TOWN COUNCIL MINUTES OF MEETING HELD ON APRIL 14, 1992

I. CALL TO ORDER AND ROLL CALL - President Heeke called the Town Council Meeting of April 14, 1992 to order at 9 AM. On roll call, the following Elected Officials were found to be in attendance: Mayor Marix, President Heeke, President Pro Tem Weinberg, Councilwoman Douthit, Councilman Ilyinsky and Councilwoman Wiener. Also in attendance were Town Manager Doney, Town Attorney Randolph, Mrs. Peters, Mr. Myers, Mr. Dusey, Mrs. Crozier, Chief Terlizzese, Chief Elmore, Mr. Bitzer, Mr. Bowser, Mr. Boggs, Mr. Moore, Mr. Zimmermam. Mr. Frank, Mrs. Martinuzzi, Mr. Elwell and Mr. Jakubiak. Roll Call

II. INVOCATION AND PLEDGE OF ALLEGIANCE - Invocation was given by Brian Glosman, Ritual Director of Temple Emanuel. Pledge of Allegiance was led by President Pro Tem Weinberg. Invocation

III. PRESENTATIONS Presentations

A. Recognition of Colonel I. Henry Stern - Zoning Commission - Plaque was given to Col Stern in recognition of his service of the past two years on the Zoning Commission.

B. Recognition of E. Ben Walton, Jr. - Code Enforcement Board - Plaque was given to Mr. Walton in recognition of his service of nine years on the Code Enforcement Board.

C. Retirement of Gary Hargraves - Firefighter Driver/Operator - Fire-Rescue Department - Plaque was given to Mr. Hargraves in recognition of his 23 years of service to the Town.

D. Retirement of Ed Jennings, Firefighter Inspector - Fire-Rescue Department - Plaque was given to Mr. Jennings in recognition of his 25 years 2 months service to the Town.

Mayor Marix also read a statement commending the years of service given to this Town by the former Chairman of the Zoning Commission, Robert M. Grace: Statement of Mayor Marix re:Robert Grace

"In a way, I am sorry that Mr. Robert Grace will not be here today to receive a plaque, but in another way, it gives me the freedom to say a few words without feeling that I am embarrassing him.

"The only and best words that can be said about Robert Grace are thank you, thank you and thank you again.

"Thank you again.

"There is not one single person, or aspect of this Town who should not say thank you.

"To those who love the traditional beauty of Palm Beach, he gave a twenty-two year reprieve .. he led the way since 1970 to a comprehensive zoning code, and the enforcement thereof.

"From the brink of disaster, a disaster that overtook so many communities, he saved our Town, thank you Bob Grace.

"To those who wanted the life and convenience of condominium living, he drew up and put into fruition the finest multi-family living in the world ... the area south of Sloan's Curve, which was being developed into a mega community was saved and is now a pride for not only those living there, but the whole Town - thank you, Bob Grace.

"To the commercial community which could have gone the way of Lincoln Road, his leadership provided the rules and regulations that has kept Palm Beach and its smart shops the "talk of the world" thank you again Bob Grace.

"To the developers by maintaining our standards, he gave you unequalled opportunities and you too should say, thank you Bob Grace.

"And how about all those who live outside Palm Beach, but still in Palm Beach County? The level of quality in this Town, which in spite of its tiny size, causes the County, School Board and other taxing authorities to find the better part of ten percent of their revenues from Palm Beach, they too should say a great big thank you, Bob Grace.

"As I drive through Palm Beach, there is not a street, nor an areas which has not been preserved by his twenty-two years of selfless dedication, backed up by incredible research and great personal courage, thank you again Bob Grace.

"Mr. Town Manager, I understand Mr. Grace's plaque will be delivered to him, and I would consider it an honor to be the one to do so. Thank you."

IV. COMMENTS OF THE MAYOR - Mr. Heeke advised the Mayor will give her comments before the Special Meeting on Budget Matters which will be held later in the meeting at 10:30 AM.

V. APPROVAL OF AGENDA - Motion was made by Mr. Ilyinsky to approve the Approved Agenda and to remove from the Regular Agenda Item 14.B.1, Variance No. 3-92, defer to the May meeting and 14.B.15, Variance No. 21-92 withdrawn. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously. Approval of Agenda

APPROVED AGENDA (ITEMS VI THROUGH IX)

VI. APPROVAL OF MINUTES OF FEBRUARY 11, 25, AND MARCH 5, 1992

VII. LICENSES AND PERMITS - None

New Business

VIII. NEW BUSINESS

A. Sealed Bids

Sealed Bids

Sealed Bid No.007-91/92

1. Sealed Bid No. 007-91/92 - Refurbish Three Trash Trucks - Recommend all Bids be Rejected Per Memorandum Dated March 30, 1992 from Al Dusey

Sealed Bid No. 008-91/92

2. Sealed Bid No. 008-91/92 - Ten Leased Cars for Police Department - Recommend Approval of Memorandum Dated March 27, 1992 from Chief Terlizzese to Robert J. Doney

Sealed Bid No. 013-91/92

3. Sealed Bid No. 013-91/92 - 1992 Underground Storage Tank Removal - Recommend all Bids be Rejected Per Memorandum Dated April 8, 1992 from Jim Bowser

Sealed Bid No. 014-91/92

4. Sealed Bid No. 014-91/92 - E-6 and S-2 Pumping Station Wetwell Rehabilitation - Consideration of Resolution No. 19-92 - Recommend Approval of Memorandum Dated April 6, 1992 from Jim Bowser

B. Other

Sealed Bid No. 011-89/90

1. Consideration of Request for a Two-Year Renewal of Sealed Bid No. 011-89/90 - Parking Meter Collection and Maintenance Service - Recommend Approval Per Memorandum Dated March 11, 1992 from Marie Crozier

Sealed Bid No. 019-90/91

2. Consideration of Request for a One-Year Renewal of Sealed Bid No. 019-90/91 - Palm Tree Trimming - Recommend Additional One-Year at Same Bid Price ($8.00 Per Tree) Per Memorandum Dated March 27, 1992 from Al Dusey.

IX. APPROVAL OF WARRANT LIST AND FUND EXPENDITURES FOR MARCH 1992

REGULAR AGENDA

Public Hearings

X. PUBLIC HEARINGS

Res. 12-92

A. Landmark Designation for 241 El Vedado - Consideration of Resolution No. 12-92 - Deferred from March meeting. Mrs. Peters confirmed the Proof of Publication was received. Mrs. Peters administered the oath to those who will be making comments on the landmarking matters.

Mr. Randolph read Res. No. 12-92 by caption:

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY HEREINAFTER DESCRIBED MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, AND DOES HEREBY DESIGNATE SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III,OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Mr. Frank advised this is a deferral and it was presented last month and it was deferred due to the objection of the owner. He reported the home is for sale and there were two prospective buyers who were in favor of landmarking. He was in receipt of a letter from Stephen M. Varsano, the property owner of record, from England:

"I understand from your letter of March 16, 1992 that the Landmarks Preservation Commission has elected to designate the above described property as a landmark.I would like to make it known that I object to this designation as described in previous correspondence fromme. I am currently in Holland and unable to attend tomorrow's public hearing and I would appreciate a postponement of this review to designate the property a landmark until your November 1992 Town Council Meeting.

I realize I am waiving my rights under Section 16.43 (k) of the Town of Palm Beach Code of Ordinances with respect to the ninety day requirement that the Town Council shall render final decision on this matter.

I would appreciate receiving the results of your decision at the following address or FAX number, which is listed."

Mr. Ilyinsky moved the designation of 241 El Vedado be deterred until the November Town Council Meeting. Seconded by Mr. Weinberg. Mrs. Douthit wondered if there was a reason for the deferment? Mr. Frank responded generally it is because the owner is out of the country and there is no contract signed as yet on the sale of the property.

Mrs. Wiener recalled she objected to this designation last month and since that time she has been in this house with a realtor and it was on a monthly list of items for sale and that is why she objected to this as she felt when someone does not own a piece of property, their comments should not be considered and she believed the comments made last month with regards to the prospective owners should be struck from the record, as there could be fifty people out there who may wish to buy this property.

Mr. Heeke didn't believe that made any difference stating the important thing is whether the property qualified for landmarking or it did not and the property owner wants it deferred and has waived the time limit, so he thought it was appropriate to defer it to November. Mrs. Wiener believed that letters and comments should not be brought before the Council from someone who is not a property owner as she didn't think it was appropriate.

Motion carried to defer this matter to the November Town Council meeting with Mrs. Douthit voting against the motion. (4-1)

Res. 13-92

B. Landmark Designation for 294 Hibiscus Avenue - Consideration of Resolution No. 13-92 - Mr. Randolph read the Resolution No. 13-92 by title:

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY HEREINAFTER DESCRIBED MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, AND DOES HEREBY DESIGNATE SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK PURSUANT TO ORDINANCE 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Mr. Frank reported this was deferred from last month due to the property being sold just before the Town Council Meeting and to have an opportunity for the staff to confer with the new owner. He stated Daniel J. Brams and his wife are the purchasers of this property and have no objection to the landmarking and the report on this property was given last month and received into the record. Mr. Heeke called for comments from the public and there were none.

Motion was made by Mr. Ilyinsky to approve Resolution No. 13-92 as the property meets Criterion C and D as set out in the Ordinance. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously to landmark the property at 294 Hibiscus Avenue.

C. Landmark Designation for 850 South Ocean Boulevard - Consideration of Resolution No. 16-92 - Mr. Randolph read the Resolution No. 16-92: Res. 16-92

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THETOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY HEREINAFTER DESCRIBED MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, AND DOES HEREBY DESIGNATE SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK PURSUANT TO ORDINANCE 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Mr. Frank advised this property meets the criteria as set out in the Ordinance:

A: - It exemplifies and reflects the broad cultural, political, economical and social history of the nation, state, county or town.

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

He advised the owner of record has made a request that an exemption be made on the rear portion of the property and the designation should be for the front facade, and front portion of the property and the Landmarks Commission accepted this condition and this is a designation without objection with the exemption.

Mr. James Sved advised this residence was designed in 1927 by Architect Julius Jacobs, and it is a Mediterranean Revival structure and quite prominent along South Ocean Blvd., and the features are the varied use of arches in the central portion and the left window bays; the use of a tower structure and interesting use of tiles along the top of the tower. He advised the architect designed only four structures in the Town, two of which have been landmarked and this structure is very worthy of landmarking.

Motion was made to receive the Designation Report into the record on 850 South Ocean Boulevard by Mrs. Wiener. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Mr. Heeke called for public comments and Attorney Prosperi addressed the Council and was administered the oath. Mr. Prosperi advised he was representing the property owner, Mr. Moens who was agreeable to the voluntary designation of the facade of the structure and would appreciate if the landscaping in the front would not be landmarked as the property owner wishes to have some freedom without the Landmarks approval to add some hedging and shrubbery to the front of the building. He reported his client was willing to have landmarked the facade and back five feet from the facade to protect the front of the building only. Mr. Frank believed the facade designation was ten feet instead of five feet as Mr. Prosperi has stated and he read the description:

"Only that portion of the property from the east property line up to and including the east facade of the building, inclusive of an area not greater than ten feet to the west of the east facade."

Mr. Frank believed that would include the front lawn and apparently the owner objects to the regulation of the landscaping in the front area.

Mayor Marix did not believe the restriction that the front lawn be landmarked would not be too harsh as he just needs to get permission from Landmarks on the type of landscaping he wishes to install. Mrs. Jane Volk addressed the Council, indicating from the Landmarks Preservation Commission's point of view, it doesn't matter as there is no little shrubbery that survives the oceanfront and she thought the Council should accept this condition. Mr. Frank agreed. Mr. Prosperi advised the Town should trust his client to pick from the five or six salt tolerant plants that will grow in the front lawn. Mr. Heeke stated his appreciation of the property owner not imposing any objection on the landmarking.

Mr. Ilyinsky moved the property be landmarked with the exemption of the landscaping in the front yard. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Motion was made by Mrs. Wiener to approve the Resolution No. 16-92 as amended pertaining to 850 South Ocean Blvd., as it meets A and C criteria. Seconded by Mr. Weinberg. Mrs. Douthit asked if this would be limited to vegetation only as she wouldn't want to see him install great statuaries. Mrs. Wiener and Mr. Weinberg agreed the motion was to address vegetative landscaping. On roll call, the motion carried unanimously.

D. Landmark Designation for 120 North County Road - Consideration of Resolution No. 17-92 - Mr. Randolph read the Resolution No. 17-92 by caption: Res. 17-92

Res. 17-92 A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY HEREINAFTER DESCRIBED MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, AND DOES HEREBY DESIGNATE SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK PURSUANT TO ORDINANCE 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Mr. Frank reported the staff has found this meets the Criteria C in the Ordinance as well as Criteria D - is representative of a notable works of a master builder, designer, or architect, whose individual ability has been recognized or has influenced its age. Mr. Sved advised this property is located at the corner of North County Road and Sunset Avenue and was designed in 1929 by Bruce Kitchell, and for many years, many people thought it was a Mizner structure. as many of the materials came from Mizner's casting plant. He advised the structure is Romansque and the cornice line is detailed in brick and the roof lends itself from transforming this structure from Romansque to a true Mediterranean Revival structure. He noted there are two tower masses, one at the corner of Sunset Avenue and North County Road and the other at the terminus of the building at its' western most point. He noted the windows have been opened up. Mr. Kitchell, the architect, has many structures in the Town with his preference limited to commercial and small office buildings and apartment structures. He advised they first considered this entire composition as one from 120 to 132 North County Road as there are four individual structures built by Mr. Kitchell from 1929 to 1935, however, only two out of the four are honestly eligible for designation based on their design and the materials used. He believed 120 N. County was very worthy of the Council's consideration.

Motion was made by Mrs. Douthit to accept the designation report as part of the record. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Attorney Peter Broberg addressed the Council on behalf of the owner, Robert List, Trustee, and referred to the remarks of Mr. Frank on the criteria, specifically "C", which embodies distinguished characteristics of an architectural type and he noted the report states this is a remarkable ethic in Italian Gothic, Grade B, and he heard Mr. Sved state it was Romansque and Mediterranean Revival. He believed this was everything and wondered how it could be considered as a landmark and stated if it is landmarked, they should exclude the awning which hides half of the building. He referred to Criteria "D", which states it should be representative of a notable work of a master builder or architect whose individual abilities have been recognized. He referred to the architect, Bruce Kitchell's biography, which states he is responsible for the Mizner Apartments across the street, and is a prolific local builder, and prolific means many, and he did not think this criteria applied also. He asked the Council not designate this property as a landmark as it doesn't comply with the Town's own ordinances. He stated if the Council does designate this building, it should be just the facade along Sunset and County Road, however, in light of the Designation Report, he did not believe this building qualified for designation.

Mr. Sved addressed the Council on the comments by Attorney Peter Broberg and referred to Criterion "C", noting that Italian Gothic was the Florida Master Site File form from 1979 and that survey was considered inadequate because of its' inaccuracies and omissions and was amended in 1988. He defined Mediterrean Revival and believed this building would fall into that category. He referred to Criterion "D", noting that Mr. Kitchell was a prolific architect in the Town as this is one that is being considered and there were three more in the area. He advised that many of Mr. Kitchell's buildings were small and have been replaced with larger office towers.

Mrs. Jane Volk, Chairman of the Landmarks Preservation Commission addressed the Council pointing out that 120 is a practical and beautiful building no matter how it is described and had been designed by a well known architect who died in 1949 and she remembers him well and his work has been often mistaken for Mizner work. She stated this particular building is of cast stone and is beautifully done and this is a significant streetscape and should be preserved.

Mr. Heeke asked about the awning to which Mr. Broberg referred? Mrs. Volk responded that is removable and is not considered as part of the landmarked structure. Mr. Heeke asked how she would feel about landmarking the facade? Mrs. Volk thought it would be difficult to landmark the facade along County Road and the facade along Sunset should also be designated. Mr. Heeke believed that was what Mr. Broberg was saying that if they did choose to landmark, they should do just the two facades and leave the rear of the building alone. Mrs. Volk agreed that it should be the streetscape and keep a sense of the history of this area.

Mr. Ilyinsky suggested it be deferred. Mrs. Volk agreed noting this was the first she knew there was an objection. Mr. Heeke asked if Mr. Broberg would be willing to waive the time limit so the Landmark Preservation Commission could consider the landmarking of the facade to which Mr. Broberg agreed. Mr. Ilyinsky moved the matter of landmarking 120 North County be deferred until the Landmarks Preservation Commission has the opportunity to review same. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

E. Landmark Designation for 122 North County Road - Consideration of Resolution No. 18-92.:

Res. 18-92 Mr. Frank reported this property meets Criterion "C" and "D". Mr. Sved reported this is a rather inconspicuous building, and the stones are hand carved out of quarry coquina. He advised the doorway has been changed from the original. He noted this building was designed as a one story structure with a second story balcony, which has been filled in and now it is a two story structure. He advised this building is very similar to the First National Bank. He believed it offered a very important transition and the small size of the structure creates the ability for a larger building to be built next to it and otherwise the streetscape would be different and inappropriate to this particular section of Town. He noted very many of the setbacks and carvings on this building are text book examples of Gothic architecture. He felt this was an interesting, small structure and he believed it was worthy of their consideration.

