, but this is a Town Council policy item.

SMITH: Well, I know, I understand that, but is our actuary going to be at the meeting on Friday, so perhaps –

DONEY: True. Denise Jones will be here Friday.

SMITH: So perhaps we could get an opinion from her on Friday, if the rest of the Council, too, feels that it should be deferred. But, Chief Croft, will you go first. Then Mr. Crouse.

CROFT: Mr. Shaw, I think I can pretty much tell you everything that you just – your concerns will be taken care of, without cost to the Town. This thing kind of mushroomed from a two-page request into a ten-page dissertation on why it wasn't a good idea, and I really don't want to get into that. We had that meeting yesterday, but I have some very simple, straight forward explanations that I'd like to pass out to you. I would also like this not to be deferred. This started back in March, when we reached a level of not being able to supply officers to meet the demands of the residents. That has happened for two years, three years really, at different periods, and it presents an unusual amount of strain on the secretarial staff that tries to make the assignments when the people just aren't available to do it. Organizationally, I have a serious problem with people not being able to fulfill their obligations during their normal eight hour work period, and the reason that we're having that trouble is because those officers are working 20-60 hours extra a week. Only 19 people signed up on a voluntary list for this current year, and if you work out the numbers, you're talking about 400 hours of overtime for those 19 people. My proposal will reduce the number of hours to approximately 125 hours per year, so we don't have the organization burnout that we've had for the past three years, because there will be a system developed so the assignment is fair for everyone, and no one would be allowed to take more than what they were entitled to. There will be close supervisory review. I'm going to pass out one thing at a time, because I don't know how much you want to get into this, but this first page is entitled "Special Duty Paid Overtime Rates." I'm trying my best not to confuse you because it can get confusing. I have documents that go back to 1981, and George Frost's signature on them, and I can tell you I've been involved with most of the revisions since then, and this is nothing different, except that at this point I'm asking that the hours be used for final average compensation for pensions. The Town has never lost money, to my knowledge, in this program, and it's not my intent to charge the Town money to make this work. We've raised the rate, the hourly rate, significantly to $50.00 per hour. At the tope left you see the 8,224, which should be hours, and not dollars, times the new rate, $50.00. That revenue amounts to $411,200. To the right, take the same number of hours times the average overtime rate for the officers, and you get a cost of $296,064. If you back out the $296,064 from the revenue, you're left with a balance of $115,000. To the right represents the newest percentage rate the Town pays into the retirement fund for police - 28.91%. If you plug in the salaries, do your multiplication, it's going to cost the Town $85,592 to fund the retirement fund. The lower left, the balance of the revenue is $115,000 – if you back out the $85,592 for the Town's retirement contributions, and FICA, which totals $22,649, you're net revenue is $6,895. Now, I'm not going to stand here and tell you that actuarially we're going to be talking the same thing, because they stretched this out over a 20-30 year period. But, what I am saying, since 1981, this is the way we've done business. This is the way we've explained it to you, and the Town has not lost money.

SMITH: Chief Croft, in your doing the computation of your figures here, did you take into it the new increase for the police that was just signed by the governor? Did you take that increase in the pension benefits into account?

CROFT: At our meeting yesterday, I spoke – and frankly, a lot of that information that was signed into law no one here had – we were somewhat familiar with it, but we weren't sure whether it would be passed. And, I think it's the consensus here between the three of us that things are going to change with the pension system in the Town of Palm Beach for all employees basically. The fund will probably be separated out.

DONEY: That may happen.

CROFT: And, at some point in the next six months, I think we're probably going to have to revisit a lot of things, but I think it's clear to say that some of those things will cost the Town some money, number one, but I don't think that's related to what I'm trying to accomplish here.

SMITH: Well, but then why would you not go along with Mr. Shaw's suggestion that it be deferred until we get more additional information? I'm not sure that we have everything on the table here. I really am not, and I would hate to spend time today working on these figures, then to have them change when our actuary looks at them, and then have them change again when there's the possibility that we have to set up a separate board for the police and a separate board for the fire fighters, and separate staffing for the different pension funds. I think there are so many unknowns out there now, particularly coming in to the summer time, where there isn't a big demand for the overtime and the special detail. This might be the time to really look into it more before we make a final decision.

CROFT: That's certainly up to you. My desire was back in March to get this thing approved, and in place, because we've reached critical mass. We have people working overtime because I told them to assign them – not volunteers, I took people from the street, and made them work these details, because, in a lot of cases we had victims of crimes – just to give you some examples – a bank got burglarized – they had a hole in the wall, and they had no alarm system because they were being renovated. That bank wanted a police officer there 24-hours a day for a week. I can't say no to that, and there was no one on the volunteer list to pick from, so those things are assigned.

SMITH: But, could you say no to a resident for something that would not be a crime scene – say for a social event – couldn't you say sorry, we do not have a policeman available, and then they could hire extra valet parkers, or something, to direct the traffic? No, you can't say no?

CROFT: I really can't, and I'll tell you why. It's a public safety issue. Let's say it's your residence, and you're having 300 people over and they're going to park all over Cocoanut Row. At your intersection with Cocoanut Row I don't want to see a valet person directing traffic there. I want to see a police officer who knows what he's doing, attempting to maintain traffic flow. And I think you have those same situations, unfortunately, whether you're in the north end or the middle. It's congested. Streets are narrow.

SMITH: Using that example, Chief Croft, I have to agree with you.

SHAW: I remember, I think it was two years ago, when we were discussing the special duty rate, and I believe at the time it was $25.00, and then it was raised to $30.00, the comment made was that we don't want to make it as expensive or more expensive than the private sector, because we feel more comfortable having our own policeman doing it than having people from outside do it. Now, I don't know what the going rate is for the private sector, and I'm not sure that we're defeating what was the premise two years ago. That may have not been the right premise, but it was the statement that was made, and it was under which we made the decision to raise it only $5.00. I agree with you that from a public safety point there's no question that it should be a police officer, and from this Town, who is able to work at the scene, and also be available to you, but I think there are a number of circumstances where residents feel that they're just calling you to ask for a police officer because they perceive it to be the thing they have to do, or they do it simply for a convenience. If I have a party, I'm in the middle of a block – the need at that point for a police officer is nil. If I have it, it is just because I want one because someone says, well, did you request a police officer.

CROFT: I think I'd like to refer those kind of situations to you to tell them know, because I'm just, I have a lot of difficulty saying –

SHAW: Well, I think $50.00 is probably going to say no quite loudly to many people.

CROFT: And that's okay with us. If it actually reduces the number of hours, that's all right too.

DONEY: Yes. It gives us control.

SHAW: But I don't think that's your role to become the meeter and greeter at an event, and you know, turn the Palm Beach Police Department into rent-a-cop, and that's what it implies – that if somebody wants one, all they have to do is call you and you'll send as many as you need. I think it should be limited, and it should be something that people plan well in advance and you work well with your scheduling, and not that they feel anytime they want one that can just say, hi, send one over.

CROFT: Let me respond by saying that when people call, and it is a strange request, we are very clear on the services that we provide, and if it doesn't meet that criteria, we suggest to them that they contact a private security firm. I have to tell you too, that I don't particularly like seeing other law enforcement agencies in the Town of Palm Beach with their marked cars working these details. We've had some problem situations that have occurred over the years that could certainly have been avoided had their been Palm Beach Police officers working the same details.

SHAW: I bow to your knowledge and your feelings about it. I just would like not to rush into it from a financial issue, and –

SMITH: Well, let's hear from Mr. Crouse. Mr. Crouse, would you like to add anything to this?

CROUSE: Well, when I was brought in to this situation, it was a matter of looking, on behalf of the Town Manager, at the issues of the financial impact that it could have on retirement, because it was initially – the first thing that comes up is once you put a person on the payroll, and pay them as overtime, it will be covered under our pension ordinance, so we wanted to take a look at what that impact would be, and also any requirements that would be impacted under the FLSA. And, that's what I intended to do in my memorandum, and based on that and my discussions with the actuary, we came up with, and again, actuarially what was considered to be fairly conservative estimates, of an impact of $165,000 a year to fund the retirement system. The reason why that number seems to be much larger than the numbers that Chief Croft gives is because the fact that actuaries look at a change in a benefit, and this isn't necessarily a new benefit – it changes the overtime issue, which is a computation – when you figure a person's pension, you use overtime in computing the size of the pension. So, obviously, anything the employer would do to increase that aspect of the computation would have an impact to the retirement system. From an actuarial standpoint, the impact is immediate. It happens – basically, because it's a two year average – it happens in the next two years. Actually, it starts happening the moment that this is accepted, and has the full impact after two full years. That is called an accrued actuarial unfunded liability – that means that the Town hasn't been funding for that new change for the last 30 years, because as you know, and as Mrs. Smith just mentioned, is that actuaries look at expenses in the long term. I mean, you can't sit down today and fund this particular change immediately today. The only reasonable way to do it is over the long haul, because as you saw in my examples, that in two years, if a person were to retire and get that change in the benefit, that change resulted, in my examples of real situations, in a couple of thousand dollars. And then you look at mortality tables, and you spread that cost over the lifetime of the retiree – that's what the actuary is looking at, and that's why an actuary will sit down and give you a number that you can't figure on a piece of paper with simple math. They go through the actuarial assumptions that they have to do. Now, will Denise Jones, who will be here on Friday, be able to tell you what this is? No. She'll probably be able to tell you the same thing she was able to tell me, is that based upon these potential situations, this is what I would estimate it to be. Like all actuaries, if you ask her for the costs, she's going to say well, that's going to cost you, whatever, and that they will do an actuarial assumption and review and give you what the estimated costs are, and until that time we wouldn't know. The reason why there was a bit of a shift here, from our meeting yesterday, is not that these costs are going to disappear, but because of the fact that the Chief, from his original position, has basically come to what I think is a very important position, and that is – see, he has a situation, and we all have to agree that his situation is – he has to, at some point, provide for security through police officers in the Town of Palm Beach. And I can tell you right now, in my review, he's absolutely right, and the last seven months of this year – now just seven months, the first seven months of this fiscal year, we've had 6,441 hours, and nine individuals out of the 66 that are covered worked over 50% of those hours. You know, then the Chief comes back and says – and those nine individuals feel the repercussions of that, because they come on, and they're a little bit overworked. I mean, that's a lot of hours. These people average over 400 hours. In fact, the 19, which represent less than 25% of the entire group, worked over 80% of the hours. So, there is a situation. Now, the point is, how do you get to what the Chief needs without encountering the costs? And the reason for yesterday was, his proposal, that whatever that cost is we will pass it on to the user. Now, I understand that there will be costs to the system, and those costs will vary with retirement systems, and all of you who are familiar with retirement systems know that it is not going to be $1.00 today, and $1.00 ten years from now. It's going to be a lot more because of inflation, but that's reality. But what the Chief's proposal is is to simply say look – I have a responsibility to supply Palm Beach police officers. The only way he can do it effectively, and I believe from that standpoint he's right, is give me the authority to compel people to work. He cannot do it under a volunteer system, and the only way you can keep it out of overtime is completely voluntary. So, he isn't able to do that effectively, so to do what he needs to do effectively – he's got to be given the ability to compel. To do that, it's got to be paid for. If, in fact, he charges the user. Now, we right now start with $50.00. I can tell you right now, I think it will be more than $50.00. But, let's all sit here and say that when the figures come out six months from now, or a year from now; in all fairness, I think the Chief's right – you can't go and charge the user now $50.00, and then three months from now go to whatever. You know, at least let them go $50.00 for say, a year, before the change to be reasonable to the user. But, what if the price goes to $72.00. It could. It could be $50.00. I mean, I can't sit here and tell you. I'm not an actuary, and we don't know what it's going to be. But, let's say it's $72.00. The Chief raises the rate to $72.00, and through supply and demand these people will either be using Palm Beach police officers at $72.00 an hour, or finding the means of doing it through other sources, which is answering some of the questions you all have. But, the point is the Chief is able to do what he's required to do in supplying police officers.

WYETT: If I understand what you're telling me is that the $50.00 is really not realistic. I can see here it's almost a break even on the police report. I think the Chief has a serious problem that needs to be addressed. One of the questions I want to ask the Chief is what is the minimum number of hours now? I mean, if somebody hires an overtime police –

CROFT: Three hours.

WYETT: Would it be practical to reduce that to a two-hour minimum? Whereas most of your staff is not volunteering, they're complying?

CROFT: I'm not sure what that would accomplish.

WYETT: Well, there's a number of functions in Town that don't really take more than a two hour requirement.

CROFT: Are you saying because we're raising the rate and they're receiving more money that two hours –

WYETT: Well, in essence that is true, but because right now the three hours at the prices we're charging is $100.00, you know, it's small, but now that's you're going to be raising it to $50, $60, or $70, you might reduce it to a two hour minimum.

CROFT: That may be a good idea.

WYETT: The other thing I want to point out, and I'm very much in favor of this, but I want to have some chance to see the actuary numbers, is why your figures come out to a really, revenue neutral. If I understand what I'm looking at, is that we would have an $85,000 profit, which the Town uses when it considers its revenues.

DONEY: That $85,000, also, we have the Finance Department, other departments, and personnel, other departments, that provide services that offset that cost of providing this payroll, etc.

WYETT: Yes, but it's gone. You're still going to have those costs, and you're taking the $85,000 and subtracting it from the revenue balance, plus the FICA – you're coming out to $7,000 - so, I think the way I'm reading it, you're applying that into the figures, which I think will force us over the $50.00 mark right there -- in order not to lose that revenue, which is applied as you just outlined.

DONEY: But I think also, Mrs. Smith, I think that what Mr. Wyett is commenting upon there – also, we have an obligation – the Police Chief, the Personnel Director, and myself, have an obligation, as does the Town Council from a policy perspective – the geography of the Island is not going to change, and we have to make sure that we're able to provide enough personnel to meet these demands, to be able to control the public safety issues that are out there, regardless of whether, you know, we just don't want – we don't want – and I don't want to use names – of private security companies – but, certain security companies who are used by certain people that aren't meeting the public safety needs that the Chief needs to have met, and I think, from a dollar perspective, I think also, Mrs. Smith, that the dollars that the Town Council, by approving a $50.00 per rate, and I think Mr. Wyett's idea too, to have a two hour minimum, but, you know, having the $50.00 per hour rate allows the Town Council to approve a policy recommendation with conditions – the eight conditions.

SMITH: I think the $50.00 an hour rate is fine I have no problem with that, but have we – when you talk about other companies coming in that are really not working well within the Town, why do we have to let them come in? Why can we not say that special events and businesses in the Town can only be supplied by off-duty policeman? Why not?

DONEY: I don't think we can legislate that. Maybe Mr. Randolph knows. But, I don't think we can legislate who would want to –

SMITH: Why not? I mean, do they come in and apply for an occupational license to work in the Town?

DONEY: No.

SMITH: So, why can't we say that they can't come in? Why not?

RANDOLPH: I don't know that you can. I just – that's something I would have to look at, but I think you'd have problems dictating that these people can't come into the Town. You can make them get an occupational license, but –

SMITH: Well, I think they should have to do something, I mean, you know, to go through the procedure.

RANDOLPH: But, you can't keep them from coming in.

WYETT: You can't make the Sheriff's Department get an occupational license.

SMITH: Well, but I think that they have to comply and conform with the rules. I mean, we're talking about the residents here, and if it's not working in some area, why can't they look into it?

DONEY: Mrs. Smith, from a regulatory and enforcement perspective, though, if somebody –

SMITH: But, have we finished, wait, Mr. Doney. So, Mr. Randolph, why don't you look into whether or not we can at least get them to get an occupational license, why not? I mean, they run around here in uniforms looking like they're police, and they're not. I mean, it's not exactly the same uniform, but I mean, I think that if somebody is coming in to work in the Town to the amount that they frequently are working, I don't know why they wouldn't have to.

RANDOLPH: Well, because if they have an office outside the Town, they're not required, under State law, to have an occupational license in the Town. I think we have some sort of a registration fee that they might have to pay, but –

SMITH: Do they register?

RANDOLPH: I don't know if they register or not.

DONEY: But the actual end user is the real problem we get into. Because a resident, once they use the services of blank company, determines that they need a particular control.

SMITH: What's the difference, Mr. Doney? I mean, we don't allow unlicenced painters and contractors to come in here. People say we want to use Mr. Joe Blow, and we say he's not licensed to work in the Town of Palm Beach, what's the difference? I mean, if the residents are informed that this is a service, and it's provided, and certain people are not licensed to work in the Town – why not?

DONEY: Let me get Mr. Moore, who I hope is listening.

SHAW: I don't think the issue is whether the people, if they're not the police department, are the providers of the service, I think what's concerning me is if you can't get enough volunteers to do it now, are you saying that by raising the fee you'll be able to fulfill that need? Because to order people overtime, who don't – let me finish my whole question – because, to order people under the guise of overtime to work when they wouldn't work on a voluntary basis may be a bigger problem, and if it is monetary, then keep the present system, and raise the rate. You've got two things going against you – I mean, going opposite.

CROFT: Well, Mr. Shaw, it's a police department, it's not a boy scout camp. We order people to work overtime every day, and it's understood it's a policy. There are procedures that clearly indicate when it can be used and when it can't be used. Police officers, when they take their oath, understand that they're subject to recall 24 hours a day, 365 days a year. It's always been that way. I need the authority to assign, just like I assign everything else - this is the only thing that I don't have the authority to assign, or a captain, or a sergeant. This is the only situation where it's not in place. I feel like I'd have a lot more control, reduce the number of hours per person that's working per year, and not cost the Town any money. I wonder if you all had any questions about that Exhibit A I passed around? I thought it was fairly straight forward.

SHAW: It is except that I think Mr. Crouse has the numbers – that the $85,000 may not be representative of the figure, and I know you said you'd raise the $50.00 to something else, but I don't want you pricing yourself out of the market, and doing exactly what you don't want to do, which is shift the enforcement to the private sector, to the detriment of the public safety, and the residents of the Town. And I don't know if that's where this is going. I don't know the answers. I'm only —

CROFT: We have to try something, and I think this is a good basis.

SMITH: Well, Chief, if you incorporate Mr. Wyett's suggestion of reducing it to two hours, that's $100.00, and at the present rate, you're looking at, what, $108.00, so I mean, actually, the residents are going to end up paying less than they're paying under the present rate.

WYETT: If they use less.

SMITH: If they use only the two hours.

CROFT: That's a good idea. I wrote that down. We'll incorporate that.

WYETT: I just did a calculation here, and I'm not an actuary, so – but, I believe you're going to end up at a $60-$65 rate, and I have no objection to that, because, you know, I see a lot of special detail at the north end when people are having functions – you can't have a function on North Lake Way without hiring a police officer, because there's no place to park, and many other situations throughout the Town – Worth Avenue, you see all these functions going on – it's not going to stop anybody from hiring a Palm Beach police officer versus going off Island for a few dollars. We hire these policemen for safety and security, and what I would suggest maybe is that you immediately raise your volunteer rate to $50.00, and next month I think the Council would be more comfortable looking at whether this thing is going to be mandatory, and I agree it should be, but at what rate, because I don't want to keep raising the rates monthly. We should have a final rate, but I would go up to $50.00 immediately, and maybe you want to give the police officers a larger piece of that increase to encourage overtime by more people.

DONEY: Mrs. Smith, does the Council agree with the eight items I listed in the memorandum from Frank and Bill. Those eight items, I think, are conditions that administratively give the Chief and Personnel Director, and myself, the protections we need to be able to properly implement a change in the hourly rate, and to, you know, provide these services, but I think, most importantly, Chief Croft has to make sure that we're also not wanting to have any officer who is on his/her regular assignment be over tired or not up to the day's demands in providing some disservice to the community, and we want to make sure that's protected, and Chief Croft can't protect that by the first bullet, which is the Police Chief will implement a procedure that will ensure fair and consistent assignment of special detail work to eligible employees. Eligible employees will include all police officers and police sergeants. This also allows the Chief to make sure that we're not going to have an adverse impact upon the retirement system because of the sharing and the assignment of the Police Chief. I think it's, you know, a very important issue, and I think that the policy considerations – that's why I felt that the Town Council ultimately had to be approving this policy increase in terms of the hourly rate, because it's not something that – you know, this will be widely reviewed by the community and users of the services.

McLENDON: Where do you stand with a motion. Do we have a motion?

SMITH: No, we don't have a motion. We were under discussion as to whether or not we should move ahead, or do whatever.

WYETT: I think Mr. Shaw made the comment that we're in the slow season, so to speak. Do you anticipate between now and say, the next two, three, four months during the summer season that you're demand is roughly 165 hours a week, which I got from dividing the numbers? Or, does it really drop way down?