Mr. Rick Herpel addressed the Council noting his family is in the business of cast stone and have been in the area since 1927 and have participated in many restoration projects. Mr. Herpel was administered the oath by Mrs. Peters. Mr. Herpel advised the quality of the workmanship here is substantial and although this may just be a small piece, it is worthy of saving. He knew the architect was not well known, however the coral rock work took several months with two to five craftsmen carving the facade. He stated there is so little of this workmanship left and he urged them to save the area. Mrs. Douthit moved the Designation Report be accepted for 122 North County Road. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Mrs. Polly Earl was administered the oath by Mrs. Peters. She addressed the Mayor and Town Council commenting that the slide does not show all of the detailing on this facade such as the modulation of the columns and the fluting and the shapes on the arches and it is masterfully done and a wonderful example of its type. She thought that they should not forget the little structures of infill which are just as important to lending a scale and tone to the entire appearance of Palm Beach as they help to anchor major corners and she considered this a "little gem". She advised Mr. Kitchell was a well known and well accomplished architect associated with the Vanderbilts in in North Carolina and his association with Mizner's major work in Jacksonville on the Riverside Baptist Church. She stated that many people may not be aware that the State has passed enabling legislation which will allow owners of all properly landmarked buildings to potentially achieve considerable local tax abatement for their restoration and rehabilitation of landmarked structures. Res. 18-92 (cont'd)

Mr. Richard Rampbell addressed the Mayor and Council recalling when he appeared before the Landmarks Preservation Commission, he was told by one of the Commissioners he should be honored to have his property landmarked as a good citizen. He felt that most of the more important properties in the Town have been landmarked and this is a Commission in search of a mission. He stated he wished to address two areas, the first is whether or not his building is a landmark and the second area is the U. S. Constitutionality of this whole process. He has sent a letter on Feb. 28, 1992 and for the benefit of the public record, he would like to reiterate some of the points. He felt the decision of the Landmarks Preservation Commission was arbitrary and capricious and was supposedly based on the report written by James Edward Sved, which referred to a half-block of buildings designed by prolific, local architect, Bruce Kitchell. He advised he did not know of Mr. Kitchell when he bought this building and has asked people about him and most had never heard of him. He referred to the Criteria that it embodies a distinguishing characteristic of an architectural type and in this case he believed it was high Gothic, according to Mr. Sved. He stated he was not surprised that this Gothic style appeals to the Commission as based on some of the comments, they are the finest lines of the 14th Century. He reported Bruce Kitchell was a government architect during the Depression and notwithstanding the fact that some people have personal knowledge of him and knew him personally, that is not relevant as to whether or not his building should be landmarked.

Mr. Rampell stated if the montage of buildings along this street are to be landmarked, why have they not considered the adjoining buildings owned by Mr. Prosperi? He also wondered if this building had greater significance than the Kennedy House, for instance, which has not been landmarked. He stated he felt that the Landmarks Preservation Commission has exceeded its authority as the Fifth Amendment to the U. S. Constitution prohibits the taking of property without just compensation and cases are scheduled to go before the Supreme Court which are very similar to his, and especially with the conservatism on the Court, it is likely that the property owner's rights will be upheld. He knows the Town is conservative and always full of talk to get the government to stop interfering with private citizens' lives and referred to Letters to the Editor of last week which address this subject. He believed this was not an appropriate use of the Town's police power to protect the public welfare or prevent the obnoxious usage of his real estate. He has discussed this with Mr. Moore who suggested he compromise this on this and agree to landmarking the facade since the back is of no significance, but he finds this also unacceptable as he believed that was an inappropriate interference of his use of the property. He bought the property not landmarked and he may not have bought it had it been landmarked. He commented on Mr. Sved's comments about 120 North County Road that Gruntall was the tenant who unblocked the windows and that is a false statement as he owned his building since 1983 and prior to that time there was a CPA firm that occupied that building and the windows were unblocked at that time. He resented the comments that it was criminal for him to object to the landmarking.

Mr. Heeke asked Mr. Sved to explain the Grade B rating. Mr. Sved responded this was a grading given to the structure by the firm hired to do the 1979 Survey on the architecture of Palm Beach. Mr. Frank reported the designation that Dr. Ziegler came up with in the 1979 Survey were A and B structures and these were the higher rated structures and the difference between A and B was that A structures met all of the criterion for listing on the Federal Register and Grade B was used as a high example of the architectural type or the other criterion within the Town's Ordinance and was given the higher grading even though it did not meet the criteria for the National Register, which is not a part of our local designation ordinance.

Attorney Randolph read Resolution No. 18-92:

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY HEREINAFTER DESCRIBED MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, AND DOES HEREBY DESIGNATE SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK PURSUANT TO ORDINANCE 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Mrs. Douthit wondered if Mr. Rampbell would be amenable to having just the facade landmarked? Mr. Rampbell responded he thought it was a waste of time as he objected to the whole building being landmarked and that position will not change. Mrs. Douthit asked if he objected to landmarking specifically? Mr. Rampbell stated he does not unless it has the effect of lowering property values and if it does, he didn't believe the property owner should bear that whole burden. He stated he has been told his building should be preserved. He stated his building is for sale and he will be happy to sell it to anyone who wished to preserve it or to the Town, however, if it turns out that someone wishes to purchase this whole section of buildings, and demolish the buildings, he doesn't want his property to be in a position where it could not be sold. He stated he does like his building but does object to doing something which may depreciate the value of his property.

Mrs. Wiener thought they were getting into an area where the thinking was if something isn't landmarked, it was going to be destroyed and asked Mr. Moore to explain what use the building would have. Mr. Moore responded if the structure were removed the building would not be able to be reproduced on the property. Mrs. Wiener asked what could be built there? Mr. Moore responded nothing in this particular scenario, however, if the rest of the streetscape were to be torn down, this building owned by Mr. Rampbell would have to remain. He stated from a staff standpoint Mr. Rampbell as the owner does not wish to compromise on his position to not landmark, however the Town's goal is to preserve the facade of this building in perpetuity. He stated the Council could consider the landmarking of the facade on its own volition, however Mr. Rampbell could not put on that property a larger square footage than what exists today and it would be advantageous for him to keep the property in tact.

Res. 18-92 (cont'd)

Mr. Heeke asked about the rear of this property? Mr. Sved responded the rear of the property is of block construction with stucco and paint and is relatively unadorned and simple and he did not believe if this was removed would affect the facade of the structure. Mayor Marix asked if only the facade is landmarked, could someone build a second story over the rear portion? Mr. Frank believed there would be a problem with zoning. Mayor Marix asked if a facade were landmarked, could they add a second story to the rear? Mr. Moore responded in theory they could but it was not very likely. Mr. Rappaport pointed out there already was a second story there. Mr. Weinberg recalled a statement made by Mrs. Volk that this area has already been renovated to an unrecognized state? Mr. Sved responded what she was referring to was the other buildings in this streetscape owned by Mr. Prosperi and they are not under consideration today.

A motion was made by Mrs. Wiener to exclude the back portion of the property at 122 North County Road from being landmarked. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Motion was made by Mr. Ilyinsky to landmark the facade of the 122 North County Road property. Mr. Moore explained this would be ten to fifteen feet. Seconded by Mrs. Douthit.

Mr. Randolph noted the Resolution No. 18-92 describes the entire lot and the description needs to be amended. Mr. Frank believed the description could be amended. Mr. Randolph asked if that would be the east ten feet of the structure located on Lot 177, Floral Park as recorded in the Plat of the Town of Palm Beach as recorded in the Public Records. Mr. Frank suggested they also refer to a drawing on which the landmarking would be depicted and he could provide that for inclusion in the Resolution.

Mrs. Wiener recalled the remarks of Mr. Rampbell on his conversation with one of the Landmark Commissioners on the fact that Mr. Rampbell is a good citizen, which she believes he is. She knew that the building which Mr. Rampbell owns has been empty for approximately two years and nothing has been done to the facade during that period. She believed there were a lot of people in this Town who make a lot of noise but when it comes to their own personal matters, they don't wish to abide by the rules that other people have to abide by. She heard Mr. Rampbell state he is very fond of his building and if he were not, he would have done something to change it by now. She heard from Mr. Moore that on this particular piece of property they could not build the same amount of square footage if this building were demolished. She didn't believe they had any reason to enforce something because it will enhance our Town, because in fact it is here and she believed it would continue to be here and she supports Mr. Rampbell on this matter.

Mr. Randolph advised the motion should be amended to include the adoption of Resolution No. 18-92 as amended with the description to state: "the east ten feet of the structure located on Lot 177, Floral Park, a Subdivision of the Town of Palm Beach, Florida, as recorded in the public records of Palm Beach County, Florida" and should further state "as specifically designated on the location map attached hereto." Mr. Ilyinsky amended his motion to incorporate the description and the map as referred to by Mr. Randolph. Mrs. Douthit, as seconder, agreed to the amendment.

Mr. Heeke stated he wished to comment on the statement by Mrs. Wiener as it was his belief that 122 North County Road standing alone could not be rebuilt because it is insufficient in size, however, if the entire buildings adjacent to it, and that would be those owned by Mr. Prosperi and Mr. List as Trustee were sold, there would be an entire block area which could meet the necessary setbacks under the existing Code. He stated he does not take issue with the comments of Mr. Rampbell that he would not do anything to harm the facade of the building but the issue of landmarking is to make a decision if the building does qualify for landmarking of the facade. He stated there has been a good bit of discussion on the architect and he is impressed on the degree of effort and craftsmanship which goes into making the cornerstones and the casting of the exterior of this building and this may be an important factor which should be considered in landmarking. He knows also the economic situation dictates sometimes that they come back and look at a previously landmarked building.

Mr. Weinberg stated he is impressed by Gothic columns and arches, however, he heard Mr. Sved state this was an inconspicuous building and he believed Mr. Rampbell is an honest person and should be given an opportunity to let this ride a bit longer as he may be able to sell it to someone who has more interest in landmarking.

On roll call, the motion carried 3-2 with Mrs. Wiener and Mr. Weinberg voting against the motion.

A short break was taken. President Heeke called the meeting back to order.

Mr. Heeke announced it will be the 81st birthday of the Town of Palm Beach and Gertrude Maxwell.

Mr. Moore announced on May 20th, 1992, the Town will be putting on its annual Preservation celebration at the Old Bethesda by the Sea location on North Lake Way and possible tours of Duck's Nest and Tree Tops in that area, from 5 to 7:30 PM.

SPECIAL MEETING REGARDING BUDGET MATTERS:

Comments of the Mayor

Mayor Marix read her comments:

"My comments today refer to the Budget portion of today's meeting. In fact, they only refer to part of today's budget meeting, inasmuch as the "budget status" as should be expected, is running as anticipated. Had it been otherwise, I am sure that it would have been the subject of a meeting.

I am addressing the matter of the Budget, which will now be in preparation for 1992/1993.

It is imperative that this Budget be looked at in a new light.

Comments of the Mayor (cont'd)

The problems facing our taxpayers this year are in no way similar to those last year, and we must look at this year's Budget with new eyes. Many of our taxpayers on fixed income have seen their revenue dropping by 60%. There is hardly a person who has not been deluged with offers to buy this, invest in that, or some way try to protect their income, and I might say that many suggestions are very risky, but the financial squeeze on those who no longer work for a living is at best, a nightmare. As so aptly put in the Post recently, "they have been clobbered."

To take up to a sixty per cent pay cut, and yet face ever increasing taxes is forcing many out of our Town, and while only a portion of taxes are to the Town of Palm Beach, it is within our power, it is in our domain and it is our responsibility to not increase ours.

I do not want to be compared to "other communities" for tax raising matters, unless we are favorably compared to those who have major cutbacks. Let us seriously try to keep to last year's Budget. I know that we can hear "that is impossible....so and so has increased", but then let us see how best we can offset it.

We owe to those taxpayers who have made Palm Beach the number one Town in the world help in these traumatic days of economic problems. Our Town, who unlike many others, has protected its employees in these difficult times, must through imaginative efficiency, now protect the taxpayers.

I am calling on all those working on the Budget to understand the problems of those who have had the up to sixty per cent pay cut, and to try to keep to our last year's taxes.

Once again, I will ask you, the Town Staff, to isolate the least important items, while being prepared to explain the drawbacks, maybe not replace vacancies, through better efficiency, and to fully examine the benefits of privatizing certain services.

I must repeat that for the tax paying residents, this year cannot be compared to last year in any way whatsoever; we owe to them a debt of gratitude for the past, and cooperation in the year to come. A "hold the line budget" will help our property values, which in turn will help future Budgets."

APPROVAL OF BUDGET MEETING AGENDA. Mrs. Wiener moved for approval of the agenda. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

STATUS OF THE CURRENT FISCAL YEAR '92, GENERAL FUND AND OTHER BUDGETS.

Status of the current fiscal year '92 general fund and other budget

Mr. Doney reported the purpose of this meeting is for the residents and taxpayers of the Town to comment on the Town's budget process and also the content of the current year's, FY92 Budget. He stated the staff will provide preliminary year-end estimates of revenues and expenditures and if the proposed major expenditure concerns can be identified, it will be done.

He asked the Mayor and Council to look at the memorandum dated April 7, 1992 from Mrs. Crozier which provides a summary of where they stand on the FY92 Budget. He indicated the year end estimates of revenues and expenditure are very preliminary as they are based on five and one half months of experience in the current fiscal year.

He addressed the Revenues - from the ad valorem respective (property taxes) they anticipate a slight undercollection in the ad valorem taxes, due to the final certification of the property taxes evaluation. He reported the Town's final taxable value, due to the adjustment of the Property Appraiser Adjustment Board is slightly under what was estimated at is due to final certification of the taxable value from the property appraiser. Mr. Doney reported the non-ad valorem revenues which are fees, fines, utility taxes, and revenue other than property taxes are anticipated to be slightly over-collected, so the budget revenues will be as adopted.

Mr. Doney reported the Town does receive State shared revenues and due to the Town's population and the formulae for sharing revenues, which are State Revenue Sharing and Sales Tax, there will be an undercollection, which is associated with the difficult economic climate in the State.

Mr. Doney reported on the expenditures perspective, noting that expenditures are running as anticipated and they anticipate spending approximately ninety-eight per cent of the General Fund Budget or $26,831,379. He advised the Department Heads in preparing their year-end estimates have given their best thoughts to these figures, but it should be recognized that if there are any unanticipated events which should occur beyond the current adopted budget, there may be a slightly higher year end budget.

Mr. Doney announced the General Fund Unappropriated Funds should remain at 4.7 million dollars as of 9-30-92 and based upon past considerations of the Mayor and Town Council, this is approximately a fifteen to sixteen per cent of the annual operating expenditure budget and is considered to be prudent to properly allow this funding, due to the age of the infra-structure in Town and the twelve miles of shoreline of the Town of Palm Beach.

Mr. Doney noted the Debt Service Fund which is principal and interest on outstanding bonds will be on target, although the revenues are slightly lower, due to the final certification of property values from the Property Appraiser.

Mr. Doney stated the Capital Improvement Fund is as anticipated, and in the Parking Fund, revenues are slightly lower than anticipated due to the undercollection of parking meter revenues. Mr. Doney noted the Golf Course Revenues are slightly higher and expenditures are as anticipated.

Mr. Doney reported the Marina Fund is slightly higher in revenues and the expenditures are as anticipated.

Mr. Doney indicated the 1985 Bond Fund, the revenues are as anticipated as are the expenditures.

Mr. Doney advised the Retirement Fund is as anticipated.

Status of FY92 budgets (cont'd)

Mr. Doney indicated the Self Insurance Fund is as budgeted and expenditures are higher than anticipated for the Group Health and Liability and Worker's Compensation are lower than anticipated. He stated there has been no further activity on the Endowment Fund.

Mr. Doney commented on the Exhibits which were on display. He reported the Town's Budget for year-end estimates is anticipated to be dependent on ad valorem revenues at fifty five per cent of the total revenue collections, so the remaining 45% is associated with non-ad valorem revenue, fund balances and inter-fund transfers.

He referred to the next Exhibit which was an Historical trend shown in graphic style and shows where they stand relative to the revenue estimates.

Mr. Doney announced the next exhibit is on Government Taxing rates, and it shows the millage rate is at 4.51 mills or $4.51 per one thousand dollars of taxable value and it is 21% of a Town's taxpayer total tax bill. He advised that out of every dollar a Town of Palm Beach taxpayer pays, 21¢ goes to the Town of Palm Beach to operate government. He stated in FY89, it was 27 1/2 cents.

Mr. Doney showed an Exhibit 5 on Taxable Value, which showed the Town's current taxable value is $4,160,649,978 and the County's total taxable value is approximately 51.5 billion dollars and the Town as a percent of the County is approximately eight per cent of the total tax base of the County, so they are extremely impacted by other taxing authorities, namely the Palm Beach County School Board, which gets 46¢ of every dollar paid by the taxpayer and the Palm Beach County Commission gets 22¢ of every dollar paid by the Town taxpayer.

He advised the last exhibit is the proposed calendar for the Budget process. He reported the initial Finance & Taxation Committee meetings, with Mr. Heeke serving as Chairman and Mrs. Douthit as the Committee member will begin Wed., June 3, 1992 at 9 AM and continue to Wednesday, June 3, 1992 at 9 AM and every department's budget and All Funds Budget will be reviewed on a line item basis in detail with each Department making a presentation.