CROFT: No, I think what I'm about to tell you is I have the last two weeks' payroll in front of me, and there were 400 hours of overtime, just for details. That's in addition to court overtime, and report overtime, and incident overtime.

DONEY: And that includes the Neiman Marcus also, I believe.

SMITH: Well, that's, I mean, we know about Neiman Marcus, because we made that a condition.

SHAW: If you would. I think Mr. Wyett hit on a – what I would say is a good compromise. I think raise the rate to the $50.00, and see what that does within your department for volunteerism, and obviously sharing the bulk of that money back with the police officers – maybe even the differential between the $30 and the $50 – maybe you have it administrative – but if you were to pay an additional $15 an hour towards the police officers, to see what that does, and then we get the actuarial tables, and see where we will be, and make a final decision on how to handle it. I just find it hard, and I know it's your right, and their agreement by oath and duty to say that they're here to serve in the public interest and protect everybody, but I don't how somehow feels about being told you have to go and stand in front of somebody's shop because they're having a cocktail party, when they would like to be home with their family, and they're not looking for the overtime dollars, and I know that that's been an issue in many businesses, where overtime becomes that mandatory that they're not that happy with it. And I don't know if the best way is to entice them, and if it's financial, go for $50, go for $60. I don't care what the number is, if you feel comfortable – maybe it should be $60 an hour, and give the police officers that extra dollar.

SMITH: At some point if you want to talk about it, or someone wants to make the motion, that the figure be raised to $50 effective whatever time, let's move ahead, but I mean, we–

McLENDON: That's on the memorandum, isn't it?

SHAW: I'll make the motion that we raise it to $60, not even $50.

SMITH: He said $50.00

SHAW: I know, but there's some question about it being relevant to – if it goes into an actuarial issue, I agree with the Chief that it shouldn't be raised just helter skelter every other month.

SMITH: But Chief Croft is shaking his head no. He's asked for $50. You're like one of these juries – they ask for $10,000 and they give them $10,000,000! He said $50.00.

SHAW: I move that you make it $50.00 an hour; that $15.00 of the increase be added to the special duty pay; that it be on a volunteer basis as it has been; and that it become effective immediately; and that the minimum hours be reduced from three to two; and that it be reviewed for the other memorandum issues over the next two months.

SMITH: Why don't you incorporate the memorandum from Mr. Crouse, dated May 11th, as part of your motion?

SHAW: Except that –

DONEY: And Chief Croft.

SMITH: And Chief Croft, including –

SHAW: Well, except that, I'm including it, but not moving those points.

McDONALD: Mr. Shaw, I don't think it should include people who have already ordered the service.

SHAW: I would agree with that – for new orders.

WYETT: Well, hold it, you've got Neiman Marcus.

SHAW: Neiman Marcus is not the issue, because they're on overtime and on a different pay scale. They are not in this formula.

SMITH: Chief Croft, have you got, or do you know whether or not you have many orders for special detail in the next month, or further out? Well, all right, if you were to say that this rate –

CROFT Oh sure – we'll just say effective today, new requestees, we'll just - - for new requests.

SMITH: All right. We leave that to your discretion, right?

DONEY: And then come back at the June meeting?

SMITH: Who seconded the motion.

WYETT: I'll second it.

SMITH: Thank you. And then come back at the June meeting, and by then we may have had the discussions at the pension board/retirement board.

SHAW: He's frowning and smiling at the same time.

WYETT: I think it's important to have the answers in order to make this, because in order to make it revenue neutral you have to have those actuary numbers, and –

SMITH: She's not going to give us the numbers. She's going to say, well, that will cost a couple of thousand dollars, and I'll do an actuarial study, and I won't be able to give you the actual figures, because we're projecting for 30 years, and you're not going to know anything more after that than you know today, really, I mean, doesn't that seem to be the way it works, Mr.

Crouse?

CROUSE: Well, not on Friday you won't get anything, no.

SMITH: No. But there would have to be a study, and it would take months.

DONEY: And with many actuarial assumptions, and I think that the other thing, Mrs. Smith, that is helpful, is that – let this go into effect for one year, and then bring it back on an annual basis, and an as needed basis, so that the Council can, from a policy perspective, determine what is a reasonable hourly rate. And we also know that Chief Croft will have learned the actual experience of the assignments that Chief Croft makes to the personnel in his department to make sure that he's fairly balancing all of these issues.

SMITH: But, Mr. Doney, then what would be the reason for Chief Croft to come back in June? You said and come back in June. I'm not saying.

DONEY: Only because of the motion that Mr. Shaw had made that the $50.00 per hour that didn't include all of these conditions. That's why.

WYETT: Well when would actuary information be available, so that we act with full knowledge. I mean, it's got to be available somewhere, sometime.

CROUSE: I think because the actuarial report for the year was completed within the last 60 days that she could probably do this within 30 days once she's given the task.

WYETT: Well, then we should look at this hard, and adjust the numbers, and then give Chief Croft what he really wants, but based on the actuary numbers that we all agree are correct.

CROFT: Am I not getting what I really want?

SMITH: I thought you were.

CROFT: The memo was incorporated in the motion, right?

SHAW: No. That's why I didn't put it in. What I said was to simply give you the authorization to raise your special detail pay rate from $30 an hour to $50 an hour, and to, based on your memo of March 30th, the police officer is paid $23 per hour; that now would be increased to $38 an hour. So effectively they're getting $15 more an hour; you're picking up $5 for administrative – that, obviously doesn't add up.

SMITH: Where did those figures come from?

SHAW: No, it's $38 to the officer, $12 to the Town, which becomes the $50.

SMITH: But where are those numbers coming from? You're making those numbers up?

SHAW: I'm not making them up. There's a memo from Chief Croft, dated March 30th, and in the third paragraph it says: currently the Town at a $30 per hour – the police officer—

SMITH: I see that. You answered my question. I see that.

SHAW: So, I am modifying it that the police officer would be paid $38 per hour. The Town will receive $12, for a total of $50 per hour, and that the detail is reduced to two-hours minimum, and gladly review this – we can simply review it in a few months – let's see how the impact is. If the demand is there, then we know that the dollars are not the issue, and then we don't have to be as concerned about it. If the demand disappears, then there has to be a serious consideration of the cost per hour against the benefit to the public of having the police serve.

CROFT: I don't think you'll be able to determine a true use, I'd say, for a year, at least until you get through a season. May we have an administrative conversation, just so the three of us are clear on this?

Number one: this is going to continue to be a voluntary set up. FLSA won't apply, because it's going to be a flat rate, so our overtime computations we can forget.

CROUSE: That was the proposal, I mean that was –

WYETT: Chief, that was only for a short period of time until we get the actuary, because I think the Council is sympathetic to you, but we don't feel we have enough information to make a final decision, because we don't have the actuary numbers. I think sometime this summer you'll get it.

SMITH: And when do you feel we'll have the actuary numbers, so we can incorporate the date to re-hear it again as part of the motion?

CROUSE: I don't believe it would make the June. I just don't believe that's enough time. I do believe July would be enough time.

DONEY: Mrs. Smith, could I make a suggestion that during the lunch break, Bill, the Chief, and I can talk, and then we'll report back.

SMITH: Then I'll ask the maker of the motion to withdraw the motion. We cannot adjourn the meeting with a motion on the floor. I mean, you know that, Mr. Doney, so if the maker of the motion will withdraw the motion, and the seconder will, then at this point, we will adjourn for lunch. We'll be back at 2:15 and we'll continue this discussion.

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SMITH: Mr. Crouse, did you have anything to tell us while we're waiting for Chief Croft, since you all had a meeting?

CROUSE: While everyone was doing certain things, I was on the phone with Denise Jones, and I talked a little bit with Denise and asked her about an actuarial report, and she said that if we chose and permit, that she could do a report that would not exceed $1,100, and she would do it within two weeks, and have the results to us.

SMITH: All right. Well, I think that maybe the Council would want to consider it – that's certainly not an expense of the Retirement Board.

CROUSE: No, and it might be able to allow us to come and know what we're talking about. I mean, are we talking $50, are we talking $45, or are we talking $100 – I have no idea.

WYETT: Would she charge less if we give her four weeks?

CROUSE: I doubt it. That's the funny thing. She's going to charge you $1,100, whether she rushes it or not.

SHAW: In that case, can she do it by tomorrow at the same price?

CROUSE: I'll tell you what. I could coax her to do it a little bit quicker, but we'll have enough time to review this if you choose to – I think that if at this point, if the Chief –

DONEY: Did you talk to Chief Croft?

CROUSE: I haven't seen Chief Croft, no.

SMITH: Well, in the meantime, you've talked to our actuary, who said she can do this, so perhaps if the Council wants to move ahead and get those figures, someone would like to make a motion.

McDONALD: I move that we have the actuarial study done to determine what the impact of a raised hourly rate would have on the pension plan for the Police Department.

SHAW: I'm seconding that.

SMITH: And the money to be taken out of the –

SHAW: Reserve.

DONEY: With the money to come from the appropriations from General Fund Contingency.

SHAW: Why can't it come out of the special detail fund?

DONEY: No. That's not an appropriation line item. It would be appropriate to come from the General Fund Contingency.

WYETT: Jack, do you want to allow the Chief to immediately raise rates to $50 on a voluntary basis, meanwhile?

SHAW: I had a motion that was pulled back before.

SMITH: Wait, wait, yes, you pulled it back, but let's not. Is there any further discussion on the actuary study? Mrs. Pollitt.

POLLITT: Roll called and motion of Councilman McDonald carried unanimously.

SMITH: All right, now what else do we want to consider, because I really cannot hold up the whole meeting.

WYETT: If the Chief doesn't get back here, I would like to suggest that he be authorized, at his discretion, to raise the volunteer rate to $50.

DONEY: May I make a suggestion we take care of the Seaview Park field renovations, and then we'll come right back to that. I don't know where he is, but there had to have been something that came up spontaneously.

SMITH: All right. Then in the meantime, if you wait, Mr. Crouse, we'll suspend this for the moment, and we will move ahead to Item – we'll just move ahead until Chief Croft gets here.

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SMITH: Now, Chief, in your absence we moved that we're going to have an actuarial study to show us what the costs will be. Mr. Crouse spoke to Denise about it during the break, and she's going to do this within the next couple of weeks.

DONEY: So that it would be considered at the June 8th Council meeting?

CROUSE: Yes.

WYETT: Chief, would you, in the meantime, like the authorization to go to $50 and $38 of that to go to the officers? See if that, during the month, makes it easier to spread it out?

CROFT: I think part of the confusion earlier was, we proposed time and a half, based on the hourly rates. Everybody makes a different hourly rate, so their overtime rate is all different too. It's a tough one. I think if we're going to defer part of it, it may be best to raise the volunteer rates for 30 days or 60 days.

SMITH: Well, it would be 30 days, because we're going to hear it at the June 8th Council meeting.

CROFT: See, this really does nothing for me. My whole goal was to be able to assign people as needed, and this is not going to do that for me.

WYETT: Well, that's going to happen one month later, that's all.

CROFT: Well, we'll carry on for another 30 days, and in the meantime we'll pay them $15 extra an hour and maybe we'll get a few more people to volunteer.

WYETT: I make the motion that we raise the volunteer rate to $50, and the payment to the officers of $38.

SHAW: And that the minimum be reduced to two hours.

WYETT: Right.

SHAW: Second.

SMITH: Yes, Chief Croft?

CROFT: That's fine with me.

SMITH: All right, and then we'll hear it at the June meeting. Mrs. Pollitt.

POLLITT: Calls roll and motion carries 4/1, with Councilman McLendon casting a dissenting vote, stating that he preferred to do what the Chief had recommended.

End of verbatim transcript

5. Seaview Park Field Renovation Project - Request for Additional Funding for Irrigation System Repairs

Recreation Director Russell Bitzer referred to his memorandum of May 4, 1999, outlining the request for additional funding in the project budget for irrigation system repairs. He recommended that the repair work be completed next month, when the field would be renovated, requesting that the Town Council authorize an increase in the project in the amount of $13,260, with the funding to come from the Athletic Field Renovation Capital Improvement Program budget. He noted that the Palm Beach Day School had verbally committed to 50% of the additional work, and also noted that the increase requested would not cause the total project to exceed the original approved funding of $80,000.

Councilman McLendon moved approval of the request of additional funding in the amount of $13,260 from the Athletic Field Renovation Capital Improvement Program. The motion was seconded by Councilman McDonald. On roll call the motion carried 4/0, as President Pro-Tem Wyett was temporarily out of the room.

6. Attendance at the Florida League of Cities 73rd Annual Conference, August 19-21, 1999, at Wyndham Palace, Walt Disney World Village

Councilman McLendon indicated he may attend the Conference, but had not yet decided as of this date; through his attendance he would become the authorized delegate representing the Town of Palm Beach.

7. Consideration of the Discussion of the Number of Auto Trips to and From Mar-a-Lago

President Pro-Tem Wyett commented that the agreement with Mar-a-Lago called for the mean average of 313 trips per day between the first and third quarters, and requested to know what the true number was, as there were other petitions of Mar-a-Lago coming before the Town Council. In addition, he noted that the number of attendees at functions held at Mar-a-Lago had exceeded 390, and he requested that the number of functions be specified, as well as the actual count.

Director of Planning, Zoning & Building Robert Moore acknowledged that the request would be relayed to Attorney Ray Royce.

XIV. COMMENTS OF THE TOWN COUNCIL MEMBERS

Councilman McDonald commented that he had learned through the minutes of the Code Enforcement Board meeting that a case against Rhonda Nasser and Charles and Thelma Modesitt had been postponed indefinitely due to lack of legal service, and suggested that the Code Enforcement Board investigate why these people could not be served.

Director of Planning, Building & Zoning Robert Moore acknowledged that he would look into the matter.

XV. DEVELOPMENT REVIEWS

Town Clerk Pollitt administered the oath to all those who would be giving testimony in the following proceedings at this time.

1. Appeals

   1. Appeal of the Architectural Commission's Decision of March 24, 1999, Concerning 3 Golf Road by Mr. Ronald K. Kolins *(Deferred from April 13, 1999)* - **Request for Deferral to June 8, 1999, per letter dated May 3, 1999, from Mr. Ronald K. Kolins**

2. Variances, Special Exceptions, and Site Plan Reviews

   Old Business - Major

   1. VARIANCE NO. 6-99 - Howard Sontag, TR & R & Marta Limbaugh, 1495 N. Ocean Blvd; including a parcel known as 104 Mediterranean Rd.; located in the R-A & R–B Zoning District. To allow construction of an addition to the residence at a 26.25' building height in lieu of 25' maximum permitted, and to allow an addition to the guest house at a 22.25' building height in lieu of 22' permitted. *(Deferred from April 13, 1999)*

Variance No. 6-99 was moved on the Agenda to be heard with Site Plan Review No. 13-99, which is Item 10., under Development Reviews, New Business, Major.

   2. VARIANCE NO. 7-99 - Allison Rogers, 317 Chilean Ave.; located in the R-C Zoning District. To allow an increase in building height by elevating the existing residence to meet the Town's minimum floor elevation of 7.5' required when renovating a structure beyond 50% of its value, and allow continuance of existing setbacks, .6' west and 7.66' east yard setbacks in lieu of 20' required. *(Deferred from April 13, 1999)*

Ex-parte communication was declared by Councilman McLendon with Attorney Brindell regarding the application; by Councilman Shaw with Attorney Brindell, Ms. Rogers, and Mr. Rogers to discuss the parking and the modified plan to the parking proposal; by President Smith with Ms. Rogers, Mr. Rogers, and Mr. Mettler to discuss the merits of the project; and by President Pro-Tem with Ms. Rogers and Mr. Mettler concerning the merits of the project.

Attorney James Brindell, on behalf of Allison Rogers, addressed the Town Council, stating that the applicant had been asked to re-study the parking situation, and the proposal to convert the portico to a porch with a patio area on top. He displayed photographs of the house in question when it was acquired in 1998 indicating the second floor patio area over the portico, an awing, and a number of window air conditioners, explaining that the house had been chopped up over time. He explained that Ms. Rogers undertook a very courageous renovation. Since the last meeting, several changes had been made to the site plan, with landscaped open space being increased, another parking area added, agreement to eliminate the patio area that had existed on top of the existing portico, replacement of the door going to the area with a window, placement of a hedge along the front to add additional screening, elimination of one unit in the house, which would then entitle her to eight permitted spaces on the street, five of which she would give up, leaving three permit spaces.

Director of Planning, Zoning & Building Robert Moore commented that some adjustments had been made to address staff concerns regarding the portico and parking, and staff believed that it was a good compromise.

President Pro-Tem Wyett moved approval of Variance No. 7-99. The motion was seconded by Councilman McLendon.

Councilman Shaw requested that the motion include that the covered patio would never be enclosed, and that be maintained as a deed restriction.

President Pro-Tem Wyett agreed with the approval of Variance No. 7-99, with the condition that the covered patio never be enclosed, and that condition be maintained as a deed restriction.

On roll call the motion carried unanimously.

New Business - Minor

3. VARIANCE NO. 10-99 - Carbon Beach Property Joint Venture, 130 Peruvian Ave.; located in the R-C Zoning District. To allow construction of a residence on a lot with 50' frontage in lieu of 75' required and a 6,250 sq.ft. area in lieu of 10,000 sq.ft. required.

Director of Planning, Zoning & Building Robert Moore reported that the house conformed to all zoning regulations, other than the undersized lot, and staff recommended approval.

President Pro-Tem Wyett moved approval of Variance No. 10-99. The motion was seconded by Councilman Shaw. On roll call the motion carried unanimously.

Attorney Hickman commented that he represented an adjoining owner to the west, and that the building was a two story building and would have a number of windows on the west side, facing the property of his client. He suggested that he and his client have the opportunity to review the landscaping plans, which had not yet been available when they had met with Attorney Huffman.

Mr. Moore pointed out that the Architectural Commission would address this situation, which was not a variance issue.

Attorney Huffman assured Mr. Hickman that the applicant was concerned with privacy, and intended to do the absolute maximum in terms of screening, vegetative barrier, and landscaping to protect his property and that of the client of Mr. Hickman.

Mr. Moore noted that the hardship was the 50' lot, which was the basis for the variance.

Attorney Hickman commented that he would work with Attorney Huffman in order to come up with an acceptable landscaping plan.

4. VARIANCE NO. 12-99 - Via 313 ½ Worth Ave. Ltd., 313 Worth Ave.; located in the C-TS Zoning District. To allow a 13'8" marquee (awning) at the entry to Via Bice.

Director of Planning, Zoning & Building Robert Moore reported that staff had no objections to the request for the marquee/covered awning at the entry to Via Bice; the hardship was the fact that the location of the building on the lot dictated an odd angle for the marquee.

President Pro-Tem Wyett moved approval of Variance No. 12-99. The motion was seconded by Councilman Shaw. On roll call the motion carried unanimously.

New Business - Major

5. VARIANCE NO. 8-99 - Sklar Family Trust, 420 Brazilian Ave.; located in the R-C Zoning District. To allow construction of a swimming pool providing a 5' side yard setback in lieu of 10' required, and a 20' front yard setback in lieu of 25' required. To allow construction of a garage providing a 5' side yard setback in lieu of 15' required.

Ex-parte communication was declared by Councilman McDonald with Architect Ken Brower regarding the merits of the project.

Attorney Maura Ziska, of Robert E. Deziel, P.A., addressed the Town Council on behalf of Patricia Sklar, explaining that the plan had been modified so as to eliminate the garage addition, build a second story addition, and turn the first floor into the garage. This would eliminate the need for a side yard variance on the west side. The revised application was for the pool variances, which was the minimum variance request, given the configuration of this house on the non-conforming lot. She explained that the hardship was that the setback requirements had changed since the residence was constructed, and the lot was non-conforming in size.

Zoning Administrator Paul Castro commented that the applicant could meet the front yard setback, as the lot was very deep, and there was no related hardship.

Councilman Shaw suggested that the pool be moved 5' further south, or take 5' off of the length of the pool.

Rafael Saladriguez,of Brower Architectural Associates, addressed the Town Council, stating that the further back the pool was towards the house, the more room would be provided for space for automobiles entering the garage, and for pedestrian traffic.

Councilman Shaw moved approval of the side yard setback only, based on the hardship being the width of the lot. The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

6. VARIANCE NO. 11-99 - Alison Reed, 1520 N. Ocean Blvd.; located in the R-B Zoning District. To allow construction of a two-story addition providing a 19' street side yard setback in lieu of 30' required.