Mr. Doney reported they anticipate approximately an additional $199,000 to be able to fund the Retirement System for FY93. He advised the Group Health Insurance Program as the Mayor and Council know had a major change when they went to a PPO program, however, there have been ten major claims, and they will be providing to the Mayor and Council at the May Council Meeting recommended actuarial rates for premiums for the upcoming fiscal year and a further update as they go into the Budget process.

Mr. Doney anticipated the water rates will be increased by the City of West Palm Beach. He advised there was a major impact for this year with the storm damage which occurred and $100,000 was budgeted and $150,000 was expended.

Mr. Doney advised Sanitary Sewage Charges will be increasing by approximately $100,000 for the treatment and collection.

Mr. Doney noted the Solid Waste Authority which is now the County Commission is considering modifying their current assessment program for residential and commercial properties and it could result in a potential budget impact.

Mr. Doney reported this is the third year of the acquisition of the Town's Computer System, the AS-400 and this will be nearly paid off with the $18,000 which will be budgeted for the next fiscal year.

Mr. Doney indicated he and the Department Heads are well aware of the economic budget conditions and the impact upon the Town taxpayers, as referred to by the Mayor and they will provide to the Finance & Taxation Committee a totally responsible budget, however, if there are to be desired changes in the level of service, that is a policy issue which should be addressed by the Mayor and the Town Council and they will be reviewed on a line item basis, if that is what the Finance & Taxation Committee desires. He advised they have been not filling vacancies and justification has to be provided as to whether or not a vacant position needs to be filled.

Mr. Doney advised they will be looking at every non ad valorem charges to see whether there is potential to make any increases. He reminded all that many of these are beyond the Town's control as they are mandated by State Law, such as the utilities taxes, occupational licenses and State Revenue shared programs.

Mr. Heeke called for public comments.

Doyle Rogers addressed the Council as a resident of the Town and as the Chairman of the Civic Association. He thought is was important for the Mayor and Council to receive input from the citizens of the Town as a lot of the residents are not here during the regular statutory times when the budget must be considered.

He thought it was important for the Council to be thinking of future expenses which the Town is bound to have which will increase the budget and the taxes, such as shore-protection and supplements to the water supply and he suggested these be plugged into the budget. He stated the residents in this Town are vitally interested in these two topics and know they are expensive. He knows the work is under way for the artificial reef and later monies need to be put aside for nourishment and it is important for the Town Manager to be challenged with some type of reductions in the regular budget in order that the sinking funds can be built up. He heard the Manager's statement on attrition of employees which is an excellent way of reducing the budget as salaries are a large item in the budget. He hoped the Council would challenge the Manager to have a percentage reduction for future budgets so the problems which they know need be addressed in the future will have a sinking fund to take care of them without escalating taxes in that particular year.

Mr. Louis Pryor, member of the Palm Beach Civic Association, addressed the Council stating the comments he is about to make do have the support of the Executive Committee. He heard Mr. Doney's comments and he has pinpointed problems they will be facing in future years. He wished to address the actual budget process and they feel as a policy making body, the Council should set the stage for the basic budget philosophy, suggesting that rather than looking too much at the detail of the initial budget preparation, they should look at the long term projection of what the problems are likely to be and the expenditures which they may be facing.

Status of FY92 budget (cont'd)

He stated the general sentiment is to hold the line on taxes, but at the same time, the same public is not wanting a change in the services which are provided. He knows that can be a difficult problem but the more planning there is, and the more the Finance & Taxation Committee look at the long term and challenge the Town Manager and staff to aim at certain targets, the more the public will accept each year's budget as it comes in, as long as it fits into the long term picture.

He suggested there be an initial Finance & Taxation Committee before the budget process is initiated which would prescribe long-term guidelines aimed at more cost effective use of the revenues, and always taking advantage of the normal personnel turnover. He suggested that after correcting for inflation, a challenging guideline could be for the next few years, a three to four per cent annual improvement in taxes.

Mr. Pryor noted that turnover in personnel this last year has been less than average, but in the eighties, it was around eleven percent a year. He believed they could take a much lower figure than that as when times are tough, turnover tends to come down. He thought they should take maximum advantage of retirements (which are known) and of attrition that occurs, it is believed that this objective can be achieved without any reduction in the current high level of service and without affecting job security for the current employees, nor affecting current employee remuneration practices.

He knew there were added costs coming along which they have to face up to and if this objective could be achieved, the additional expenditures for shore protection over the next decade and additional requirements for supplemental water supplies and the extra funding that such programs will require and offsetting gradual improvement of operating costs is paramount to avoid higher Town taxes. He stated they were not talking about delaying the replacement of equipment as that must be replaced. He was not talking about and going out and trying to get funds when they need another MICU, but he thought the citizens were prepared to support the Town Council in getting those funds from within the present tax resources.

Mr. Doney commented that he and the Department Heads are committed to reducing expenses, wherever possible, and one issue which has come to his mind as he heard the comments from Mr. Rogers and Mr. Pryor is the Finance Department's reorganization, and Mrs. Crozier as of April 15, 1992 will be the Finance Administrator and he has made some administrative changes with a cost saving of approximately $74,000. He believed the Police Department should be commended as earlier this year, they have reduced their personnel complement by one person and through other civilian changes and reorganization changes, will attain a cost savings of approximately $100,000. He reported a few years ago, there was an operational and organizational improvement study in the Fire-Rescue Department and this was related to a reduced work week and it is his intention that there be no change in the personnel complement as they are utilizing overtime to meet the needs as far as staffing is concerned.

Mr. Doney indicated the Public Works Department is the third major department and Mr. Dusey is looking at reducing that department's personnel complement, through attrition and vacancies which will occur, to reduce the costs. He stated as they have changes in personnel which occur either through retirement, resignation or termination, they do look at them seriously to see whether they can justify the replacement. He knows personnel costs are approximately 70% of the budget and they are constantly striving for organizational and operational improvements. He advised he has been involved in the budget process of this Town for almost nineteen years and before any change is made to personnel compliment for any department in the Town, one of the things that is done through the Personnel Director is to have a desk audit for the need of the position, a thorough review of the justification of the position before it would be recommended to the Mayor and Town Council.

He advised if the Mayor and Town Council make the decision that certain services no longer need to be provided, the costs can be reduced. He indicated there is always the potential of instituting user charges as are done in surrounding communities where sanitary sewage and residential garbage collections are charged for, whereas in the Town this is funded through the ad valorem taxes and they do, because of the operating millage rate which last year was $3.77 per each thousand dollars, (well within the ten mill cap), look at the budget process seriously to ensure they are providing justification for the request and also want to ensure that any employee of the Town has a purpose and is necessary to provide a service. He thought it was important to note that over the years, through Federal, State and County mandates, there is a lot more to do, a lot more reporting requirements and compliance requirements so there are personnel costs relating to meeting those requirements.

Mrs. Wiener asked for an overview on the Reserve Funds. Mr. Doney announced the Undesignated General Fund Balance for the year end 9-30-92 is projected to be 4.7 million. He stated because of the geography of the Town, twelve miles of oceanfront and because of the age of the infra-structure, much of which has been replaced, there still are important and large potential expenses relating to the budgeting of those items, and this level is a prudent level in view of the major occurrences that could happen. He referred to the Halloween Day storm which cost $150,000 but it could have been much, much more. Mrs. Wiener stated these funds could be used towards some of the new projects which they are involved in as she views this when they move forward on the new projects, it isn't that they are standing there penniless. She stated she has been a strong advocate of keeping up the level of participation in that part of the budget, even when they are in a tight budget situation, that this money be put away each year for the products and hard times that are to come.

Mr. Doney stated another fund is the Capital Improvement Fund and in the FY93 Budget, there will be some policy questions for reallocation of previously appropriated funds which will be addressed by the Mayor and Town Council, such as the amount appropriated for the Mid-Town Beach Nourishment project which will be over and above the Town Council authorized commitment for funding the PEP Reef. He stated another funding commitment will be toward the monitoring and testing of the Department of Natural Resources and the three year $500,000 cost of it with the State picked up 75%, but the Town's commitment will be 20% or $125,000. Mayor Marix pointed out some monies were being spent for the sand research at Mid-Town and that is something that they will not be doing any more, so some of that will be off-set, hopefully on a permanent basis. She believed also there has been a lot of money spent on the water research study and eventually they will have to stop spending on that and what she thinks is terribly important that they should target what it is they want and where they will go on it. She believed last year there were twenty more employees than there were in 1985 and she hoped they could get back closer to the 1985 figure and these are some

Status of FY92 budgets (cont'd)

of the things they can do and put the savings into the reserves which they will have for future emergencies.

Mr. Heeke indicated in the overall scheme of things, perhaps Mr. Doney could look at how the personnel structure should be five years down the road and wondered if there were objectives that should be reached, keeping the same level of instruction and supervision, emphasizing that it would not adversely affect job security or future salary increases. He stated if there was a trend of increasing, they would do why those jobs were there and some study should be given to the reason to continue or worry about continued increases, as there may be overlapping or redundancy.

Mr. Doney responded there always is a continued effort when we have a vacancy occur - in fact - the Finance Department review that he had done with Mrs. Crozier and Mr. Crouse was a good example. He stated in the budget process, the Department Heads are going to have a greater role in providing certain things that heretofore would have been done in the Finance Department. He thought they were very conscious of tightening the belt, however, they are under another Federal mandate right now and that's the Americans with Disabilities Act which will have budget impact.

Mayor Marix understood a few years ago, there was a privatization of the parking meter collections, and that was the kind of privatizing she thought could be looked into, not necessarily complete departments - but some sections of the certain departments. She has recently read a very interesting report on other communities who semi-privatized like their Recreation Department - or the Data Processing - all of which has worked out for them, and those are the things we should be looking at, so we don't be like Topsy and just grow.

Mrs. Wiener believed if some positions can be reduced, that's terrific, but she thought that if they looked at what was in front of them, they will note the Health Care program has risen tremendously and whenever the taxes are, the Town will perhaps be able to keep nineteen per cent, as the school taxes will also be increasing and she wondered where do they best spend their efforts and do they help themselves by reducing their tax bills by fifty cents? She stated that getting rid of two employees is not going to make that much of a difference and she felt they had to get involved in an unified situation and take care of these things where the money is flowing out and where it really affects one's purses, such as the School District which is getting more that twice what the Town does, and we are talking about a Health Care District which gets now 25%. She stated she had a concern about reducing the structure and the services in the Town while everybody else runs off with the money and that is where the real effort and action should be focused. Mayor Marix felt the only way that anything could be done is to vote out those people. Mr. Heeke felt what Mrs. Wiener was suggesting was very important and some of the Council members do have contacts with other communities and he felt each elected official should deal with their counterparts in other municipalities as they are also getting complaints about who is spending the money.

Mrs. Rose Harwitz addressed the Council noting they are dealing in generalities and anticipated and unanticipated projections, so that those who are in this room cannot tell them specifics. She has listened carefully today and heard Mr. Pryor state he would like to set the stage for a basic philosophy of thinking about the budget. She stated as a resident of this Town, she is not only a taxpayer but is one who is need of the services provided by the Town and she doesn't want to be told that they had to discuss the impact on the taxpayer. She felt they should discuss the impact on her as a taxpayer and as one who uses the Town services. She thought the employees who provide the service should also be considered in the basic philosophy, and that would be not only their proficiency but their needs and she would like to see more emphasis put not just on the taxes but on the services. She suggested they should consider the quality of life as that costs money and that means taxes. She believed they should consider the value of the services and those who provide them. She recalled a few years ago when she was away during the summer, she read in the local paper that there was talk of reducing the number of paramedics the Town had. She sent a telegram to the Town Council and asked how they could dare to make this a number one priority and talk about reduction, and that is what she means about considering the human values first. She felt that should be the line of thinking and basic philosophy. She agreed with them on the taxes and she believed they should continue to fight the County for the inequitable distribution of taxes, but they needed to start with the quality of life in this Town.

Mr. Adrian Winterfield of 445 Brazilian Avenue addressed the Mayor and Council and asked if the President had any comment on the revision of the Finance Department personnel? Mr. Heeke responded that will come later under Any Other Matters. Mr. Winterfield referred to the Charter where the Finance Director is an administrative appointed official who is nominated by the Town Manager and appointed by the Town Council. He believed if there was any departure from this procedure, the Charter would have to be revised, as apparently the duties of the Finance Manager designate are different from the Finance Director as if they were, there would be no reason to change the title.

Mr. Winterfield suggested on the budget they proceed with a modified zero base approach asking if it were in the best interest of the community as a whole that the Town Attorney be an outside attorney as opposed to a staff attorney. He recalled the decision was made to have a staff engineer and presumably the same reasoning could be applied in the case of the attorney. He felt the responsibility of the attorney does cut across the entire spectrum of Town services. He was under the impression that an individual who is not an attorney is doing the attorney's work to avoid running up hours of time with the Town attorney and were there a staff attorney, this would not be a problem and there would be far more legal services made available at a saving.

Mr. Winterfield addressed the Occupational License fee which the State does control but there was a modest increase allowed this year. He felt there was one category in the Town which enjoys a windfall because of not so much the rate but the manner in which they are taxed. He advised in West Palm Beach merchants are taxed on the value of their inventory and in Palm Beach they are taxed on the square footage of the space they occupy and the maximum is $400 or $450.

Mr. Winterfield suggested the use of personal automobiles policy be reviewed as he understood there are a number of individuals who are allowed one tank of gasoline a week, and he was certain there was a careful log kept on the gasoline pumps. He felt it was the employee's responsibility to get himself to work.

Lunch break was taken.

Meeting reconvened at 1:33 PM by President Heeke.

President Heeke called for further comments on the budgeting process. Mayor Marix recalled Mrs. Harwitz's statements and her concern that they were going to lower standards and as far as she knew, that was never mentioned. Mr. Heeke agreed noting the emphasis was maintaining the levels of service we now have and the concern about the comfort of the employees with respect to continued employment and the fact that they would continue to be compensated. Mayor Marix recalled last year there was discussion on longevity and merit and over a million dollars was paid out. Mr. Heeke did not recall the incident to which Mrs. Harwitz referred. Mayor Marix wanted to be sure that everyone understood that they want to see what they can do to cut costs and improve efficiency.

President Heeke commented on the comments made by Mr. Winterfield on Occupational Licenses fees as throughout the County there has been a number of municipalities working on reclassification of licensing and occupational fees and redesignation of the licenses and this is a complicated matter. He knew of a recent theory that was discovered and asked Mr. Moore to explore this with the Town Attorney, so it is something that is ongoing.

Motion was made by Ms. Wiener to adjourn the meeting on the budget. Seconded by Mr. Weinberg. On roll call the motion carried unanimously.

XI. COMMITTEE REPORT

A. Public Safety Committee of March 23, 1992

Committee Report - Public Safety Committee

REPORT OF THE PUBLIC SAFETY COMMITTEE OF MEETING HELD ON

MARCH 23, 1992 - 3 PM

A meeting of the Public Safety Committee was called to order at 3 PM on March 23, 1992, in the Town Council Chambers by the Chairman, Paul Ilyinsky, with Committee member Bernard Heeke in attendance. Also attending were Mayor Marix, Councilwomen Douthit and Wiener, and Councilman Weinberg. Members of staff in attendance were Acting Town Manager Elwell, Town Attorney Randolph, Chief of Police Terlizzese, Director of Public Works Dusey, Risk Manager Martinuzzi and Town Clerk Peters.

After hearing input from citizens of the Town and from nonresidents who use the Lake Trail for Roller Blading, the Committee identified the following for consideration by the Mayor and Town Council at the Town Council meeting on April 14, 1992:

1. Center striping of the Lake Trail, in addition to that which now exists, with special attention to blind curves.
2. Additional signage (including consideration of painting the information on the Lake Trail itself, as well as adding signs along the Trail.)
3. Enforcement of proper speed limits.
4. Require businesses that rent or sell the Roller Blades to provide instruction to their customers.The shop owners in attendance agreed.
5. Restriction of certain hours for the use of Roller Blades (e.g. one and one half hours before sunset.)
6. Designate areas of the Lake Trail for Roller Blading and prohibit the activity in all other areas.
7. Require Roller Bladers to skate single file.
8. Staff was requested to investigate the problemof a State Statute prohibiting people who live in the north end from Roller Blading from their homes to the Lake Trail.
9. Rules of the Road be observed with walkers and bicyclists observing the rule to stay to the right on the Lake Trail.
10. Require Roller Bladers and bicyclists to usebells or whistles to advise pedestrians when they are approaching from behind.
11. Staff was requested to investigate the legislative history behind the total ban of roller blading in Deerfield Beach.

Meeting adjourned at 4:57 PM.

Adjournment

SIGNED BY Paul R. Ilyinsky, Chairman and Bernard A. Heeke, Committee member.

Motion was made by Mr. Ilyinsky, seconded by Mr. Weinberg to accept the Public Safety Committee Report into the record.

Mr. Ilyinsky reported the Committee identified certain items and read them from the report with regards to roller-blading.

On roll call, the motion carried unanimously.