Ex-parte communication was declared by Councilman Shaw with Attorney James Brindell via a phone call regarding the application, although Mr. Shaw had not had time to discuss the issue.

Attorney James Brindell, on behalf of Alison Reed, addressed the Town Council, displaying photographs of the area, stating that the variance was being requested so that there would be a garage, and a dressing/closet area, and enlarged bathroom area, for a total of 703 sq. ft. The property was surrounded by a tall hedge and thick vegetation.

Director of Planning, Zoning & Building Robert Moore gave the following staff comments: Comprehensive Plan: should be designed in a manner which would more closely comply with the Code; Building Department: no hardship; Town Manager: requires more justification for the variance request.

Ms. Reed commented that the house has originally been built as a beach cottage, and had been expanded with a dining room since then, and other than that was standing as it had been built in 1950. The house interior was cedar and pine, and was very charming.

Attorney Brindell supplied a letter of support from Bill and Julie Kimbell, who lived next door, to be included as part of the record.

After further discussion, Councilman McLendon moved approval of Variance No. 11-99. The motion died for lack of a second.

Councilman Shaw moved approval of the variance request for the first floor for the garage, with the hardship being the way the house was configured on the land, deferring the second floor variances, in order to give the applicant the opportunity to re-design that portion of the plan.

Mr. Moore noted that the minimum variance necessary to achieve a reduction in the nonconformity would be of benefit in this case, although it would not meet all of the variance criteria. An already existing nonconformity would be reduced in that manner, with the granting of the variance for the garage.

The motion was seconded by Councilman McDonald. On roll call the motion carried unanimously.

7. SPECIAL EXCEPTION NO.10-99 - Nations Bank, 140 N. County Rd.; located in the C-TS Zoning District. To allow bank and financial occupancy (ownership change) in the C-TS District.

This item, along with Item 8 below, was heard as the final item under "XV. Development Reviews B. Variances, Special Exceptions, and Site Plan Reviews."

8. SPECIAL EXCEPTION NO. 11-99 with Site Plan Review & Variance - The Beach Club, 755 N. County Rd.; located in the R-B Zoning District. To allow installation of lighting for three tennis courts. A variance is requested to install lighting without required site screening to the north of the courts at Country Club Dr.

This item was head as the final item, along with Item 7 above, under "XV. Development Reviews B. Variances, Special Exceptions, and Site Plan Reviews."

9. SPECIAL EXCEPTION NO. 12-99 - Howard Acquiring Corp., 810 S. Ocean Blvd.; located in the R-A Zoning District. To allow construction of an accessory use pedestrian tunnel.

Director of Planning, Zoning & Building Robert Moore commented that there had been extensive discussion on the ownership of the property in question, and suggested that an easement agreement would be required, with indemnification language protecting the Town, and construction should avoid disruption of existing seawalls.

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

Attorney Robert Deziel, representing Howard Acquiring Corp, addressed the Town Council, stating that a title search had been prepared by Chicago Title Insurance Company, indicating that the deed conveyed all of the property from the westernmost boundary to the Atlantic ocean to his client. A Title Insurance Policy existed for the property, with the exception that there be a public thoroughfare/right-of-way for passenger vehicles and pedestrians to go over the outlined right-of-way. He explained that, therefore, his client owned the property, with the public having the right to go across the property through the right-of-way. He indicated that he was not certain of the concerns of Town Engineer Bowser regarding ownership.

President Pro-Tem Wyett expressed concern about water coming through the tunnel and flooding the property in the case of a major storm.

Mr. Moore advised that most tunnels were constructed so that water would flush through them, and the structural design would take that into consideration.

After further discussion, President Pro-Tem Wyett moved approval of Special Exception No. 12-99. The motion was seconded by Councilman McLendon.

Mr. Moore commented that a traffic plan would be required when construction was being done, as the Police Department was concerned with traffic management.

President Pro-Tem Wyett added a requirement to the approval that the project must be completed by the beginning of the season.

Mr. Deziel commented that if, for some reason, documentation would indicate that his client did not own the property in question, an easement would be entered into with the Town so that construction could take place.

President Pro-Tem Wyett clarified the motion to approve including the conditions that a traffic plan during construction be supplied, that the project must be completed by the beginning of the season, and an appropriate easement and Hold Harmless Agreement be supplied if necessary. On roll call the motion carried unanimously.

10. SPECIAL EXCEPTION NO. 13-99 with Site Plan Review and Variances - H. Sontag, TR and RH Property Holdings, 1495 N. Ocean Blvd. (Including a parcel formerly known as 104 Mediterranean Rd); located in the R-A & R-B Zoning Districts. To allow revision to previously approved Site Plan to relocate the 5,405 sq.ft. guest house on a lot exceeding 4 times the minimum lot size in the R-A District. Variances requested are 1) to allow the building height point of measurement at 10.12' NGVD in lieu of 7.5' NGVD required (crown of road is below 7.5') for a mechanical bldg; 2) to allow the guest house building height point of measurement at 10' NGVD; and 3) to allow a variance to construct a 2-story guest house on a double sided lot with a setback of 35' in lieu of 47'2" required.

    VARIANCE NO. 6-99 - Howard Sontag, TR & R & Marta Limbaugh, 1495 N. Ocean Blvd; including a parcel known as 104 Mediterranean Rd.; located in the R-A & R–B Zoning District. To allow construction of an addition to the residence at a 26.25' building height in lieu of 25' maximum permitted, and to allow an addition to the guest house at a 22.25' building height in lieu of 22' permitted. *(Deferred from April 13, 1999)*

As to Variance No. 6-99:

Ex-parte communication was declared by Councilman McDonald, who was called to request that he view the property, but had not discussed the merits of the application with anyone; by President Smith who had received a call to view the property, which she then did on her own; by Councilman Shaw who received two calls, and went to see the property on his own; and by Councilman McLendon who received a phone call, and visited the site with the architect.

Attorney Frank Lynch addressed the Town Council, on behalf of R. H. Trust and R. H. Properties, recalling that the applicant had requested site plan review and variance requests at the March Town Council meeting, and he was now back to address one of the variances. That variance was one that would allow the applicant to match the existing height of the existing residence.

Zoning Administrator Paul Castro explained that when the house was originally built, the height of the house had been measured based on a different formula than was used today. Because of that change, the addition needed the variance related to the height.

Councilman Shaw moved approval of Variance 6-99. The motion was seconded by President Pro-Tem Wyett. On roll call the motion carried unanimously.

Attorney Lynch explained that the second variance referenced in the application was withdrawn, based on the fact that the guest house was being relocated.

As to Special Exception No. 13-99 with Site Plan Review and Variances:

Attorney Frank Lynch explained that, after further discussions with Town staff, it was determined that Variance request no. 3 was no longer necessary.

Architect Ralph Canton addressed the Town Council, presenting three exhibits of the site in question. He noted that the site plan had been modified to enclose the mechanical building, move the parking 30' back, and add a wall. He explained that after reviewing the needs of the owner, comments made at the Town Council meeting, and talking to some of the neighbors, the site plan had been modified to move the guest house and relocate the mechanical building, with the main house remaining as proposed.

Zoning Administrator Paul Castro stated that the first concern of staff with the original approval was to have a complete abandonment of the utility easement, as the mechanical room was sitting right on top of an existing utility easement; in addition, staff requested that any development conflicts with existing utility easements be resolved as well, and approval should be contingent upon successful abandonment. Several neighbors had expressed concern regarding moving the mechanical building and cooling tower closer to their property, as well as the parking lot with minimal landscaping/buffering on the west side. Mr. Castro commented that even though staff had no objection to the variance request, staff did not see a hardship related to the point of measurement, since the property was so large, and the gradient was such that the property could be contoured so that the building could meet the point of measurement variance for a guest house at that location.

Ms. Jennifer Beqaj, the neighbor directly adjacent to the property in question, addressed the Town Council, stating that her concerns were the following: that Mediterranean Road was becoming a service entrance for the 1495 Ocean Way property; the noise from the parking lot that had space for 11 vehicles; the clippings being held on the street; the noise and odors from the mechanical building. She explained that she was working with the applicant cooperatively to address her concerns. She mentioned that it was now quite dark in the corner of the property, and anything that could be done about lighting would be greatly appreciated.

Mr. Canton commented that the gates would be lit, as well as the perimeter of the landscaping along Mediterranean.

Ms. Nicky Shipley, 1498 North Ocean Way, addressed the Town Council, stating that the applicant had been quite responsive to the concerns that she had brought up at the March Town Council Meeting. She stated that she was worried about the change in the character of the road to a service route, however, believed that they had been very responsive overall.

In response to the query of President Smith concerning the service vehicles on the property, Attorney Leonard Sclafani (co-counsel with Attorney Lynch) replied that the service to the property was no greater than if the property had been developed into three separate lots; the gate that was currently in place as a service entrance had as of yet never been used as such, and he commented that he was puzzled by the suggestion that there was an increase in traffic as a result of the development of the property. He explained that in the event the property was not developed, there would be one single family dwelling on the property that would require its own service. The lot was now vacant, and it was proposed to leave the lot vacant. He explained that the parking was not intended to be used on a daily basis; there were only two cars that were there on a regular basis. The parking was needed because the extension of the house included a ballroom and a theater, and the owners would expect to have guests on occasion. He commented that the proposed service entrance would be on North Ocean Blvd., which would allow for easy access and sufficient off-site parking for vehicles that otherwise would be on the street. He explained that the new proposal had addressed the concerns of neighbors, and that the mechanical room was closer to the guest house than the neighboring house, and the emanating noise was of great concern to the owner himself, as well as for his neighbors. Therefore, a great deal of effort had been made to ensure that the noise would be minimal, described by engineers as whisper quiet. He noted that there was an extensive landscape plan, as well as an offer to screen the neighboring property with an 8' wall on top of the existing wall. He explained that the neighbor had indicated that it was preferential to attempt landscaping, and Mr. Sclafani stated that an agreement would be entered into that would require the owner to alleviate the condition by constructing a wall in the event that the neighbor determined in the future that the landscaping was not effective.

President Pro-Tem Wyett also expressed concern that Mediterranean Road would turn into a service road, and suggested that all entrances could be made off of North Ocean Blvd. He stated that he agreed that the cooling tower needed to be moved because of the noise. He asked what would happen if the guest house and parking locations were reversed?