Mr. Heeke reported letters have been received from the school children in Palm Beach Private School and there has been numerous other correspondence received which will all be a part of the record.

Isaiah Rossine of 226 Phipp's Plaza addressed the Council speaking in favor of the rollerbladers, indicating there is something totally ignored on the Trail, which he considers a hazard and that is unleashed dogs and he suggested this be looked into by the Council. He recalled there used to be a motorcycle patrol on the Bike Trail, but he hasn't seen one there lately and the patrol would keep under control the growth of the landscaping as that is a major problem on the

Trail where private hedges come out two feet over the trail. He believed there should be warning signals on all bicycles and some sort of device for the skaters, be it whistles or bells. He did not believe the rollerbladers should be restricted as to the hours they use the Trail.

Wiley Reynolds, 291 El Vedado indicated he was in favor of rollerblading and the regulation of same and he suggested the rollerbladers self-regulate themselves as did the surfers. He too agreed there should be no hourly restrictions.

Wiley Reynolds, Jr., 340 South Ocean Blvd. indicated he too was in favor of rollerblading and he brought a message of approval also from Page Lee Hufty who wished to quote a statement that "without manners, society cannot function." He felt it was simply a matter of being polite. Mr. Reynolds thought part of the job of allocating limited resources today is not to allocate but to create and suggested that perhaps the sidewalk on the oceanfront could be extended southward from Hammon Avenue to Southern Boulevard as it is dangerous for joggers, cyclists and pedestrians. He thought families were very important and children are the most valued asset and things need to be provided for them to do that is healthy, wholesome and fun and a provision should be made for people to get to the Lake Trail legally. He stated if they pack the skates in the car and drive there, there are no parking spaces. He suggested if rollerblading is regulated, he requested they not regulate the four wheel rollerskates that the children now use.

Rollerblading

Mr. Don Buettenmiller addressed the Council stating he agreed with Mr. Reynolds' statement and what is needed are some positive things which could be done to improve the situation.

Mr. Louis Pryor believed they spend entirely too much money as a nation on the geriatric population in comparison to the far too little spent on the education of our children and he supported what has been said today by the previous speakers.

Sasha Lickle, 225 Monterey Rd., addressed the Council and presented a petition of 147 signatures from Palm Beach Day School requesting rollerblading not be banned.

Chip Hansen, 224 Phipps Plaza, addressed the Council indicating rollerblading is a healthy sport and has great fitness benefits. He asked what were the safety concerns as he knew there were no police reports of any accidents and he was not aware of any complaints and he hoped the Town Council would not be willing to forego the health benefits in favor of the minuscule safety concerns which have been raised. He knew there were residents in the Town of Palm Beach who were roller-bladers. He believed there were some who wished to have the Lake Trail be for Town of Palm Beach residents only and he didn't believe that type of action would be appropriate. He indicated they do distribute flyers to skaters which have many safety regulations contained in it. He thought the other users of the Trail, the bike riders and the pedestrians need to be aware of the "walk-smart" or "ride-smart" rules. He believed the Town should take some measures, and he agreed there should be a center line painted on the Trail, additional signage, and painting on the Trail was an excellent idea, and suggested that there be some signage installed at the areas of the blind corners and on the end of the trail. He believed the hedges and overgrown palms should be trimmed back.

Mary Ratliffe, Public Safety Committee of Palm Beach Civic Association encouraged the Council to make the right decision.

Cy Rossine again addressed the Council on the center lining suggesting it be done from the beginning to the end, which he thought would be very effective.

Mr. Heeke then called for the comments of the public from those who opposed rollerblading. John Rybovich of Plantation Road addressed the Mayor and Council stating he walks the Trail sometimes twice a day and he appreciates it very much. He noted the people who sell skates have a financial interest in this. He believed there was a possibility that there may be hundreds of people on the Trail at the same time and he believed that could happen. He advised there were no alternate paths and from the Palm Beach Country Club to the end, there is no place where the pedestrians can go. He did not agree with the whistle or horn issue either as this would give the rollerbladers a right-of-way and there just isn't one. He stated he rarely saw the rollerbladers skating single file. He believed if there were a group of rollerbladers going in both directions, there would be no place for pedestrians to go. He did not want to see the Council give this away as this was a way of life for him and it would just not be anymore. He believed the reason they have created rollerblades is to get more speed as he has watched them go down the Trail at high rates of speed. He thought what they were totally ignoring is the fact that this will no longer be as it now is, as once this takes hold, and the bike shop is increasing the number of skate rentals and those who sell them are stocking up better than ever. He did not believe they could install speed bumps as was suggested as that would be a hazard for those who walked.

Mr. Heeke called for public comment and being none, declared the Council was in Executive Session.

Mrs. Douthit asked if the pedestrians would not have the right of way? Mr. Randolph responded he didn't know what the rules of the road would be when there are bicycles, pedestrians and skaters and believed it might just be a matter of common courtesy between each. Chief Terlizzese advised the basic premise is to yield to pedestrians. Mr. Ilyinsky asked if they still had motorcycles patrolling the Lake Trail? Chief Terlizzese responded there are two motorcycles assigned to the Trail on each shift. He indicated they have proposed in their planning sessions that perhaps they should also have patrolling on bicycles.

Mayor Marix stated she did not suggest the speed bumps be installed. Chief Terlizzese responded this was attributed to him, but what he meant was the speed ripples which puts a driver on alert and has a tendency to slow one down. Mr. Heeke was concerned that it might throw off the rollerblader.

Mayor Marix stated she thought it was important as they considered this matter that if the sport and those who participate in it does increase in popularity and there are more and more people rollerblading, they should think about the safety of the people on bicycles and pedestrians. She believed everyone would do all they can to try and cooperate, however, if there are hundreds of people on the Lake Trail, then what would they do and they should consider how they would handle that type of a situation. Mayor Marix asked Mr. Dusey what will happen to the Lake Trail if there were excessive rollerblading on it? Mr. Dusey stated he has not yet had an opportunity to research this, but when the asphalt is cold in the wintertime, there should be no problem, however, in the summer that might be a different story. Mayor Marix thought that was something that should be investigated.

Mr. Weinberg asked about what they called "gang skating". Mr. Hansen responded there usually would be 12 to 15 skaters who would be skating together. He stated some of the more advanced skaters would be going ten miles per hour whereas the beginner skaters would only go 5 to 7 miles per hour. He stated when he skates with a group of people, they do string out in a longer line as not everybody has the same skating or athletic ability. Mr. Weinberg thought it might be a long time that they are asking the geriatric pedestrian to stand aside. Mr. Hansen responded they are not asking the pedestrians to stand aside but move to the right. He suggested there be a solid line and an intermittent line painted on the Trail and if they are in a non-passing zone, they would not be able to pass. Mr. Heeke asked if he had any problem with a couple walking side by side on an evening stroll? Mr. Hansen asked how a cyclist would approach them? Mr. Heeke stated it may sound like a facetious question, but most people when they walk with each other, do so side by side and frequently cyclists do also to converse. Mr. Hansen agreed the best way to skate is to skate with somebody, but his Skatesmart Program does include single file skating when appropriate. Mayor Marix stated normally a bicycle can stop very quickly but a rollerblader doesn't have that type of control, and she thought if a skater comes up behind someone who is walking and they can't pass, it is difficult to stop. Mr. Hansen responded it is not that it is difficult to stop but people are unaccustomed to do so and some of the awareness they stress is it is the responsibility of the passing person to ensure there is a safe pass available and if they see ongoing traffic and they are behind pedestrians, they would have to come to a complete stop before they can pass.

Rollerblading

Mr. Weinberg wondered if there could be bells put on the skate to which Mr. Hansen responded he was not familiar with any bells that could be put on the skates.

Mrs. Wiener believed the real problem they have is the problem of large groups of people coming, and she wondered how much happier would it be for skaters at Okeeheelee or Flagler or some other places as if they are in a situation where they are on a narrow strip such as the Lake Trail, how much better would it be for the skaters where they can be somewhere else where they would not be constantly encountering pedestrians and bicyclists. Mr. Rybovich pointed out even if a skater skate single file, he would be taking up the room of two pedestrians. She stated her amazement that Mr. Rybovich is the only one here today to object to this. Mr. Rybovich believed they were sold down to the river to which Mrs. Wiener did not agree. Mr. Rybovich pointed out there are several places along the Trail where there is a deep shoulder and if people did step off the Trail to allow the skaters to pass by, they would be in a hazardous situation.

Mr. Hansen addressed the Council noting the reason the Trail is so attractive to rollerbladers for those who live in Palm Beach, it is convenient. Mrs. Wiener stated she was not talking about the people who lived in Palm Beach but people coming here from all over on a regular basis. Mrs. Douthit asked if they charged fees to run these excursions to the Lake Trail? Mr. Hansen responded there are no fees except for the annual fee for club membership. Mrs. Wiener asked why would they want to come here rather than someplace else where they wouldn't have all these problems? Mr. Hansen responded the schedule for future skating excursions does not include the Lake Trail for the next two months for weekend skates. He agreed there are other areas which are more conducive to skate but at the same time, the Lake Trail is a beautiful place to skate.

Mrs. Douthit asked Mr. Hansen if he gave lessons to rollerbladers when they rented the skates and other equipment? Mr. Hansen responded he did not charge for lessons but has a video called The Start to Stop Video and he has that playing at his store constantly and everyone who rents rollerblades is required to watch at least three to five minutes of it to learn how to turn and how to stop and he also recommends they buy the video and take it home with them. He finds that most of the people who frequent his shop are not beginner skaters. He advised he also has a Skate Patrol and they skate during the peak hours and all of the Skate Patrol members are advanced or intermediate skaters.

Mr. Heeke asked the Town Attorney where skating is prohibited on the sidewalks at the present time? Mr. Randolph responded the skaters are not allowed within commercial areas on the sidewalks, and this prohibits rollerskating and skateboarding, however, the State Statutes prohibit skating in the street. Mr. Heeke noted there are a number of sidewalks in the residentials areas where skaters can skate. Mrs. Wiener recalled there were comments made that people can skate from their homes in the north end onto the Trail. Mr. Heeke responded he was asking about sidewalks, and in the north end there are no sidewalks, so there is a problem. He recalled a conversation he had with Bob Naegele, who is President of Rollerblades, and Mr. Naegele told him they have a product which was developed for university students to slip off the blades and then you would have something similar to a walking shoe and a bag is supplied to carry the blades.

Mayor Marix recalled she heard the statement from Mr. Hansen that there were no accidents recorded and she thought that is why this was before them today, because of an accident. Mr. Heeke responded Mr. Michael Burrows called him about the incident and it was his belief that most people would not call the police if it was just a bump and scrape. Chief Terlizzese addressed the Council stating that was correct but he did recall an accident on which the Paramedics were called in November of 1991, where a young lady skating was involved in a collision with a pedestrian and the woman on the skates was taken to the hospital for stitching.

Mrs. Wiener noted the information was received and both sides are heard and asked what direction they are going in at this time. Mr. Heeke indicated he would like to make a few comments, observing that the rollerblading looks like a lot of fun and he hoped to try it in the future and is very conducive for those who don't want to jog. He has looked around and noticed that Flagler Drive is a wide open area where there is great visibility and there are sidewalks there on both sides of the street, so if there was a congestion problem, it could be avoided. He believed that when Flagler Drive south of Southern Boulevard is again open, that would be another area that could be used. He believed there were areas in the Town with sidewalks on both sides of the street which could be used and he thought there was ample opportunity, both on and off the island, for expression of this sport, which he viewed as a fast growing sport. He saw on TV that rollerblading may be an Olympic Sport, and he viewed this as a good and wholesome activity. He wished to point out the path south of Sloan's Curve is traversed very heavily by couples walking and that is far more visible than the Lake Trail. He was concerned about the safety of the people who are in this area because of the high use of this walking path.

He recalled the Census population in 1987 was 9,086 and although rumor has it that the population here in Palm Beach is getting younger, the figures do not support that fact as the median age in 1986 was 58.2. He recalled in 1980, the population had grown to 9,729 and median age had increased to 63.4. He stated in the 1990 census, the population was 9,814 with the median age increased to 66.2. He stated his point is the people moving here are approaching retirement age and buying here in Palm Beach and this may mean that these folks are not as agile as others and would step aside rather than run the risk of being injured. He knew that on the Lake Trail, the path is very narrow and a couple may not be able to get out of the way of a bicylist, but the cylist can stop a lot easier or they can go around on the grass. He stated there is more control on a bicycle than on rollerblades. He noted these were his concerns and he felt there are plenty of areas for the sport to take place, but he had a concern especially with the area south of Sloan's Curve.

Rollerblading

Mrs. Douthit asked Mr. Weinberg how wide was the path south of Sloan's Curve? Mr. Weinberg responded it is about six feet in many places and most people do walk in twos. Mrs. Douthit felt this should be the place that is striped down the middle. Mrs. Wiener believed the younger population would be in the mid-Town area or the north end. Mayor Marix commented she thought a small area may be put aside for people to rollerblade but it was her understanding that rollerbladers like to go eight or ten or twelve miles. Mr. Heeke believed that was the attractiveness of the sport. Mr. Heeke stated there should be room to pass and palm fronds and overhanging hedges needed to be trimmed properly and that is a question of enforcement. Mr. Heeke was concerned that the sport doesn't lend itself to high usage in pedestrian areas, and perhaps they needed to think about where there are more appropriate areas, such as Flagler Drive. Mrs. Wiener noted this is a good area, however there are strips between the large blocks of cement and that is what is bringing the Trail this new attention as that is smooth. Mr. Heeke believed they have touched on every factor either at the Public Safety Committee meeting or the thoughts that had not been expressed until today.

Mr. Ilyinsky commented on the fact that there have been many letters sent on this subject and in almost all cases, it was let's let the skaters use our Trail but let us somehow or other impose certain restrictions, as far as speed and single file, etc. He is in enormous sympathy with Mr. Rybovitch, but he felt this had to be given a chance and the rollerbladers have demonstrated a willingness to cooperate and to police themselves and with the able assistance of the Chief of Police, the Council should allow the rollerblading to continue and let it run its course for a little while and see what happens. Mrs. Douthit agreed they should see how it all works out and they are not entrusting any regulations to anybody other than our own police.

Mrs. Wiener thought the whole process was one of education and should the situation rapidly deteriorate, they will be forced into handling it, however, she thought the conversation they have had with the skaters over the last few months has put all in a position of knowing where we all stand and the skaters are attempting to work with those people who are perhaps not as careful of the walking public as they may be. She thought there was a general tone of good manners and conciliation at this time and whether or not that will continue will remain to be seen, and she thought this was something that should be left alone for a couple of months, especially since there are not any large out-of-town groups coming into the Town and perhaps the Public Safety Committee will need to reconvene on this subject in the future.

Mr. Heeke stated his concern about the area south of Sloan's Curve. Mr. Weinberg believed it should not be permitted in an area where there is just a six foot path. Mr. Heeke stated perhaps they should focus in on one area at a time and see if there are any areas where there should be some control. Mrs. Douthit asked if there were many skaters in that area? Mr. Weinberg stated there are bicycle paths and people drive from all over to come to see the beautiful gardens and he knew there were rollerbladers coming across the Bridge. He believed it was a dangerous areas for rollerblading considering the pedestrians and the geriatric nature of the pedestrians in that area. He thought they could review this again in the near future. Mr. Ilyinsky agreed. Mayor Marix asked if the path in the south end was asphalt and if it is they need to see what the weather will do to it in the summer time, as if the pathway is damaged, it will create a hazard.

Mr. Heeke wished to comment on the so-called Patrols stating that what skaters do among themselves is not a function of municipal government, nor should it be interpreted by anyone to be sanctioned or prohibited by the municipality. He stated the Town's laws are enforced by the Police Department and they couldn't assume the responsibility for the skaters monitoring their self-disciplines, and that has to be our public position as the law enforcement people are the only ones responsible to the Town for that purpose.

Mrs. Wiener asked if they could leave the subject and go on with the agenda to which Mr. Heeke agreed, stating they will revisit this subject as needed.

Old Business

XII. OLD BUSINESS

A. Ordinance - First Reading

Ord. 4-92

1. Ordinance No. 4-92 - Amendments to Noise Ordinance - Deferred from March meeting. Mrs. Douthit stated her position in that she believed the noise regulations should be in effect for Sundays and Legal Holidays. Mr. Randolph explained the major purpose of the Ordinances is set out in his letter of March 4, 1992, however since that time there have been additional suggestions from the Building Department, which were incorporated in the most recent Ordinance and that was to remove from the decibel requirements the lawnmower equipment used on tracts of land more than three acres. He recalled the other suggestion was to prohibit dry sand blasting and jack hammers and not to have it as broad as it was before in the Ordinance. He stated the changes with regards to lawnmower equipment use on tracts of land more than three acres came to Mr. Moore from the golf courses, and he believed there was never any intent to prevent the use of lawnmowers on golf courses on Sundays, pointing out this type of equipment used on golf courses cannot meet the requirements of our decibel system, so that it was suggested that on tracts of land less than three acres, they be allowed.

Mayor Marix stated as far as she can determine all four golf courses are backed up to residential areas, and if they are not regulating them and she believed this would allow them to start earlier if they so wished. Mr. Randolph stated this provision would allow that. Mrs. Douthit didn't believe it should be allowed. Mrs. Wiener asked what is being done now? Mr. Randolph responded technically, they are prohibited from operating this equipment early and on Sundays and holidays and this request came about with one of the golf clubs advising they could not operate under these conditions and there was certain equipment they wished to use before 8 AM. Mrs. Douthit did not believe they should be allowed to do this on Sunday or legal holidays and they should abide by the hours in the Noise Ordinance. Mr. Randolph stated he has been told they have to maintain the course on Sundays and that is why they asked for the change. Ord. 4-92

Mr. Bitzer stated they do mow the Par 3 and try to be out of the way by 8 AM when the golfers start. Mayor Marix stated she felt sorry for the taxpayers who are wakened up before 8 AM by this equipment. Mrs. Wiener asked if the Par 3 had any complaints as they have an apartment house on one side and townhouses on the other side. Mr. Bitzer responded they have had one complaint. Mayor Marix thought all the residents who live along the Golf Course should be invited to give their input. Mrs. Douthit believed they should be allowed to mow the greens on Sundays, but the hours should stay the same.

Mrs. Wiener moved this matter be deferred. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

XIII. NEW BUSINESS — New Business

A. Appointment — Appointment

1. Code Enforcement Board - Two Three-Year Terms to Expire April 1995. Mr. Heeke recalled there had been some discussion on having alternates on this Board as certain times during the year, a quorum is hard to come by and he suggested the Council consider making provisions to have alternate members for the Code Enforcement Board. Mayor Marix asked if they were appointed as alternates, would they have to remain as alternates forever or could they be appointed to the Board if there was an opening? Mr. Randolph responded the purpose of appointing them would be as alternates and they would have to understand when they are appointed, they would not automatically move into the next position which might be open on the Board. Mayor Marix asked if they could move into the position which did not have a category to which Mr. Randolph agreed. — Code Enforcement Board

Mr. Heeke noted Bailey Sory is eligible for reappointment and called for motion to reappoint Mr. Sory. Mrs. Wiener so moved. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

B. Other

1. Consideration of Amending Ordinance No. 22-87, Code Enforcement Board, to Provide for Two Additional Alternate Appointees - Mr. Weinberg moved for deferment of this item to the next meeting. Seconded by Mr. Ilyinsky. On roll call, the motion carried. — Ord. 22-87

Mr. Weinberg moved the Town Attorney be authorized to prepare an amendment to the Code Enforcement Board ordinance to allow two alternates. Mr. Rybovich addressed the Council reminding them they have lost Ben Walton, who was an expert on the contracting business, and he felt they needed to have another contractor on the Board. Mr. Heeke asked Mr. Rybovich if he could help find someone who was qualified to fill this seat to which he agreed. Motion was seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

2. Consideration of Request by Winthrop House, 100 Worth Avenue, Regarding Access Tunnel Under South Ocean Boulevard -

Access Tunnel for Winthrop House

Mr. Bernard Neels addressed the Council stating he was the Manager of the Winthrop House and have been corresponding with Mr. Dusey regarding the problem that they are experiencing there and that is there is a tunnel that runs from the building under Ocean Boulevard out to the Beach and at one time, the beach property and the seawall area was owned by the Condominium, but in 1975, a Quit Claim Deed was issued therefore giving the beach property and the seawall to the Town of Palm Beach. He advised that during the coastal flooding in October of 91, the tunnel area received substantial damage and consequently, the basement of the Winthrop House, or the parking garage, received a lot of water in it. He indicated what he would like to see done is to have the seawall extended to cover the tunnel area as now the tunnel entrance is approximately six feet wide with an area over the top that is secured by wood planking. He advised they are not seeking to have the tunnel sealed off but rather have the seawall extended in, so that there is possibly a three foot planking, rather than the six foot, so that the Winthrop House would be more protected.

Mr. Heeke asked if he was willing to pay for that to which Mr. Neels responded that is the reason he is here and is asking the Town to pay for it. Mr. Heeke asked if any other taxpayer has paid for something of that nature to which Mr. Neels responded he did not know. Mr. Heeke asked if the Winthrop House was willing to pick up the cost at this point to which Mr. Neels responded that the Winthrop House feels that it's the Town's responsibility, because the seawall needs to be extended to cover the entrance.

Mr. Heeke noted it is above the mean high water mark to which Mr. Neels agreed. Mrs. Douthit recalled this has been before the Council before.

Mayor Marix stated she would like to have more information on this as she believed this was the tunnel that was at Gus's Bath to which Mr. Heeke agreed. Mrs. Douthit believed they didn't want to spend the money originally. Mr. Wienberg believed they just wanted an open tunnel so they could get to the beach. Mr. Doney did not agree, indicating they wanted to reserve the right to use the tunnel. Mr. Heeke stated it sounds like that's still a reservation.

Mrs. Douthit commented she didn't think the Town could possibly be involved in anything of this nature as there are about forty of these tunnels to the ocean and the Town certainly can not pick up responsibility for one and not for the others and she thought it was a mistake for the Town to consider this request and she moved the matter be denied since the tunnel did not provide any public purpose. Seconded by Mrs. Wiener. On roll call, the motion carried for denial unanimously.

3. Regional Sanitary Sewage Treatment Plant - Consideration of Request by City of West Palm Beach for Work Authorization No. E-13 to Receive State of Florida Revolving Loan Funds - — Reg. Sanitary Sewage Treatment Plant

Mr. Dusey advised that over the years, maintenance and improvements on the Regional Plant have been deferred and now need to be handled and authorization is being requested to expend up to

$145,440 which have been set aside in previous years, with the understanding that if there are any implications regarding financing which could be loaned through the State, the authorization will be sought from the Town Council. Mrs. Wiener moved for approval of the recommendation of the staff as set forth by Mr. Dusey. Seconded by Mrs. Douthit On roll call, the motion carried unanimously.

Lighting of Tennis Courts No. 3 and 4 at Seaview Park

4. Consideration of Request for Authorization to Proceed with Engineering Plans for the Lighting of Tennis Courts No. 3 and 4 at Seaview Park -

Mr. Bitzer advised the Seaview Park Commission recommended that the Town request authorization for the Town Engineer to proceed with engineering plans for the lighting of Tennis Courts 3 and 4, with an estimation of $700 for the plans. He stated the overall engineering work will be approximately $2500. Mr. Heeke believed the request now was for $500 to $700 for the plans for the lights on the two courts and without committing to going ahead as there are zoning issues involved to which Mr. Bitzer agreed. Mayor Marix asked if this has not been before the Council before as to how many courts will be allowed to have lights? Mr. Heeke recalled this has been before the Council and there was a question as to the effect this would have on the surrounding residential properties, and another issue was the Town would have to go through the variance process to have the lights. Mr. Bitzer advised the lights are a different style as they are twenty foot poles and low glare with minimal light spill over. After further discussion, a motion was made by Mrs. Wiener that the request for authorization for the monies to pay for the plans be granted for the lighting of the Seaview Park Tennis Courts No. 3 and 4. Mrs. Douthit asked if there could be an amendment that the cost would not go over the $700? Mrs. Wiener stated she would include in her motion that this cost will not exceed $1000. Mayor Marix stated this should not commit the Council to the variance just because the money is being spent for the plans. Mr. Heeke understood the motion is to proceed with the engineering plans only to which Mrs. Wiener agreed. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

XIV. DEVELOPMENT REVIEWS

A. Major Matters Previously Considered by the Architectural Commission at Their Meeting of March 25, 1992 - Excerpt Available in Town Manager's Office - Motion was made by Mrs. Wiener seconded by Mr. Weinberg that the Major Matters considered by the Architectural Commission on March 25, 1992 be approved. Motion carried unanimously on roll call.

Major Matters Architectural Commission

The major matters were:

B3-92 - Addition and pool cabana to residence of Mrs. Adele Wells Meyer, 215 El Bravo Way - Approved.

B5-92 - Addition to residence of David Mack, 958 N. Lake Way - Deferred.

B1-92 Revision plans for home of John L. Hanson, 975 N. Lake Way - Approved conditionally.

B69-91 - Landscape Plan for Dr. Steven Rose, 165 Seminole Avenue. - Approved conditionally.

B43-91 Revision of Landscape Plan for Palm Beach Hampton Condominium, 3100 S. Ocean Blvd. Approved.

B57-91 - Revisions to window plans for Barbara Tuck Cresci, 235 Chilian Ave. - Approved conditionally.

B65-91 - Landscape Revision to residence of Claude Mimum, 1144 N. Ocean Blvd., - Approved.

B9-91 - Landscape Plan for residence of Mr. & Mrs. William E. Flaherty, 315 Chapel Hill Rd., - approved.

B9-92 - Addition to residence of Peter S. Broberg, 220 Monterey Rd. - approved.

B10-92 - Demolition of one story home at rear of residence of Scott Gordon, 221 Jamaica Lane. Approved.

B11-92 - Addition to residence of Marko Dimitrijevic, 1051 N. Ocean Blvd. - approved.

B12-92 - Demolition and new residence for Agnes Rosenthal, 272 Fairview - removed from agenda.

B13-92 - Addition to residence of Craig Coats, 140 El Mirasol - Approved conditionally.

B-14-92 - Addition to residence of Herbert H. Jacobi, 234 Palmo Way - Approved conditionally.

B15-92 - Addition to residence fo Peter Halmos, 315 Clarke Avenue - Approved.B16-92 - Entrance addition to residence of Luis and Lillian Fernandez, 246 Eden Road. Deferred.

B. Variances, Special Exceptions and Site Plan Reviews

<u>Old Business</u>

Var. 3-92

1. Variance No. 3-92 - John Switzer, 10 South Lake Trail; to allow construction of a garage at the NE corner of the property providing a front yard setback of 5' in lieu of 35' required. R-A District. Deferred from March meeting. Letter Dated March 31, 1992 from Robert L. Bell Requesting Deferral. This item was deferred to the May Town Council meeting.

Var. 8-92

2. Variance No. 8-92 - Dorothy DePaola, 124 Onondaga Avenue; to allow construction of an addition providing a 5'2" side yard setback in lieu of 12'6" required. R-B District. Deferred from March meeting. Stephen Bruh, Architect, addressed the Council requesting the sideyard variance to allow a garage to go within five feet of the property line, which would be in line with the existing house. He advised he had discussed with the applicants the hardship involved and the DePaolas bought this house about eight years ago and enclosed the garage due to the fact it was not functional as a garage since it was only 9 x 17 and did contain air conditioning equipment for the house. Dr. DePaola wishes to retire to his home in Palm Beach and feel their cars should be protected from the elements and the doctor does have some medical problems and that is also a factor. He

believed there was no other place on the property where a garage could be placed and requested the variance. Mr. Moore stated there is another place where this garage could be placed on the property but it would be off the master bedroom but the problem is that the space which was originally used as a garage was converted to living space some years ago. Mr. Heeke believed this would increase the non-conformity as the garage was converted to living space and it would be inconvenient to put a garage on the property which would meet the setbacks, however, the hardship has not been defined. After further discussion, a motion was made by Mr. Weinberg to deny the application for Variance No. 8-92. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously for denial.

New Business

3. Variance No. 9-92 - Merrill Lynch, The Plaza Center, 249 Royal Palm Way; to allow installation of a 6' diameter dish antenna on the roof. C-OPI District. - John F. Hardon representing the applicant advised the Council Merrill Lynch intends to move from their South County office to Royal Palm Way and they would like to take their satellite antenna with them and have it reinstalled on the Plaza Center. The satellite is to receive only and does not transmit and will not exceed the height of the tower and will be setback at least thirty feet on the top of this six story building and will have a lower profile than the existing location and would not be noticeable. Mr. Moore stated the staff has no objection if it is properly sightscreened and the permit be taken and the engineering provided to meet the windloading requirements. Mr. Hardon agreed it would meet all code requirements. Mr. Heeke asked about the hardship to which Mr. Moore responded the installation is in place at their present location and has been there a long time, before satellite dishes were regulated. Mr. Heeke pointed out that is not at this particular location to which Mr. Moore agreed. Mr. Weinberg moved for approval of Variance 9-92. Seconded by Mrs. Wiener. Mayor Marix advised the dish that was installed at the Paramount is in full view and it is six feet. Mr. Heeke asked if Merrill Lynch could get the same reception with a three foot antenna? Mr. Hardon responded they could not as theinformation is contained on a satellite located over the equator near Brazil and the location proposed is on the outer peripheral and there is tremendous signal loss here which is compensated by hotter electronics and a larger reflecting surface which is what the dish does and it bounces the signal into an electronic apparatus called a converter and a 1.8 meter specifically in South Florida is what is needed. On roll call, the motion carried by a 4-1 vote with Mr. Heeke voting against the approval since no hardship was demonstrated. Var. 9-92

4. Variance No. 10-92 - Mr. & Mrs. Stephen Levin, 446 North Lake Way; to allow installation of a 3 meter dish antenna in lieu of 2 meter maximum permitted, and to allow the dish at a 12' height above ground in lieu of 8' permitted. R-B District. Mr. Don Conklin of Conklin & Lewis, General Contractors, addressed the Council on behalf of the applicant, requesting the variance for the installation of a dish antenna of three meters twelve feet above the ground. Mrs. Wiener asked if this could be lowered by putting the dish antenna deeper into the ground. Mr. Conklin stated it might be possible but the elevation where they propose to put this is established by the Building Department in relationship to the Lake Trail. Mr. Moore stated this would be allowed. Mrs. Douthit asked why they needed such a huge dish to which Mr. Conklin stated this is to be able to receive more channels and have better quality. Mr. Moore gave the staff comments noting in this location they have not identified the hardship or the need for the dish to be placed in this location, as it is a large piece of property, however, it could be depressed to mitigate the size. Mr. Heeke asked if the Zoning Commission had examined this for the residential zones? Mr. Moore stated they did have it on their agenda but no action was taken. Var. 10-92

Mrs. Wiener asked if previous variances of this kind have been granted to which Mr. Moore responded affirmatively. Mr. Heeke recalled there also have been some turned down.

Mr. Ilyinsky moved the variance be approved if the applicant agrees to lower the antenna by depressing it into the ground, so there would be no height variance requested. Seconded by Mrs. Wiener. Mr. Heeke asked about the hardship. Mr. Conklin believed the applicant felt the location requested was the best location for better reception. Mayor Marix asked if they would like to defer it to next month?

Mrs. Peters read a letter from Eileen Fairchild, 448 North Lake Way which was in objection. Mr. Heeke felt the Zoning Ordinance should be amended if these things are to be allowed and also, he could see no hardship demonstrated. Mr. Ilyinsky withdrew his motion stating it should be for the two meters. Mr. Randolph explained no variance would be needed. Mrs. Douthit moved the Variance No. 10-92 be denied. Mr. Heeke handed the gavel to President Pro Tem Weinberg and seconded the motion.

Mr. Adrian Winterfield addressed the Council, noting on the west side of the Trail in this location, there are stacks of lumber and other debris and is unsightly; and secondly there are two artisan signs on the Trail and two on the eastern side.

On roll call, the motion carried with one dissenting vote by Mrs. Wiener (4-1) stating her reason was variances of this type have been granted in the past and she thought it should be deferred.

5. Variance No. 11-92 - John M. Johnston, 301 Garden Road; to allow installation of a fabric awning over a rear yard patio thereby increasing lot coverage from 33.1% to 34%, exceeding the 30% maximum allowed. R-B District. Mr. Joe Montai of American Awning addressed the Council on behalf of the applicant, requesting the variance. Mr. Moore asked about the hardship? Mr. Montai responded there is none with regards to the land. Mrs. Douthit asked why they didn't cantilever the awning and there would not have to be a variance request. Mrs. Wiener moved that Variance No. 11-92 be granted, as she views this as a minimal variance. Seconded by Mr. Ilyinsky. On roll call, the motion carried 3-2 with Mrs. Douthit and Mr. Heeke voting against the motion. Var. 11-92

6. Variance No. 12-92 - Mrs. Alice Meerwarth, 243 Merrain Road; to allow construction of a single family residence on a lot 95' wide in lieu of 100' required. R-B District. - Mr. Moore advised variances of this type have been granted in the past with the condition Var. 12-92

that the structure be built within the regulations of today's Zoning Ordinance. Mr. Weinberg moved the Variance be granted with the residence being built according to the Codes. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Var. 13-92

7. Variance No. 13-92 - Joel Martino, 109 Ocean Terrace; to allow an addition to a nonconforming residence; said addition would include a third story not permitted per Section 4.20 of the Town Zoning Ordinance. R-B District. Robert Bell, the Architect addressed the Council on behalf of the applicant, noting the existing structural conditions require a portion of the structure be replaced rather than repaired. He advised a third floor area already does exist and the new structure would be an expansion of the existing facilities to be compatible. He noted the new structure would not present any further visual mass from the street than currently exists, and all of the zoning requirements can be met without additional variance requests. He exhibited plans, noting the bottom level is a garage and is currently being used as a storage area, single car garage and as a changing room off the pool area; the second level is bedroom, kitchen and dining area. He stated the third level is a rather small master bedroom and bath and they propose to expand that area. He advised there is a engineer's report which basically states basic steel and other parts of the structure are deteriorating rapidly and portions need to be demolished and redone. He advised their intention is to remove a portion of the structure and to replace it and what they would be adding on the second level would be a dining room, which presently is quite minimal and they would extend it to the south and on the north side, they would be incorporating a family area. He advised on the third level they will expand the master bedroom and bath.