Mr. Canton responded that was basically what had been originally presented, and the concern of the neighbor had been that the guest house would block the ocean breeze. He explained that it would be irrational to cut off the exits on Mediterranean Road.

Attorney Lynch commented that originally, the history of the development of the property was that the owners originally owned the lot on which the main house was situated – they subsequently bought the ocean lot and made the access on Mediterranean, as the access on North Ocean Blvd. was difficult. He suggested that the Mediterranean Road issue was resolved by virtue of the approval already received, and/or the construction as of right before the application was made.

Councilman McDonald stated that his concern was the lighting, and asked if this issue could be addressed?

Mr. Canton responded that night lighting would be provided at the gates and along the perimeter of the property, which would be landscape lighting.

Councilman McDonald suggested that, after obtaining approval of all neighbors, the applicant bear the cost of providing street lighting.

Councilman McLendon recommended that the best silencer possible be put on the generator engine.

Attorney Lynch responded that would be agreeable.

Ms. Beqaj commented that she was still concerned about the location of the mechanical building, and that she would like to see the lighting issue addressed. She noted that there was a much different pattern of traffic between service people entering the property and a family using the entrance ways.

Councilman Shaw expressed concern regarding the cooling tower, and suggested that there be some assurances from the manufacturer as to the decibel levels when the engine was running, and suggested that the front entrance become a combined service/resident entrance on North Ocean Blvd., to allow the service road to simply go along the northern perimeter of the property and then into the parking area, which would basically eliminate all traffic on Mediterranean.

Mrs. Shipley stated that she had no strong objections to the location of the current entrance.

Mr. Canton commented that the cooling tower was behind a concrete bunker.

Councilman Shaw stressed that the applicant would have to be sure that the needs of the neighboring parties were satisfied regarding noise. He suggested that the applicant provide a report from a sound engineer to confirm that the cooling tower was not going to make noise, especially at night.

Ms. Beqaj commented that she believed that less activity would be created at night, because there were now two residence spots that would no longer have residences on them, which she believed would make it less safe; she believed that lighting would make it safer; if the landscape lighting was sufficient, and everyone on the street thought it was sufficient that would be fine; if not, she would like the recourse of coming back and having Mr. Limbaugh pay for the street light.

President Smith commented that procedure called for all of the neighbors getting together to pay for a street light, if one was desired. She explained that a petition from all of the residents would need to be gathered, with a percentage of the lighting being paid for by them.

Councilman McDonald commented that he believed that a condition could be placed on the approval that Mr. Limbaugh would agree to pay the residents' share.

Town Attorney Randolph confirmed that could be required as a condition of approval, as an alternative in the event that the landscape lighting was not sufficient.

Ms. Beqaj stated that she was willing to work with the applicant on the lighting, however, she was terrified about the noise that would be coming out of the cooling tower, and suggested that it be moved; in addition, she was concerned about Mediterranean Road being used as a service entrance and would be in favor of avoiding that. She stated that the Town Council had heard all of her concerns, and she appreciated the time and efforts.

Mr. Moore commented that he believed the applicant had made the effort to address the concerns that Mrs. Shipley had brought forward last month, as well as the concerns of Ms. Beqaj. He stated that he believed that there was another location on the property, rather than the proposed location, for the mechanical room.

President Smith clarified that the Town Council had given the representatives of the applicant their thoughts and concerns about the location of the mechanical room, and suggested that discussion take place between them about another location.

*****At this time a five-minute break was taken*****

President Smith called the meeting back to order, stating that all members of the Town Council conducted ex-parte communication with the representatives of the applicant during the break.

Councilman Shaw suggested that an independent engineer be hired by the applicant to review the design of the plans for the fan of the cooling tower, analyze the environmental situation, and report to Town staff for review of the plans. If there was cost involved to the Town of obtaining an independent engineer to subsequently review the plans, that cost would be covered by the applicant, and that once that was accomplished, the noise issue would be mitigated regarding the cooling tower. He explained that he did not see the noise from the generator as an issue, as it would be run for 15-minutes once a month, and would be appropriately muffled and baffled.

Mr. Moore commented that the Town ought to find the engineer at the expense of the applicant.

President Smith suggested that the Site Plan be addressed first, and then the requested variances.

Councilman Shaw moved approval of the modified Site Plan (to relocate the 5,405 sq. ft. guest house on a lot exceeding 4 times the minimum lot size in the R-A District) for Special Exception No. 13-99. The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

Councilman Shaw moved approval of Variance No. 2 (to allow the guest house building height point of measurement at 10' NGVD), with the hardship being the lay of the land, and that the point of measurement adjustment must be made accordingly, and that the structure itself was being built in compliance with the Code for the R-A Zoning District. The motion was seconded by Councilman McLendon. On roll call the motion carried 4/1, with President Smith casting a dissenting vote.

Concerning Variance 1) to allow the building height point of measurement at 10.12' NGVD in lieu of 7.5' NGVD required (crown of road is below 7.5') for a mechanical building: Mr. Canton stated that the existing house at 104 Mediterranean was 11.65' above sea level, and the guest house was at 10'. The main house was at 13.65', and what was being proposed for the new guest house, because of the lay of the land, was 11.42'.

Attorney Lynch addressed the hardship as being the natural elevation of the property in the area of the guest house, which was approximately 11.25'. He explained that the finished floor elevation would actually be below that grade, and the variance was because the transfer of the point of measurement variance was necessary in order to bring it in line with the natural grade of the property; in addition there was an issue with drainage, since the structure was very near the guest house.

Mr. Canton stated that the hardship in this case was the lay of the land.

Mr. Moore suggested that the mechanical building could be built without requiring a variance request.

President Wyett moved deferral on Variance No. 1. A second was not received for the motion, and it was withdrawn.

Councilman Shaw moved denial of Variance No. 1, because the building could be built to Code. The motion was seconded by President Pro-Tem Wyett. On roll call the motion carried 4/1, with Councilman McLendon casting a dissenting vote.

Attorney Lynch clarified that although Variance No. 1 was denied, the location of the mechanical building in the Site Plan was approved subject to the report of the engineer.

Attorney Randolph clarified that a motion would be required, since the first motion dealt with the relocation of the guest house, and the mechanical building was not addressed.

Councilman Shaw moved approval of the mechanical building and the cooling tower as indicated on the Site Plan, with the conditions that the Town designate an engineering firm to review the application, and to establish that the noise generated by both the generator when it was running, and the cooling tower in its daily use would not cause a nuisance to the abutting neighbors; the cost of the engineering report would be paid for by the applicant.

Attorney Randolph clarified that after the engineering report was completed, the issue should come back to the Town Council in order to make a determination as to whether it met with approval.

Councilman McDonald seconded the motion for discussion.

Councilman McLendon suggested that the applicant could shift the mechanical building so that it was just northeast of the new guest house, as had been approved at the last meeting.

Attorney Sclafani pointed out that even though the plan was approved, there had been complaints from the neighbors about that location, and the building had then been moved.

Attorney Lynch suggested that the mechanical building could be kept out of the setbacks, and built so that a variance would not be required.

Mr. Moore clarified that the only reason an engineering report would be needed was if the mechanical building remained in the location as presented today; otherwise, it would be a waste of money for the applicant.

President Smith requested that the location of the mechanical building be marked on the Site Plan and initialed, so that there would be no confusion about the exact location of the building.

Attorney Randolph suggested that the mechanical building should be approved as part of the Site Plan.

Councilman McLendon moved approval of the location of the mechanical building as to the approval of Site Plan No.13-99. The motion was seconded by Councilman McDonald. On roll call the motion carried unanimously.

President Pro-Tem Wyett moved approval that any street lighting required at the direction of the neighbor on Mediterranean Road, would be supplied at the cost of the applicant. The motion was seconded by Councilman McDonald. On roll call the motion carried unanimously.

11. <u>SITE PLAN REVIEW NO. 8-99 with Variance</u> - Paula Sidman, 1 Sloan's Curve; located in the PUD-B Zoning District. To allow construction of a trellis providing a 17' front yard setback in lieu of 25' required, thereby modifying an approved PUD Site Plan.

Attorney Maura Ziska addressed the Town Council, stating that the townhouse of Mr. & Mrs. Sidman was located at the far north of the project, adjacent to a cul-de-sac. The applicant wished to construct a trellis along the west and north side of the townhouse, with the hardship being the shape of the townhouse property and irregular roadway.

Architect Gene Pandula explained that the covered trellis would be 5' x 6', for the purpose of giving the owner the same covered entrance from the garage to the front door of the property, that was typical of every other townhouse in that location. The total covered area would be 340 sq. ft., which would bring the lot coverage from a current 27% to 30%, which was less than the allowable 35%.

Planning, Zoning & Building Director Moore commented that staff had no objections, as the variance was minimal, however, he did point out that a wall variance had been granted regarding this same townhouse, which had resulted in a lawsuit; the wall variance had then been abandoned.

President Pro-Tem Wyett moved approval of Site Plan No. 8-99 with variance, with the hardship being the nature of the land being on the curve, and the exposure to the ocean, creating a hazard for entry to the property. The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

12. SITE PLAN REVIEW NO. 9-99 with Variance - Muriel Leventhal, 12 Sloan's Curve; located in the PUD-B Zoning District. To allow construction of a 2nd floor addition over the garage providing a 23' front yard setback in lieu of 25' required thereby modifying a previously approved PUD Site Plan.

Attorney Maura Ziska reported that the design had been re-worked so that a variance was no longer required, and approval was being requested for the Site Plan only.

Director of Planning, Zoning & Building Moore pointed out that the application would need to have the approval of the Condominium Association, and this application did have the proper approval.

President Pro-Tem Wyett moved approval of Site Plan No. 9-99. The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

13. SITE PLAN REVIEW NO. 10-99 with Variances - Arthur Galiffa, 125 Via Vizcaya; located in the R-A Zoning District. To allow construction of a residence on a 11,295 sq.ft. lot in lieu of 20,000 sq.ft. required; to allow a lot width of 111' in lieu of 125' required, and a lot depth of 100' in lieu of 125' required; to allow a 21' west street side yard setback in lieu of 35' required; and, to allow some roof sections to extend beyond the height limiting plan and not meet the building height plan setback.

Director of Planning, Zoning & Building Moore requested deferral of Site Plan Review No. 10-99 with variances, to the June 8, 1999, Town Council Meeting, as the County had not completed the necessary advertising.