Mr. Moore advised the staff notes there is no hardship and views this as an expansion of a nonconforming three story building and if this is approved, habitable space on the first level should be converted to non-habitable space.

Mr. Heeke asked about the hardship to which Mr. Martino responded the hardship is the upper floor presently has no bathroom nor closets and in order to make it more habitable they would like to have the closets added as well as a full sized bathroom. He advised he has shown this proposal to all of his neighbors and has accommodated their requests. Mr. Heeke did not believe this answered the hardship question.

Mrs. Douthit indicated she has visited the site and finds the driveway is approximately 30 inches higher than Ocean Terrace and two steps to the grassy patio area and two steps to the balcony on the west and three more to a entranceway, and she believed it is a split level house and they are planning to raise it even more and it looked to her to be about an additional eighteen inches. She viewed the ground level as something quite different than what was represented before them today in the model and the plans. She suggested the new construction be depressed so they could stay within the height restriction. Mr. Bell responded they are not altering any ground levels and are merely removing and putting back what is already there. He advised from the finished floor at the garage area to the ceiling at the uppermost level is 25.8'. Mrs. Douthit asked how high was the roof to which Mr. Bell responded the building height plane elevation from Ocean Way and Ocean Terrace is 7.8' at the garage level and at the first floor it is 16.3' and the next level is 25.3' and the ceiling of the upper level is 33.46'.

Mayor Marix asked what the total square feet would be as proposed to which Mr. Bell responded the existing lot area of 10,454 square feet and the existing lot coverage is 1,573 square feet or 15%. He advised the existing Floor Area Ratio is 32.99 and the proposed would be 44.9. He stated the proposed lot coverage is 2,202 square feet.

Mr. Heeke stated another issue to be dealt with is the hardship issue.

Mrs. Douthit stated her concern was the raising levels, however Mr. Bell states it will stay in the split level mode, and in that case they wouldn't have to fill it in. Mr. Bell responded what the slab is now would not be changed.

Mrs. Wiener asked if there were staff comments. Mr. Heeke recalled they stated they see no hardship and this is an expansion of a non-conforming use. Mr. Moore agreed stating if this is granted, they would ask the applicant consider making the first level more conforming which means there would be no habitable space on the first level, which means the cabana use would not be allowed.

Mayor Marix stated her concern about the huge extra size and then tying it to the nonconformity, so it will be massive. Mr. Martino stated what he is asking to do is to extend the bedroom, but if this is a concern, this extension could be reduced to make the house on the top level less massive. Mr. Heeke asked what the minimum increase would be? Mr. Bell believed they could utilize less space on the second level at the north and could reduce it by one-half, so instead of a 36' dimension on the upper level, they would go to approximately 18', which would reduce the square footage by approximately 330 square feet. Mr. Martino stated he would much prefer to have the additional square footage but would like to take what the reduction would be and put it in the lower level, which would not require a variance.

Mrs. Wiener commented what they are basically saying is they have had a bedroom on the third story for many years and because of structural problems, they wish to rebuild and they would like to make that bedroom larger than it was as there are no bathroom or closets on the third floor. Mrs. Douthit pointed out that this is still expanding a nonconformity. Mr. Martino stated it was his hope that since they were reducing some of the nonconformities in other parts and because of the hardship of the failure of the structure and there being no bathroom on the third floor, nor closet space, he hoped they would be able to proceed.

Mrs. Douthit suggested this be deferred and they come back with new plans for a smaller third floor and the additional second floor addition. Mayor Marix stated they really don't have any idea of what this is going to look like, and she suggested this be deferred. Mr. Heeke agreed. Mrs. Douthit moved the Variance No. 13-92 be deferred. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously to defer.

Var. 14-92

8. Variance No. 14-92 - Jacob Rabkin, 253 Ridgeview Drive; to allow conversion of a required garage into living space. R-B District. Mr. Rabkin addressed the Council requesting the variance to convert a garage into a room to be used by a full time health aide which is necessary for himself and his wife. He stated of the 16 houses on his

street, seven do not have garages, with two being built originally without garages and the other five have been converted to living space. He stated he was motivated by the fact they have lived in this house for 23 years and he is 87 years old and his wife is past 85 years old and the ravages of time have pursued them and may soon overtake them, and they would prefer to remain in the house for their rest of their years, instead of going into an institution, so they would like to have a room added to their house for a full time nurse. He advised the conversion of the garage would result in a room on the other side of the kitchen which would allow their living area to be separated from the nurse's living area. He thought if the application were granted, it would allow them to continue to live in Palm Beach with a little more dignity and graciousness and calm than they would have in an institutional environment. Var. 14-92 (cont'd)

Mr. Moore advised the Zoning Ordinance does not take into consideration that type of hardship described by Mr. Rabkin, however there have been occasions where the Council has considered several unique cases where the variances were granted for the life of the occupants of the house. He did not see a standard hardship in this case, however. Mr. Heeke asked Mr. Rabkin if such an approach would be acceptable? Mr. Rabkin responded he didn't think it was a correct approach to not allow him to sell the house as it would exist with the garage converted, and asked why they would want to prevent a new owner from buying a house with an extra room on it and why shouldn't he be the one to make the decision as in the bargaining process, the cost of putting it back to its original condition as a garage could be negotiated. Mr. Heeke recalled another applicant heard earlier was denied the right to build a garage.

Mr. Weinberg moved the Variance No. 14-92 be approved on the basis of the geriatric hardship. Mrs. Douthit noted there is another structure on the property which could be tied to the house on the northwest corner. Mr. Rabkin explained this is a studio type structure and is in an isolated part of their garden and has no entry to the house. Mayor Marix asked if they could not build a hallway to the main house. Mr. Rabkin responded they did consider that possibility but it was their feeling that this employee would not be right in the house with them, as they would if she were in the area next to the kitchen. Mrs. Douthit believed there were many devices of communication now available so communication would always be possible. Mr. Rabkin stated they would have to add a roof onto that. Mr. Heeke agreed stating the Council is very reluctant to give up garage space.

Mr. Rabkin stated he and his wife are concerned about the security problem as the studio has two large sliding doors which do not lend themselves to good security. Mayor Marix suggested it be converted to a permanent window. Mr. Rabkin stated they could put a brick wall there but the construction would be quite similar to what they have requested to convert the garage to living space, and he viewed the conversion of the garage as more convenient. Mrs. Wiener advised Mr. Rabkin the Council has great concern about taking the garage and turning it into living quarters and that is why a suggestion was made that they be allowed to convert the garage into living space for as long as he and his wife are living in the house and this is done to accommodate the people who are presently living in the house. She thought their lifestyle and dignity and the other things Mr. Rabkin talked about is the most reasonable approach to attempt to do what they would like to do, but it would be only as long as one of them is living in that house. Mr. Rabkin stated he may have objected a little too quickly as he didn't fully understand and asked if the requirement be only that the original door be replaced? Mr. Heeke responded it would have to be restored to a garage. Mr. Rabkin accepted the condition.

Mrs. Wiener moved that the Variance No. 14-92 be granted with the condition that it is for the lifetime of the residents of the home who are in it at the present time and while they are occupying it and that this condition be in a recordable form. Mr. Heeke asked if it would have to be restored to its original condition as a garage to which Mrs. Wiener agreed. Mr. Weinberg seconded the motion. On roll call, the motion carried unanimously for the conditional approval. Mr. Heeke noted they would still have the option to connect the studio to the house and they would have to come back to the Council and request that situation.

9. Variance No. 15-92 - Barry Banyan Trust & Lawrence Banyan Trust, 133 Banyan Road; to allow construction of a pool pavilion in the street side yard providing a 15' setback from Banyan in lieu of 35' required. R-A District. - Attorney Doyle Rogers addressed the Council noting this house has been landmarked, and they would like to build a pool pavilion in the style of the home. He stated there are two frontages, one on South County Road and one on Banyan Road. He advised there is heavy landscaping around the area where the pavilion is proposed to be built and the landscaping will be maintained. He stated the pool has been there for quite some time. He advised the most affected neighbor has been contacted and has no objection. Var. 15-92

Mr. Pandula, the architect addressed the Council indicating the pavilion will be approximately 330 square feet and this is a part of a fairly substantial restoration project.

Mr. Moore stated staff has looked at it and acknowledges this is a double frontage lot and they feel the structure could be placed elsewhere on the property, but the fact is the Council has granted several variances of pools in the front or side yard setbacks but rarely for accessory structures in those areas, so they see no hardship.

Mr. Ilyinsky moved that Variance No. 15-92 be granted. There was no second to the motion. Mrs. Wiener moved that Variance No. 15-92 be denied as no hardship has been demonstrated on this large piece of property. Seconded by Mrs. Douthit on the grounds that there is no hardship.

Mayor Marix asked what about the double fronted lot as this has been used as a hardship in the past. Mr. Moore responded the Council has considered that double fronted lot or triple or quadruple lots could be a hardship, however, in the past it was used as an extension of a principal structure, or in the case of accessory structures, the Council has permitted tennis courts to be located near the streetfront as well as swimming pools.

Attorney Rogers responded that this will be 19 feet from the pavement, however, it has been his understanding that a corner lot does present a hardship and the Council has allowed two variances today without a hardship and he truly believed they had one here. Mr. Rogers stated this is a voluntary landmarking and this could not be seen from either roadway. He stated none of the neighbors do object to it. Mayor Marix believed that for this kind of a landmark, they understand what is being done by the Town and the Council should understand what they want to do with the property, especially when there is a technical excuse that this is a corner lot and if they want to go further, they could even state there is a road on three sides, as one is a private roadway and she thought that when they think of what could be put there, such as a tennis court.

Mr. Ilyinsky stated it was ridiculous to deny it. Mr. Rogers agreed stating it gives a bad message to people who do voluntarily landmark their homes. Mr. Heeke stated he found a lot of merit in what the Mayor has said about respecting the fact that the residence is landmarked and sometimes special considerations should be given to them for that circumstance as he personally feels landmarking does enhance the structure, and it is an opportunity for the Town to give a subtle thank you. He has a lot of trouble with the hardship issue but wants to balance the equity of the landmarking and the size of the structure that is going to be done here, although he would rather see it located on the side.

Mrs. Wiener withdrew her motion to which the seconder agreed. Mr. Ilyinsky moved that Variance No. 15-92 be approved. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Var. 16-92

10. Variance No. 16-92 - Michael Kent, 920 South Ocean Boulevard; to allow construction of a 5' high property wall in lieu of 4' maximum allowed. R-A District. - Michael Kent addressed the Council requesting that a five foot property wall be allowed as they feel that four feet would not help them with the traffic noises and the people that stop to take photographs and they believe the five foot wall would allow them to have a better quality of life. He reported in the immediate area there are ten out of twelve properties which have five or six foot masonry walls. Mr. Moore stated if this is granted, it should be conditioned that it would not exceed the neighbor's wall to the north, which is almost six feet. Mrs. Wiener moved that Variance No. 16-92 be approved. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously. Mayor Marix suggested this matter again be sent back to the Zoning Commission for further consideration as in this day and age, a four foot wall does not allow much security and unless it creates some terrible wall barrier, she would like this to be looked at again. Mr. Heeke asked if the Council had any objections to which there was no response and Mr. Moore indicated he would add it to the zoning items to be considered next season.

Var. 17-92

11. Variance No. 17-92 - David & Sondra Mack, 958 North Lake Way; to allow construction of a two-story addition at the rear of the north end of the residence with a 10' side yard setback in lieu of the required 15'. R-B District. Attorney Robert Deziel addressed the Council, indicating this application was before Council in January which was to put a one story living space in a structure which was two stories high and now the applicant has a request to put a loft area there and this is an interior change only. Mr. Heeke wanted to make sure the Council was aware that there was an interior change made, however, the exterior remains the same. Mr. Deziel stated the application in January did not technically reflect what the owner wished to do. Mr. Moore indicated staff has no objection. Motion was made by Mr. Ilyinsky to approve Variance No. 17-92. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Var. 18-92

12. Variance No. 18-92 - Judith Grubman, 1102 North Ocean Boulevard; to allow construction of a guest house providing a street side yard setback of 20' in lieu of 30' required. R-B District. Mrs. Judith Grubman addressed the Council noting this was a variance which was previously approved and nothing has changed, it is just the time limit has expired. Mr. Moore stated there is no change and this is a landmarked house. Mrs. Wiener moved that Variance 18-92 be approved. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Mayor Marix reported Mrs. Grubman has across the street from her a building that is an eyesore and something should be done to have it torn down. Mr. Moore advised currently there is a Code Enforcement fine going on for the work done without a permit and they have tried to get in touch with the owner who have been noticed that if they do not demolish, the Town will do it for them and lien the property and recover the loss.

Var. 19-92

13. Variance No. 19-92 - Via Mizner of Worth Avenue; to allow construction of two roof terraces above the first floor; said roof terraces to be located adjacent to a second floor apartment on a one-story adjacent common building (Apartment R2-N) and the other adjacent to a third floor apartment on a two-story adjacent common building (Apartment R3-S). Mr. Ilyinskybelieved this was a wonderful idea. Mr. Moore stated it is in concert with the Town's Comprehensive Plan for the Worth Avenue area and the staff has no objection. Mr. Ilyinsky moved Variance No. 19-92 be approved. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Var. 20-92

14. Variance No. 20-92 - Raymond Stellar, 254 Atlantic Avenue; to allow construction of a two-family residence on a 10,000 square foot lot in lieu of 13,333 square feet required. R-C District. Attorney Brent Wolmer addressed the Council representing Mr. Stellar. He believed there was a significant hardship as the property has been in the Stellar family since 1955, and Mr. Stellar himself is 84 years old and presently and permanently resides in Washington, D.C. and his wife is of equal age and she's very very sick and is bedridden. He stated the house has been vacant for over two years and neither Mr. Stellar nor any of Mr. Stellar's family intend to come back to Palm Beach to live in the house, because, of their severe ill health. He indicated the house has been in an deteriorating state of disrepair for some time now and owning the home has caused Mr. Stellar severe financial hardship, both in paying the taxes and trying to keep the minimal upkeep in maintenance and repair that he has been performing. His client has made numerous attempts sell the property but unfortunately, the only people that who are interested in purchasing the property have been interested in putting in a two family unit as there seems to be no market for a single family home on this particular lot. He stated Mr. Stellar has been able to enter into a contract for the sale of the property contingent upon the contractor being able to put on the lot a two unit duplex. The contractor is presently building these two townhomes on the four lots adjacent to the four lots of Mr. Stellar. He exhibited pictures of additional residences on this street showing that there is significant multi-family use on that street, so although they are increasing the density and that is the purpose of the variance - they feel that the property would be used at the highest and best use and it would also alleviate a serious financial hardship for Mr. Stellar and because of the ill health of his wife and his own age of 84 years old and the fact that the house is abandoned and causes severe problems as he is not in a position to do anything with it as he has been unable to sell it and he

felt his request is reasonable under the circumstances and certainly evidences a hardship on the present owner and he felt that by allowing the two additional units as is on the adjacent property would certainly add to the aesthetics and value of the property.

Attorney Wolmer noted Mr. Stellar has written a letter to the Council which outlines also the very basis of what we are discussing today and on the basis of that hardship, he requested the variance be granted.

Mr. Moore advised the property in question did receive the benefit of the window when the zoning was changed two years ago requiring the 13,333 square feet versus the 10,000, but the problem with this particular application is that the applicant has significantly less than the required amount of square footage and it would be in conflict with our Comprehensive Plan as to density and indeed, there is a single family use within the immediate area, in fact, Mr. Lawrence owns the house - almost directly across the street which was built within the last five years. He stated the highest and best use argument is not one that a variance needs to be granted for to grant a higher and best use when the use is not permitted by density, within the Ordinance, therefore, no hardship is shown as far as the staff is concerned. Var. 20-92 (cont'd)

Mr. Wolmer stated he has been listening to many of the arguments today and hardship has been defined on an individual by individual basis. He stated they are not looking to increase the size of a bathroom, or increase aesthetics, but the situation is the home has been in the family for almost forty years and Mr. & Mrs. Stellar were good faithful residents of Palm Beach until their health has deteriorated and they are both now very old, very sick and really cannot financially afford to maintain the property and keep it in repair and the house is becoming an eyesore of sorts. He indicated the Stellars have made numerous attempts to sell the house and have had no takers because of the zoning issue. He reported they now have a contract in hand where their property can be sold and it would certainly, by putting up these two units and selling the property, it would certainly relieve a very serious financial hardship which Mr. & Mrs. Stellar are suffering at the present time. He believed that Mr. Stellar has stated that very eloquently in his letter and if there really is a definition of hardship, he thought this was it. He noted this house is becoming a real burden on these two people - they are aging and they really cannot afford to keep it up any longer and they request that you grant the variance and they feel that you would have these two very attractive townhomes and it certainly has not been receiving any objections from the neighbors. He recognized the increase in density but we are not looking to put up an apartment house here, we are really just looking to put up two very attractive townhomes and help Mr. & Mrs. Stellar out of their financial problem.

Mrs. Douthit stated she has all the sympathy in the world for the Stellars but she thought that the two - as the Council has given variances, but not to this degree as she believed they were over the 10,000 square feet. Mr. Moore responded there were two variances granted subsequent to the Ordinance change, were in the close vicinity of the 13,333 square feet - something like six or seven hundred feet variances - this is significantly more and to counterpoint the point made earlier about hardship today - one of the prior variances that were looked at were not in conflict with the Comprehensive Plan and this one is in direct conflict of the Comprehensive Plan.

Mr. Heeke noted there was a letter of objection also. Mrs. Wiener stated she was concerned about it being in conflict with the Comprehensive Plan, to which Mrs. Douthit agreed. Attorney Wolmer pointed out if this variance is not granted, he didn't know what's going to happen to this property, as he thought if the house there now was torn down and the townhomes put there, it would be an asset for the Town. Mrs. Douthit agreed, but stated their hands were tied due to the requirement in the Comprehensive Plan, to which Mrs. Wiener agreed. Attorney Wolmer pointed out there are many other multi-family uses in this block. Mrs. Wiener agreed but stated they were there before the Comprehensive Plan was in place. Mr. Wolmer asked if there was anything the Council could do in this particular case? Mr. Moore responded this is about reducing density wherever possible in any Zoning District. Mr. Heeke recalled it went through the Zoning Commission two and a half - three years ago to come within compliance.

Attorney Wolmer thought that if Mr. Stellar had been here and he knew about this, he would have taken some action at that time. He stated he has the feeling that the Council is very sympathetic and asked if there was anything he could do to help in light of the Comprehensive Plan? Mr. Moore responded the only thing that could be done is to submit a proposal to change the zoning because this would be tantamount to changing our zoning back to the 10,000 square feet.

Mrs. Wiener moved that Variance No. 20-92 be denied, solely because it is 180 degrees out of line with the Comprehensive Plan. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously for denial.

Mayor Marix asked Mr. Moore to look into some way to have the taxes reduced on the house as they went from $3000 to $6400 in less than two years. Mr. Wolmer responded the taxes have not really been the issue.

15. Variance No. 21-92 - Palm Beach Land Investments, Inc., Access to Windsor Court, a private street; to allow construction of 9' entry columns in lieu of 4' maximum allowed. R-B District. This matter was withdrawn. Var. 21-92

16. Variance No. 22-92 - Mr. & Mrs. George Mann, 930 South Ocean Boulevard; to allow construction of additional perimeter wall at 8'4" in lieu of 6' maximum allowed. R-A District. Mr. Jeffery Smith, Architect addressed the Council representing Mr. Ned Cook of 150 Via Bellaria and Mr. & Mrs. George Mann of 930 S. Ocean Blvd. He stated Mr. Mann has a contract to purchase property owned by Mr. Cook and the piece of property is south of the Mann property and serves as access to Mr. Cook's property at Via Bellaria and this access is to maintain the tennis court on Mr. Cook's property and is 50 feet wide. He stated the contract is to purchase 37' of the 50' lot to add to his property which will bring his lot into conformity and brings the setback of his house into conformity and increases the green space. He advised the variance is to construct a wall along the new property line and it will be similar to other walls in the area. Mrs. Douthit moved for approval on the grounds that the proposed wall will not disturb the neighborhood or would be a sight problem to anyone. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously. Var. 22-92

17. Variance No. 23-92 - Timothy & June Rooney, 160 Wells Road; to allow an increase in height of 6' gate posts to 8'5"; maximum permitted is 6'. To allow construction of a Var. 23-92

Var. 23-92 (cont'd)

7'9" screen wall thereby exceeding the 6' maximum allowed. R-B District. - There was no-one in the room at the time this variance was called and this matter was deferred to the end of the agenda.

Var. 24-92

18. Variance No. 24-92 - Palm V Associates, 250 Worth Avenue; to allow construction of a 60 square foot addition to a nonconforming building, a variance to Section 8.21. In conjunction with said addition, Applicant requests relief from any requirement to provide additional parking. C-WA District - Attorney Peter Broberg representing Palm V Associates addressed the Council. He advised the application is for a space now existing in the court yard to be squared off and be enclosed underneath an existing roof with the person in the new space to access a bathroom and storage area, which would be the addition of 60 square feet. He advised the parking space required for this additional square footage equates to a little more than a third of a parking space, and a technical variance would be required from the Council as there is no parking being provided.

Mr. Moore gave the staff comments noting there has been no hardship demonstrated.

Dr. John Whelton who lives directly behind the courtyard addressed the Council stating his objection because what is going on here is a group of variances being applied for now for storage, but they will probably be back next year to turn this squared off additional footage into another commercial space. He stated the new owners have put in floodlights to shine onto the courtyard and this lights shine directly into their kitchen and it is a nuisance.

Attorney Frank Lynch representing Dr. & Mrs. Whelton and Dr. & Mrs. Scher, Mrs. Vankennan, Mr. Geyer, Mr. Pryor and Mr. Demler, all property owners on Golfview Road, which is adjacent to the property for which the variance is requested. He believed the hardship doesn't exist and there are several other issues such as lot coverage and expansion of a nonconformity which need to be addressed. He noted the application states the variance is diminimus and to not grant it would cause an undue hardship, which Mr. Broberg stated he didn't understand.

Mayor Marix believed they needed to be very careful what is done here as the homes on Golfview Road are extraordinarily lovely, which back onto Worth Avenue.

Mr. Heeke asked about the hardship to which Mr. Broberg responded these houses should be landmarked, however, the building to which he is referring is in the C-WA District and is commercial. There is an alleyway behind these houses which act as a buffer as do walls, hedges, etc. He noted this area is commercial and what they are proposing is not conferring anything to this land owner that no other landowner up the street has, and that is he should have the ability to use his property as it can't be used as it is designed at the moment. He advised the Zoning ordinance has made all of these buildings nonconforming by lot coverage and by its' very nature, nothing can be done to these buildings. He stated the hardship is the buildings were built at a time when there were no setbacks and the building cannot be used as it is for storage and a bathroom and in order for the buildings to be updated, as they should be, they are asking for 60' and there is no other place where there could be future expansion.

Mrs. Wiener asked why the lights were shining into the residential area? Mr. Broberg stated he was not aware of that problem until today. Mr. Moore commented this would be controlled under the nuisance ordinance and he will look into it. Mr. Broberg advised if this is a problem, it will be corrected.

Attorney Lynch advised the alleyway to the rear of the properties on Golfview is owned in fee simple by each of the property owners along the north side of Golfview Road and is owned to the south side of the wall and also there is no access to the alleyway except by the homeowners.

Mrs. Wiener moved that Variance No. 24-92 be denied. Seconded by Mrs. Douthit.

Mr. Broberg commented that this would clearly be monitored by many people in this Town that no other construction can go on these properties on Worth Avenue.

On roll call, the motion carried 4-1 with Mr. Weinberg voting against the motion to deny.

Mayor Marix left the meeting at 6:42 PM.

Var. 25-92

19. Variance No. 25-92 - Palm V Associates, 224 and 224A Worth Avenue; to allow construction of a 933 square foot storage space addition providing a side yard setback of 4' in lieu of 5' required,provide a 3' rear yard setback in lieu of 10' required, and to allow a lot coverage of 84% thereby exceeding the 70% allowed. In conjunction with said addition, Applicant requests a variance from the requirement of 5 additional parking spaces. C-WA District. Attorney Peter Broberg addressed the Council for the applicant, indicating there is a request for a sandy area which is completely screened by walls and hedges and not in sight of any of the buildings on the east, west, north and south and they would like to build a storage area of 933 square feet, which is a passive use and would not increase traffic, simply for the storage of the tenants who own this property. He indicated this space will be completely screened and by the square footage would require five additional parking spaces. He did not believe the storage space requested would increase the number of people who would be shopping and they wished a variance from that parking requirement. He advised the hardship argument is the buildings as they stand now have been there for many years before the current zoning restrictions were enacted. He felt to continue to deny people the right to update their properties was a hardship.

Mr. Moore advised there is no hardship demonstrated.

Attorney Frank Lynch advised there is no showing of hardship and if granted, it would set a precedent and urged the Council to deny the request. He believed there may be an hidden agenda as it is a storage area today but what will happen in one or five or ten years when they want to turn it into a shop?

Mr. Broberg believed that what Mr. Lynch is saying is ludicrous as no-one can predict what will happen in the future.

Motion was made by Mrs. Douthit to deny Variance No. 25-92. Seconded by Mrs. Wiener. On roll call, the motion carried 4-1 with Mr. Weinberg voting against the motion to deny.

20. Special Exception No. 5-92 - Salvatore Ferragamo, 200 and 202 worth Avenue; to allow applicant to exceed the 2,000 square foot limitation on retail space permitting Salvatore Ferragamo Men's and Women's Shops to occupy 5,645 square feet. Total space of 5,645 square feet is obtained by joining the men's and women's shop by interior passage way. C-WA District. Attorney Doyle Rogers addressed the Council advising they wish to remove a partial wall between the men and women's shops so there can be access from both sides of the shops to the other. He stated the shops are now over 2000' and there will be no increase as of that 5,645 square feet, forty per cent is in storage space and 60% in sales space. He advised the applicant has proven to be town-serving and they have an audit of the sales slips from the time they first opened and the report of the independent auditors shows they are town-serving. Spec.Excep. 5-92

Mr. Moore gave the staff comments noting the Special Exception was granted to the applicant for the men's store and the ladies' store which exceeded the 2000 square foot limit. He asked if the parking was used for the express purpose of the two stores? Mr. Rogers stated the parking is used by anyone requesting same. Mr. Moore advised the parking belongs to that building and asked if it were being leased? Mr. Rogers stated some of the spaces are being leased to other merchants on the Avenue, although these are additional to the total number of spaces required by Ferragammo.

Mr. Moore stated he has no objection to the application providing the demonstration that the applicant is Town-serving as this is a change in the conditions of the original approval. Mrs. Douthit recalled there was a lot of discussion about this at the time the original was approved and they wished to keep the men and women's shops separate then and they are already over the 2000 square feet allowed and she thought this was a little much particularly when they are leasing out some of the parking spaces instead of saving the parking for their customers.

Mr. Moore asked Mr. Rogers how Ferragammo had achieved the Town-serving status? Mrs. Wiener asked also if each of the stores has the Town-serving or is one of the stores and is their tracking of the men's shop and a tracking of the women's shop, year by year? Mr. Rogers did not believe it was separately done but he would request a separate audit for each of the shops involved, come up with the two different percentages and bring this back to the Council.

Attorney Randolph advised the burden of the proof is on the applicant.

Mrs. Wiener moved that Special Exception No. 5-92 be deferred to the May Town Council Meeting. Seconded by Mr. Ilyinsky.

Mr. Adrian Winterfield addressed the Council pointing out the Ordinance says "number of customers" not "number of transactions" and if one Town person makes ten purchases, that would be one customer. He believed the audit presented was based on transactions. Mr. Moore stated the burden of proof is on the applicant on how they wish to demonstrate that and that was a major issue in litigation on this subject.

Mr. Moore asked Mr. Rogers to also address the parking issue as it was his understanding the parking that is the rear of the building was for this building only and he wouldn't be renting it out to other people on the Avenue, as that was a major issue when this was discussed originally when the shop was first opened. Mr. Rogers indicated he will revisit that subject with them. He asked if the interpretation of customer was correct or was it by transaction. Mr. Randolph believed "customer" under the Ordinance dealt with the number of purchases and not the amount of transactions or monies spent.

Motion carried unanimously on roll call.

21. Special Exception No. 6-92 With Variance - Lyon Sachs, Ocean Grand Hotel at 2800 South Ocean Boulevard; to allow accessory commercial uses customarily incident to hotels. A Variance from Section 6.54 (2) is requested to permit external advertising of accessory uses. R-D(2) District. Mr. Sachs addressed the Council stating the accessory commercial uses under the Ordinance are quite restrictive as anything done in his hotel would have to be for the registered guests only. He has piano recitals on Sunday afternoons and is not allowed to advertise this in the newspapers. He advised he holds jazz concerts on Thursday, Friday and Saturday evenings with a top jazz combo and is not allowed to announce this also. He believed this item was on the Zoning Commission's agenda for next year, but he would like special permission to hold these concerts this season. He felt these facilities are town-serving as the majority of people using the dining room are Town residents, but he needs to get the word out to them. He advised there are no parking problems. Spec. Excep. 6-92

Mr. Moore reported the Special Exception was granted to build this hotel several years ago and this exemption for accessory uses was requested at that time and was told that the Council wished to see the track record of this hotel operation before the outside uses were authorized. He stated Mr. Sachs is precluded from advertising these events by the Ordinance, which is the variance portion of the application. He indicated this particular issue is an item which will be considered by the Zoning Commission next year and Mr. Sachs was aware of that but wished to come before Council and have this matter considered on a special merit basis in that Mr. Sachs does now have competition he was trying to deal with.

Mr. Moore advised the staff recommendation is this matter is going to the Zoning Commission to be studied as it is known there is a problem and whether the Council wishes to act on this now or wait a year and hear the Zoning Commission's recommendation is a matter the Council can consider today.

Mr. Sachs stated the hotel is conforming as it is a Special Exception and secondly, they have the most elaborate facilities available for this type of use of any of the hotels in this area. He noted at the south end of the Town, they are the only hotel which has the facilities of dining and meeting rooms. He felt in the center of the Town, they are different hotels with different zoning. He asked the Council to use their prerogative to separate his hotel from the total picture and he made the commitment if the Zoning Commission comes up with something different, he would be willing to come back to the Council and revisit the issue.

Mrs. Peters advised a letter has been left by Mr. Kalmon Druck who was here most of the day but had to leave. She stated the letter was from Mr. Druck as President of the Ambassador and from

Spec.Excep. 6-92 (cont'd)

Mr. Eugene Schleiser, President of the Cove: "The Ocean Grand Hotel has applied to the Town Council for permission to advertise in the media when they have piano recitals, seminars and similar events. This would call for a Special Exception from the Zoning Ordinance. We would like to testify that the Ocean Grand Hotel has been a good neighbor and we feel that it is in the best interest of the area that the hotel prospers and continue to be an asset to the community. We are not opposed to the variation for this specific purpose."

Mr. Ilyinsky felt that Mr. Sachs has dealt candidly with the Council over the years and right down the street is a hotel which has no restrictions on advertising to the world where they are and they call themselves the Ritz Carlton of Palm Beach, which irritates him as they are not located in the Town of Palm Beach but in Manalapan and he wishes them all the luck in the world. He felt Mr. Sachs runs a hotel in the Town who is looking for relief and made the commitment that if the Zoning Commission has a problem, he will come back and address it again with the Council and he wished to find a slight window to allow Mr. Sachs a little relief. Mr. Heeke reminded the Council this is a permitted Special Exception Use and is conforming in that particular location and the other hotels in the center part of Town are non-conforming. Mr. Weinberg asked if Mr. Randolph had any suggestions. Mrs. Wiener asked if relief could be given without attempting to second guess the Zoning Commission by allowing what is to be granted today to be sunsetted after April 30, 1993.

Mrs. Douthit had no objection to this but believed if it is done for the Ocean Grand, there will be other applications from other hotels to do the same thing. Mr. Moore stated there would be a differentiation as the Ocean Grand is in the RD-1 and RD-2 zoning districts.

Mr. Randolph understood the application was to allow the applicant accessory commercial uses customarily incident to the operation of hotels and the way it is determined whether something is customarily incident to the operation of hotels is if it is primarily for the use of guests but not exclusively for the use of guests. He believed if this was granted they would be allowing a use which is not allowed by the Zoning Ordinance to grant a Special Exception. Mr. Sachs responded when he had the financial seminar at the hotel he was told there were two reasons why he could not have it, one was it was in violation of that portion in the ordinance which states it was designed primarily but not exclusively for the use of hotel guests; and secondly, if it is advertised, he is in double violation as he was told there were two completely separate violations. He was told about the piano recitals that he was not allowed to announce there would be recitals and secondly, he was not allowed to collect money. Mr. Randolph stated they all relate to each other. He noted that Mr. Sachs is asking to conduct a commercial use accessory to the use of the hotel and he doesn't have to ask for that as he can do that but the way the determin- ation is made if something is accessory to the use of ho-tels is whether it was primarily for the use of the guests but not exclusively for the use of the guests. He stated if something is advertised separately to the outside not in conjunction with the hotel, they need to say "Come visit our fine restaurant" that would be violation of the accessory use provision of the Zoning Code as they tie in together.

Mr. Randolph stated any business which is accessory to the use of the hotel can be conducted, but when they start to conduct a business which is not accessory to the use, there is a problem and he could not allow the Council to grant a use which is not truly accessory. He stated if the Building Department wants to state that financial seminars are an accessory use of the hotel, they can do that but he didn't believe the applicant should come to the Council to seek a use which isn't allowed by the Zoning Ordinance. Mr. Moore stated a variance is necessary to the restriction on the prohibition of advertising to the outside.

Mr. Ilyinsky moved the variance to the restriction on the prohibition of advertising to the outside on accessory uses be granted. Seconded by Mr. Weinberg. Mr. Moore noted this variance would only be good for one year.