President Pro-Tem Wyett moved approval of deferral of Site Plan Review No. 10-99 with variances to the June 8, 1999, Town Council Meeting. The motion was seconded by Councilman Shaw. On roll call the motion carried unanimously.

7. SPECIAL EXCEPTION NO.10-99 - Nations Bank, 140 N. County Rd.; located in the C-TS Zoning District. To allow bank and financial occupancy (ownership change) in the C-TS District.

Director of Planning, Zoning & Building Moore commented that there were two staff concerns: lighting at the ATM machine, which had not yet been approved by the Architectural Commission, and signage, which should be re-evaluated and reduced.

Attorney James Wearn, representing Nations Bank, addressed the Town Council, explaining that the Barnett Bank had been at the location previously, and had demonstrated that at least 95% of its customer and clients were Town persons as defined in the Code; Town serving documentation was provided for at least 62% for the location. Attorney Wearn explained that the signage question would be adjusted if necessary, as it had been assumed that the signage had been approved when it had been installed. He indicated that a survey of the lighting had been begun, and that it would be correct and within the requirements of State Statutes and Town Code.

Mr. Moore noted that the item before the Town Council was only the Town serving requirement, although the other concerns had been brought forward in order to bring them to the attention of the applicant.

President Pro-Tem Wyett moved approval of Special Exception 10-99, and noted that the signage would change to a new owner soon, and recommended that the Architectural Commission defer any decision on the current sign in order to concentrate on the final sign. The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

8. SPECIAL EXCEPTION NO. 11-99 with Site Plan Review & Variance - The Beach Club, 755 N. County Rd.; located in the R-B Zoning District. To allow installation of lighting for three tennis courts. A variance is requested to install lighting without required site screening to the north of the courts at Country Club Dr.

Ex-parte communication was declared by Councilman McLendon as a member of the Beach Club, and a member of the Tennis Committee, stating that he was familiar with the proposed lighting plans, although he was not recusing himself since no remuneration was expected from his membership status.

Attorney James Wearn explained that since the Beach Club had begun in 1969, the Club had the subject three tennis courts, for which lighting was now being requested. Appropriate site screening and hedging had been installed, and the Club members wished to continue the use of the courts during the evening hours. The lighting would address all concerns of the public, and would be controlled with a locked timer; lighting would not be operated except during the hours of 9:00 A.M. until 9:00 P.M. Mr. Wearn referred to attachment "A" of the application, which detailed all of the requirements of a special exception and variance. The variance was being sought because the light fixtures themselves were not screened by landscaping on the north boundary only, as there was no space on Country Club Drive for the installation of site screening. The project had been taken to all of the neighbors, and Mr. Wearn presented the original letters from neighboring property owners supporting the application. In addition, there was a letter of support from the Palm Beach Country Club, dated April 24, 1999. Mr. Wearn indicated the location of the tennis courts on a drawing which he exhibited. He stated that the hardship was the fact that the courts had been in the same location since 1969, long before there was the thought of permitting lights, and the results thereof.

Director of Planning, Zoning & Building Robert Moore commented that staff had discussed the issue with the applicant, and almost every issue had been addressed. He stated that he believed the hardship was the fact that the tennis courts had been constructed adjacent to the road before there was a requirement to landscape tennis courts, and there was no possible way to install landscaping. Staff had no objection, however, Mr. Moore noted that he had advised Attorney Wearn that the Club use was a special exception, and the Town-serving requirement must be addressed.

Mr. Brad Greer, President of the Beach Club, addressed the Town Council, stating that the Beach Club was considerably in excess of Town serving requirements.

President Pro-Tem Wyett moved approval of Special Exception 11-99. The motion was seconded by Councilman McDonald. On roll call the motion carried unanimously.

*******A five minute break was taken at this time*******

C. Other

1. Review of Initial Testing of a Pattern Book Concept to Provide Architectural Guidelines for Building Homes in the R-B Low Density Zoning District

Director of Planning, Zoning & Building Robert Moore recalled that several issues had been discussed during the past year relating to the R-B Zoning District north end, in which various proposals had been brought forward. Mr. Ray Gindroz from Urban Design Associates had participated in Town workshops, and in Zoning Commission hearings regarding the concept of a Pattern Book. As a result, the Town Council heard his final recommendations and report, and asked that Mr. Gindroz go back to the Zoning Commission with the four test streets for the Pattern Book concept. Mr. Gindroz had finalized a report to the Town Council, proposing four areas in the Town as a test area. In addition, staff had requested that a cost figure be given to put forward the program and do the four test areas, which amounted to $150,000. Mr. Gindroz had suggested that the four study areas be: Jamaica Lane, North Ocean Blvd. from Queens Lane to Onondaga, Kenlyn Road, and Everglades Avenue. Mr. Moore stated that today the Town Council would determine whether it would go forward with request for proposals (RFP) from various interested parties to study the test areas. He explained that funding would come from the General Fund Contingency Account.

Mr. Lowry Bell, member of the Architectural Commission (ARCOM) spoke in opposition to the Pattern Book, as he believed the costs could be more wisely spent on other issues. In addition, he maintained that the Pattern Book had not been shown to ARCOM, and he believed that its members should be polled regarding the issue. He recognized that Palm Beach was a beautiful place, and had been preserved by the various commissions in place, and commented that to introduce the Pattern Book was a slap in the face of many architects.

Mr. Eric Adams, member of ARCOM, spoke in opposition to the Pattern Book, stating that it was his opinion that ARCOM was doing what was needed by the Town.

Mr. John Schuler stated that he believed that the Zoning Commission had studied the matter thoroughly, and agreed with their decision to recommend the Pattern Book. He stated that many people had been torn about the north end situation, and believed that the Pattern Book would offer viable alternatives to the people at the north end. Those living there could have the alternative of going by the Pattern Book, or could revert to the regular zoning situation. There would be nothing that would force them to comply with the Pattern Book. He noted that he was Chairman of ARCOM, and that a vote had not taken place on the issue, and that he was therefore speaking as an individual resident of the Town.

Mr. George Sanchez stated that he had been a member of ARCOM for many years, and had seen many inconsistencies in dealing with architectural issues, with both ARCOM and the Landmarks Preservation Commission having input. He explained that the shape of the Town was determined through zoning, and changes would reflect well for the Town with the Pattern Book, which would be able to tell an owner that something beautiful could be developed with stated guidelines. He explained that a street like Jamaica Lane, which was fully built, was in need of a Pattern Book, since many of the existing structures would be torn down, and a Pattern Book would secure the development.

Mr. Moore explained that the project would have to be put out to bid with a Request for Proposals (RFP).

Town Attorney clarified that it may not be strictly an RFP, but may be governed by the Consultants Competitive Negotiations Act (CCNA). Under the CCNA, costs would not be received; discussions would take place with respondents as to their proposals, they would then be rated, and the best qualified respondent could then discuss costs. If those costs were not satisfactory, the next best qualified respondent would be called upon. He explained that the purpose of the CCNA was to prevent professionals from having to bid their work.

Assistant Town Manager Elwell explained that once a firm was selected, negotiations of the scope of work and the fee would take place; there would be no need to reject a firm only because of the costs, as there would be room for negotiations to take place.

Mr. Bell commented that the recent changes made to the Zoning Laws permitted better architecture in the north end, and suggested that they be in effect for a period of time before spending more money on a Pattern Book.

Zoning Administrator Paul Castro explained that Mr. Gindroz had indicated that the reason the costs were so high was that much of the work for the entire Pattern Book would need to be done up front, in order to study the sample streets; thus the costs for four streets had seemed very high since they were related to the cost of the entire package.

President Pro-Tem Wyett commented that he did not believe that one architectural firm could tell the Town and the people who want to build/re-develop what types of projects could be done, and objected to spending so much money to look at four streets. He noted that the Pattern Book would not be mandatory, and would basically apply to only poor architecture, and that he believed the costs did not have merit.

Mr. Sanchez commented that the R-B District was in a zoning transition, and he believed it was important to have a Pattern Book. He stated that from his experience, for every architect that had presented a good project, there had been at least ten poor projects presented, especially in the R-B District. He suggested that consideration be given to the suggestions of the Building Department and the Zoning Commission.

Mrs. Polly Earl, President of the Preservation Foundation, addressed the Town Council, stating that she believed the right tool to do the job was necessary, and consultants could provide this tool. She stated that the presentations of Mr. Gindroz had been very clear that he expected to draw out of Palm Beach all of the good architecture, history, and quality, through meeting with community groups, ARCOM, and any other group that could be a helpful part of the process. The process was intended to return a tool that was in a form that could be used beneficially. She explained that by voting against the Pattern Book the Town Council could stop the process today, or it could take the chance of going on and investigating proposals from interested firms that could provide a tool for building/development in Palm Beach, and enhance the character of Palm Beach.

In response to Councilman McDonald, Mr. Bell replied that he was concerned that those who would be using the so-called "tool" had never been included in the background or informational process concerning it; the only people who knew about it were those who had attended the Zoning meetings and the Town Council meetings. He suggested that it would be important to have a presentation made to ARCOM, so that the Commission could make a recommendation of some sort.

Mr. Moore commented that the members of ARCOM had been invited to attend the Zoning Commission hearings, and it had been anticipated that Mr. Gindroz would meet with residents, builders, developers, and ARCOM., which was the next step in the process.

Councilman Shaw moved that authorization be given to staff to develop an RFP, with guidelines that it not include specifics of architectural features, and would deal with only overall and general issues of design, site patterns, massing patterns, and basic house styles. He commented that he believed the residents of the Town had been crying out for some understanding of where development was going. The motion was seconded by Councilman McDonald.

Councilman Shaw clarified that the RFP would be written with a request for guidelines for both district, community, and neighborhood, and would include the four streets that had been identified by Mr. Gindroz as study areas.

President Smith clarified that the proposal would be for guidelines, not design.

Mr. Elwell clarified that the RFP would be prepared and then brought back to the Town Council for review, before the CCNA process was commenced.

On roll call the motion carried 4/1, with President Pro-Tem Wyett casting a dissenting vote.

2. Tentative List of Zoning Study Items and Calendar for 1999/2000 Season

Director of Planning, Zoning & Building Moore explained that a tentative calendar for next year had been prepared, subject to revisions, as well as a tentative list of Study Items that had been brought forward, including the Zoning Commission recommendations.

Zoning Administrator Castro emphasized that the tentative Zoning Hearing schedule was indeed tentative, as the process of the Pattern Book concept was not yet finalized. He noted that any potential items for study during the Zoning Season could be submitted until August 3, 1999; any item submitted between August 4, 1999 and September 30, 1999 could or could not be considered in the forthcoming season, depending on the complexity.

President Pro-Tem Wyett requested that a study item be added concerning how homes could be designed on small, narrow lots

(50' minimum) with garages in the rear.

Zoning Administrator Castro replied that it would be added to the list of Study Items.

3. Construction Related Issues Regarding Neiman Marcus Project per Letter dated April 29, 1999, from Mr. James R. Brindell

Attorney James Brindell, on behalf of the Goodman Company, addressed the Town Council, stating that two matters would be discussed today. The concrete pour would be discussed first: there would be two levels of parking below grade, below the water table, and because of that there would need to be a seamless mat at the bottom to ensure that water would not seep in; that would involve a 5,000 cubic yard pour of concrete, and the pour would need to be continuous in order to achieve the seamless mat. The plan was to have four stations along Worth Avenue at the site where cement trucks would arrive to dispense the cement into the excavation. In order to have the least impact on citizens, and provide for safety issues, it was planned to begin mobilization on a Saturday night, with the pour beginning at 12:00 A.M. and continue until 5:00 P.M., with finishing clean up work and demobilization occurring from 5:00 P.M. until 9:00 P.M. Mr. Brindell presented four weekends as alternatives for the concrete pour project: July 24-25; July 31-August 1; August 7-8; August 14-15.

Director of Planning, Zoning & Building Moore commented that staff had confirmed that the best way to do the project was with a continuous pour, and staff had gained assurance that the concrete trucks would arrive and be stacked in an appropriate manner, although a pre-work conference would be required to provide details.

Attorney Brindell explained that each truck would carry about 10 yards of concrete, taking 5-minutes to pump out each truck; therefore 30 trucks would arrive and depart the site each hour. Concrete would be supplied from three Rinker plants, using the three bridges related to the three plants.

Assistant Police Chief Reiter commented that exact details of the routes and where the trucks would queue would be necessary, however, the only circumstances under which it would be safe would be a complete closure of Worth Avenue during the period, and the posting of approximately 7 police officers at key intersections to facilitate the movement. He explained that there were hazards to the traffic in the general area, to pedestrians in the area, as a result of debris dropped from the trucks, security issues, and alarm systems could be activated. He noted that the trucks would not be allowed to drive on any side streets in Town.

President Pro-Tem Wyett moved approval, using one of the weekend dates presented, with adequate notice being given to the Police Department, and following all guidelines of Police, Fire, and other Town staff, with a pre-work conference to plan details. Councilman Shaw seconded the motion and added that notification to all residents within a 200' radius must be made.

Assistant Police Chief Reiter clarified that only the 100 block of Worth Avenue would be closed.

President Pro-Tem Wyett suggested that a public notice in the Palm Beach Daily News be submitted so that all residents would be aware of the project.

On roll call the motion to approve, with the stated conditions, carried unanimously.

Attorney Brindell then continued with his presentation, stating that the second item to be discussed was the sand that would be excavated and either hauled off-Island, or provided to the Town for placement on the beaches. He explained that an estimated 30,000 yards would be of beach quality.

Mr. Brindell reported that if the sand was hauled off-Island, approximately 200 yards per hour could be taken, with 20 cubic yard trucks, loaded approximately every 6 minutes, taking roughly 16 days @ 12 hours per day, at a cost of approximately \$95,000; the days would not be sequential, but would be 16 days over a 30 day period, since the site would have to be de-watered in stages.

Mr. Brindell explained that if the sand was deposited on the beach, it would have to be deposited at a slower rate, 100 yards per hour; a ramp would have to be built to the beach, a shell rock area would have to be built on the beach for the truck to drive on to drop the sand, and then that sand would have to be moved on the beach with other equipment. He noted that it would take approximately 36 days over a 45-day period, at a cost of approximately \$164,696.

Mr. Brindell explained that if the sand was deposited on the beach, some construction time would be lost, approximately 2 weeks of construction time, almost 20 working days. Two weeks of time had already been lost due to some power pole relocation issues. Therefore, an extension of time was now needed, which would be discussed at a later point.

Town Engineer Bowser commented that there were limitations as to where the sand could enter the beach, as to where the beach had eroded back to the seawall and dune plantings had been lost; that area was centered on Gulfstream Road. He specified the route recommended by Public Works to get to the beach – Worth Avenue to County - County to Gulfstream - Up Gulfstream, across Ocean Blvd., and onto the beach. The sand could not be merely dumped over the seawall because of the extensive amount of material involved. He noted that he had called Fish & Wildlife and explained the project, who had requested that turtle nests be monitored, however, he had been unable to obtain a letter from them. He explained that the Army Corps of Engineers and the Department of Environmental Protection (DEP) had both indicated that they would provide a permit, as long as clearance from Fish & Wildlife was obtained. He did note that the Bureau of Protective Species in DEP was not in favor of the project. He indicated that he had been told that Fish & Wildlife had the ultimate authority as to whether the project could proceed, and written approvals had not yet been received. He suggested that time extensions be minimized by every other truck going to the beach and every other truck going off the Island so that production of excavation was maintained, so that putting sand on the beach would not delay construction; if granting of time was a problem for the Town Council, 10-15,000 cubic yards of sand at Gulfstream would also do a lot of good. He referred to cost estimates: The costs to the Goodman Company to excavate and get rid of the sand was \$100-\$115,000, with additional costs of \$60,000 if they move the entire 30,000 cubic yards to the beach.

In response to Councilman McDonald, Mr. Bowser advised that \$6.34 per cubic yard was the best price obtained for sand to date; if the sand being excavated was used for \$60,000, it would work out to \$2.00 per cubic yard.

President Pro-Tem Wyett suggested that the sand be provided and all necessary relevant work be done at no cost to the Town, with the Town providing a construction extension through the balance of the season, providing that the garage was ready to receive all construction employees and trucks, that any delivery of supplies be kept before 10:00 A.M., and that no construction be done after 5:00 or 6:00 P.M.

Mr. Martin Schwalberg, of the Worth Avenue Association, expressed concern regarding the potential precedent of granting an extension all the way through the season, an over abundance of truck traffic on the 100 block of Worth Avenue. He requested assurances that steps would be taken to facilitate the flow of traffic, and keep the schedule timely.

Mr. Moore explained that the advantage was that the work would be finished in one season, rather than two.

In response to Councilman McLendon, Attorney Brindell explained that the slurry approach was not feasible at this point.

President Smith asked why it had taken almost a year to obtain the necessary permit to move the sand?

Town Engineer Bowser replied that it had not been pursued until the last several months, and that he had delegated it to a subordinate who had not handled it on a timely basis.

Mrs. Helene Schwalberg addressed the Town Council, urging that there be no extension of construction during the season.

Mr. Moore explained that if the work was extended, it would then be over in one season, rather than two seasons.

Attorney Brindell stated that once the project was dried in, there would not be work ongoing outside during the season, and the amount of construction activity would be much less. The existing construction schedule that had been approved was as follows: start August 3, 1998, go through December 11, 1998, resume April 5, 1999, through January 15, 2000, with the caveat that between December 12, 1999 through January 15, 2000 interior work would be done.

Mr. Moore stated that it was difficult to get construction crews to work from the dates of December 20th through the first of the year, and suggested that all construction be suspended from December 18th to January 3rd.

President Pro-Tem Wyett made a motion to approve allowing Goodman Company to go through the entire regular season in order to complete the construction in the Fall of 2000, with the condition that no work take place between the dates of December 18 - January 3, 2000; in return for that benefit they will excavate the sand, deliver it to the beach, and pay for all of the associated costs of delivery, proper spreading, any necessary base/wall construction, restore any damage to the streets, take care of any associated clean up, and if necessary, at the direction of the Police Department hire a few extra officers as needed. The motion was seconded by Councilman McDonald. On roll call the motion carried unanimously.

Mr. John Torry, Project Manager, addressed the Town Council, stating that excavation could begin on Monday, May 17, 1999. On Wednesday, May 19, it was anticipated that a ramp would be built on the beach in order to begin hauling sand to the beach. The first few feet would not be beach quality sand, and it would take approximately 3-4 days to remove that material.

President Smith clarified that the Town must receive the permit before a ramp could be built and the sand put into place.

Town Engineer Bowser explained that the Fish and Wildlife Commission permission was needed; both the Army Corps of Engineer and the Department of Environmental Protection had indicated that it was a letter permit, and that permission would be required from the Fish and Wildlife Commission. He noted that turtle nests may interfere with putting sand on the beach.

Attorney Brindell suggested that a letter signed by the President of the Town Council or the Mayor would move things along, or perhaps some communication with the Department of Interior; he stated that a personal contact with some one high up the line would be more successful.

Councilman McDonald moved that if the Town did not get the necessary permit and was unable to take the sand, construction would take place until the building was dried in. The motion was seconded by Councilman Shaw. On roll call the motion carried unanimously.

Assistant Town Manager Elwell stated that everything to accelerate the acquisition of the permit would be done, and asked if a drop dead date would be established, at which time, if the Town did not receive a permit the sand could be taken off the Island; he explained that if the Town was not ready, work would continue and the sand would be taken away.

Mr. Moore suggested that if the permit was imminent the applicant may be asked to wait for a few days.

Attorney Brindell assured Mr. Moore of cooperation in that regard.

XVI. ANY OTHER MATTERS

Director of Planning, Zoning & Building Moore referred to a letter to Mr. Schwalberg dated April 5, 1999 regarding a meeting held with the Worth Avenue Merchants Association and staff to address consideration of changing the work hours on Worth Avenue for other construction projects from November 15th back to November 1st, which would take an ordinance change. Mr. Moore recommended that this, and the issue concerning the Public Works Right-of-Way Manual on rented parking spaces be referred to the Ordinances, Rules & Standards (ORS) meeting on June 15, 1999.

President Smith passed the gavel and moved approval of the referral to ORS of the work hours permitted on Worth Avenue and the Public Works Right-of-Way Manual issue, to be discussed at the ORS meeting to be held on June 15, 1999. The motion was seconded by Councilman Shaw. On roll call the motion carried unanimously.

XVII. ADJOURNMENT

The meeting was adjourned at 8:47 P.M.

Mary A. Pollitt
Town Clerk

Prepared by:
Susan Eichhorn
Deputy Town Clerk