Mr. Ilyinsky restated the intent of his motion was to approve the variance for a one year period to expire on April 30, 1993 and grant a variance to permit external advertising for accessory uses for the Ocean Grand Hotel. Mr. Randolph stated they would not be allowing the Hotel to conduct any other use other than what is accessory to the hotel. Mrs. Douthit asked if the advertising done would be strictly on a local basis? Mr. Sachs stated the advertising would be local - in the State of Florida in this general area, as in any other advertising they would be advertising the hotel facilities, so what he is talking about today would be the Shiny Sheet or local publications.

On roll call, the motion carried unanimously.

Mr. Moore noted there was a Special Exception application and asked Mr. Sachs if he would be willing to withdraw that application? Mr. Sachs responded affirmatively.

Spec.Excep. 7-92

22. Special Exception No. 7-92 With Variance - Hy Goldfeld, Bice Restaurant; to allow twenty outdoor seats pursuant to Section 6.61. A Variance to the requirement in Section 6.61 that the outdoor seat shall not increase the present allowable seating capacity. A Special Exception is requested to permit required parking within 500' per Section 6.20(d)(1). C-TS District.

Attorney Peter Broberg addressed the Council indicating he was representing the applicant. Mrs. Wiener asked if this was not the one voted on and permitted last year? Mrs. Douthit recalled they didn't live up to the parking agreement so it fell apart. Mr. Broberg reported the major corporate head was in New York and there were some changes in the organization and since part of the approval was a condition that the applicant had to enter into a recordable parking agreement and although the parking spaces were secured, the agreement was never entered into and now they are coming back with the parking in place and they are asking the Council to grant this again for a year and the agreement will be in recordable form. Motion was made by Mrs. Wiener that Special Exception 7-92 be approved contingent upon the recordable parking agreement being received within thirty days. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Spec.Excep. 8-92

23. Special Exception No. 8-92 With Variance - Power-Love Associates, The Gucci Building, 256 Worth Avenue; to allow a restaurant which will occupy 2,326 square feet thereby exceeding the 2,000 square foot limit. Pursuant to Section 6.21(d)(1), allow required parking to be off-premises within 500', with a Variance request to allow parking in a district differing from the restaurant use. C-WA District. Attorney Peter Broberg addressed the Council on behalf of Power-Love Associates who have purchased the Gucci Building and wish to a restaurant which is a Special Exception Use in the C-WA District and proposed to be 2,326 square feet, which exceeds the 2000 square foot limit.

Mr. Broberg recalled if one walks and looks back into this area where the restaurant is proposed to be, they will see a row of dumpsters. He felt this restaurant would be a benefit to the area and improve the quality of life for the people who live on Golfview Road as part of the application entails a trash freezing area which is a process which will eliminate the odors. He felt the purpose of C-WA is to promote an area comprised of commercial and residential mixed uses and restaurants are permitted Special Exceptions and this restaurant would have a kitchen 1178 square feet and actually would be a little larger than the dining area which is 1148 square feet. He stated they are 326 square feet over the allowed. He stated the applicant owns the parking lot on Peruvian Avenue which is C-TS zone and to have off-street parking in that area, they needed to have the Special Exception granted with variance. He noted there is no parking available on the property itself and the Ordinance requires off-street parking be provided within 500' in the same zoning district. He stated the parking can be provided on the applicants property in the C-TS sufficient to accommodate the 2326 square feet required for the restaurant. Spec.Excep. 8-92 (cont'd)

He pointed out they could have a gourmet food take out service here without a variance or Special Exception and he asked they consider the restaurant and the food preparation area and the trade-off is it will increase the quality of life in this area with the trash compacting freezing process. Mrs. Douthit saw a problem with the pick-up as they can't go down the alley to collect the trash, and also the parking for deliveries needs to be addressed. Mr. Broberg advised there are trash trucks up and down the alley all day long collecting the refuse of the houses on Golfview. Mr. Broberg advised there are deliveries made on Worth Avenue for the restaurants on the north side of the street all day long and trash pickups are also made.

Mr. Moore gave the staff comments: Police: parking problems need to be discussed in more detail; Public Works: solid waste needs to be addressed; Building Department states the property abuts R-B zoning and the restaurant is over 2000 and they need to address the Town-serving issue. Town Manager wishes to have comments on the impact to the residential area.

Attorney Frank Lynch addressed the Council on behalf of the homeowners on Golfview all who oppose this application and one of the things that have not been addressed is the statement by Mr. Broberg that he is entitled to the Special Exception Use. He believed the Town Council needed to address several issues, that the restaurant would have no impact on the public health, safety, welfare and morals. He felt the alleyway owned by his clients needs to be made accessible as far as public safety equipment is concerned. He believed the use of the property formerly was as a gallery and there is no parking lot for the types of deliveries that are needed on a daily basis by a restaurant. He felt there needed to be shown a compatible use as this does abut a residential zone. He didn't believe there was access to off-street parking and also to be addressed is whether or not public safety equipment could be accommodated in the event of an emergency. He stated one aspect has been addressed as regards the smell of garbage. He stated there will be a garbage pick-up and it would have to be along Worth Avenue.

Mr. Broberg stated with regards to the Town-Serving aspect - the restaurants studies that have been presented to the Council before have shown definitively that every restaurant draws its clientele from a five mile radius. He thought in the past Council has been exposed to banks and other restaurants and by their very nature, they are Town-Serving and will accommodate more than 51% of the Townpersons and if that is necessary to prove, that will be done on an annual basis.

Mr. Broberg commented on the alleyway, which he viewed as nothing more than a benefit to the health, safety and welfare of the people who live on Golfview as it is a gap between one zoning area and another zoning area and will act as a buffer.

Mr. Broberg commented on the trucks parking on the road, and if the Council feels there is a concern with some of these items which go on with restaurants, he asked if the Council to defer and they will take some videos and show the Council exactly what goes on on Worth Avenue.

Mrs. Wiener felt the real problem was that it abuts a residential district. Mr. Broberg pointed out there is a very large kitchen to the west which abuts a residential area. Mrs. Wiener believed the Everglades Club was there before the homes were built and it doesn't abut the homes.

Mr. Broberg reminded food preparation could be put there without it coming before the Council and the same odors will be there which may not be as controlled. Mrs. Douthit didn't think they would have anyone to buy it as they wouldn't have any seating. Mr. Heeke agreed with Mrs. Wiener that this has more of an impact on the residential than the restaurants on the other side of Worth Avenue. Mr. Broberg asked if this could be deferred and see if they can come back with something that will be satisfactory.

Mrs. Wiener responded the topography will not change or what is there will not change, no matter what he does. Mr. Broberg responded they can prepare food there without coming before the Council. Mrs. Wiener responded there is no one taking anything away from him and she didn't think the Council was willing to take anything away from the residents on Golfview, and that is what it boils down to. Mr. Broberg asked for the opportunity to come back. Mrs. Wiener asked for what? Mr. Broberg responded to show the Council it will not impact the residents on Golfview Road.
Mrs. Wiener felt everyone had a different way of interpreting and she didn't think was reasonable nor made any sense and asked if another member of the Council wished to make a motion to defer to which there was no response.

Mrs. Wiener explained evidently that was the sentiment of the Council and it wasn't that he was not making a good presentation, it was the fact that there just was not a good case to present. Mr. Broberg understood the concerns expressed by the Council and by the neighbors, but he has presented the case and complied with the Special Exception requirements and the rules of the variance procedures and if he has been turned down because of sentiment, that was not proper. He felt if the Council had this concern, they should have taken this out of the Code and put in a restriction that there would be no restaurants on the south side of Worth Avenue.

Mr. Moore recalled the Zoning Ordinance was changed about five years ago and took out restaurants as a Permit-ted Use and made them a Special Exception Use so the Coun-cil could look at every restaurant application and how it would affect the neighborhood, which is why it is here today

Mrs. Wiener moved to deny Special Exception No. 8-92 on the basis that no hardship has been shown on the variance request which was attached to the Special Exception and the Special Exception portion be denied on the basis that he hasn't met the criteria as set forth in Section 6.40. Mrs. Douthit stated nor have they addressed the Town-Serving aspects. Mr. Randolph stated that is in the criteria set forth in Section 6.40 and such things as the use would not cause substantial injury to the value of other property in the neighborhood and the use will be compatible with adjoining development and the intended purpose of the District.

Mr. Heeke believed the objections raised by Attorney Lynch have not been fully addressed either. The motion was seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

C. Other

Storm Drainage Improvements

1. Consideration of Proposed Cost Apportionment Formula Between the Flagler System and Town of Palm Beach Regarding Storm Drainage Improvements Attorney James Brindell addressed the Council on behalf of the Breaker's Hotel, noting last time he was here he proposed an interim drainage program to provide relief on South County at the entrance to the hotel. He recalled they have been talking about cost-sharing for several years as to what the Town's share would be and the Breaker's share would be and has had conferences with staff members of the Town who would like their share to come out to zero. He stated their view is that the road is not owned by Town but by the Department of Transportation and therefore, it shouldn't be the Town's responsibility.

He advised they do have the plans prepared for the interim program and are about to go for bids and construction could be started next month, so that is moving forward.

He reported the staff has recommended they go to the Department of Transportation and request financial assistance from them and if DOT was willing to do it, that would be fine, but if not, he felt the Town should bear that share. He reported in his meeting with Mr. Dusey, he stated the amounts have not been precisely calculated and Mr. McCarthy of Mock Roos, the Breaker's engineer, believes the non-Breaker's proportion would be between 5 and 15 percent. Mrs. Douthit asked where would that come from? Mr. Brindell stated part of it is water that drains into the roadway that is not off of Breaker's property and it collects from the rains and other drainage.

Mrs. Douthit stated she could hardly believe that as there is no property there owned by the Town. Mr. Brindell felt the Breaker's should not have to pay for drainage which does not come from the Breaker's property. Mrs. Douthit felt the driveway to the Breaker's looks it might contribute 99.9% of the water there. Mr. Brindell did not agree.

Mrs. Wiener asked if they would agree to one per cent? Mr. Brindell states that is what the Town's staff thought it might be from the Transfer facility. He suggested if they can't agree on a specific allocation on the long term project, perhaps they could agree on the interim project. He advised he will go to the DOT and see what they say.

Mr. Brindell stated the interim project is budgeted for $275,000 and a portion of that relates to the Golf Course and the two drainage ponds, but if they would address the pure drainage part, it would be in the $100,000 range.

Mr. Heeke felt it was much better off arguing before the DOT if there is no indication from the Town Council of its willingness to participate and then it will be clean issue going before them. Mr. Brindell expressed his opinion that this is a complete reversal of what has been discussed for almost three years. Mr. Heeke believed they were talking about $5000. Mr. Brindell did not believe the interim project was that big of a problem, but no-one knows as yet what long-term requirements will be for the more permanent drainage plan. Mrs. Wiener felt that was the problem as if they commit themselves now, a base of precedent would be built for the rest of it.

Mr. Brindell advised the Town's engineer believes it could be calculated very easily but he and the Breaker's engineer, Mr. McCarthy have not come to any unanimity over that. Mr. Heeke asked if they had come up with an amount? Mrs. Wiener asked what the amount was on the overall project? Mr. Brindell advised on the time schedule agreed to, that process is not expected to produce a cost estimate at this point. Mrs. Wiener did not believe the Town could put itself in that position, as it is easy enough to pay five per cent of $100,000 but it may be much more to which Mr. Brindell agreed stating at the same time they should not be under an obligation to pay for drainage which is not coming from their property.

Mr. Dusey addressed the Council indicating that he and Mr. McCarthy did meet and talked about it once on the phone, but no calculations were prepared at that time as they didn't know about some decisions that the staff had made regarding the drainage off of Cocoanut Row, as it was decided to not drain anything off of Cocoanut Row through the pump basin, which is the ultimate thing that is coming and it is very expensive. He stated they felt it was reasonable that the Pine Walk drainage contributed to the need for some small piece of the pump station and they ought to pay for that, and that is why there have been no figures calculated.

Mr. Dusey stated his impression after talking to Mr. McCarthy that the five to fifteen per cent were kind of ball park figures, as drainage calculations are very easy to figure percentages on. Mrs. Wiener did not believe this could be decided on tonight and suggested it be deferred until the next Council meeting after the meeting with the DOT.

Mr. Heeke felt it should be left in an investigative status.

Motion was made by Mr. Ilyinsky to defer this item. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Mrs. Wiener left the meeting at 8:05 PM.

Var. 23-92

Item 17. Variance No. 23-92 - Timothy and Rooney. There was no one in the room at this time and this matter was deferred on motion of Mr. Ilyinsky, seconded by Mr. Weinberg. On roll call, the motion carried unanimously

Apava Subdivision

2. Consideration of Proposed Amendments to Plat of Casa Apava Subdivision by A. Paul Prosperi Attorney Rick Harris on behalf of Mr. & Mrs. Hansen, the owners of the Casa Apava Plat addressed the Council. He advised Mr. & Mrs. Hansen are seeking an amendment to the dedication made on the Casa Apava Plat and it is believed the proper procedure for doing that since the Hansens own all of the lots, and some of the dedications are made to a Homeowner's Association, which has not been created, they feel the change can be done by proper documentation and they believe they should have the Town's consent.

Mr. Harris stated he was prepared to discuss each one of the proposed amendments and then launch into a presentation to do that. Mr. Heeke asked staff for a synopsis.

Mr. Doney explained in the back-up there is a memorandum dated April 2, 1992 from Mr. Bowser and Mr. Dusey describing the Public Works Department's comments on the proposed language changes and called for their comments. Mr. Bowser advised his letter to Mr. Moore dated 4-2-92 contained four items and Item 1 he was concerned about the maintenance and drainage. He asked if the Homeowner's Association would remain to which Mr. Harris responded negatively. Mr. Bowser noted Item 7 stated some drainage easements would be dedicated to the Homeowner's Association and he was not sure who would be taking care of the drainage if there is no Homeowner's Association as if the easements are dedicated to the Homeowner's Association, who will operate it? Mr. Heeke believed it would fall to the individual property owners. Mr. Bowser stated the drainage plan was approved for the whole subdivision so the operation of the maintenance of the easements is a question.

Apava Subdivision (cont'd)

Attorney Paul Prosperi, representing some contract purchasers addressed the Council, stating the problem is the Homeowner's Association never came into existence so what they are trying to do is to rewrite it so instead of burdens and benefits running to the Homeowner's Association, they would run to the particular property owners who would be benefitted or burdened, with the perimeter walls and the seawalls and the drainage easements. He stated they will do away with the unnecessary ones and do away with the concept of the Home- owners Association so the benefit and burden will fall to the seven named property owners. Mr. Heeke believed in effect these would be cross easements to which Mr. Prosperi agreed. Mr. Heeke asked what infrastructures are there and what would be the Town's responsibility? Mr. Harris stated as he reads the dedication, the only infrastructure that have been dedicated have been the maintenance responsibility would have been the drainage and he didn't believe there was anything else.

Mr. Prosperi stated the way the dedication was written is the Association would have the responsibility for maintaining the perimeter walls and the seawall and what they are doing now is saying the responsibility for the seawall that traverses Lot 5, for example, would fall to that property owner and the perimeter wall that traverses Lot 5 would be the responsibility of the property owner on Lot 5 and this would eliminate the attempt for an assessment mechanism in the Plat which would enable the Association to make assessments and also, would eliminate the need for access easements and the maintenance of them. He was not aware of any other infrastructure as each property has its own stormwater, sanitary water and water and electrical access directly to that lot and there will be no common walls as the access will be directly off South Ocean Boulevard.

Mr. Ilyinsky asked what happens to the mangroves in that area? Mr. Prosperi responded in trying to figure that out, you would have to deal with Town of Palm Beach; the Palm Beach County Department of Resources Management, Department of Natural Resources, Department of Environmental Regulation, the U. S. Army Corps of Engineers, South Florida Water Management District and with respect to the filling of the lot, you would have Federal Emergency Management Administration and the National Flood Insurance Program.

Mrs. Douthit asked what happens when a neighbor feels another neighbor is flooding them out? Mr. Harris stated they are not removing anything that would change that situation at all as there are certain rights which each property owner has and they exist without the dedications.

Mr. Bowser stated there are some questions not answered such as the drainage easements as shown are hereby dedicated to the Casa Apava Homeowners' Association, Inc., and that requirement is not being deleted and he wants this to remain in effect. He recalled there were easements on the east side of A-1-A and there was a common area at the bottom of the hill to be used as a retention area and there was a stub-out from the drainage system from A-1-A that they built to the Intracoastal Waterway which these lots would be able to drain into, so there is a pipe there which someone needs to claim the responsibility for maintenance. Mr. Heeke stated that was his point when he talked about the infrastructure.

Mr. Heeke stated his concern about the Homeowner's Association would be a legal entity or a corporation which could be easily formed and there are service organizations which can be hired to manage and run them if the homeowners are not interested in maintaining it. He felt there were some options and they could also have a defacto Homeowner's Association. Mr. Harris did not believe there was a problem in allowing the Homeowners Association as outlined in Item 7 to stay in tact for this purpose as it would not be necessary to have it for the balance of the purposes where the other dedications are being removed, so the sole function would be to maintain the drainage structures and that would be a way of prorating any cost of maintaining the structures among the homeowners.

Mr. Heeke felt it would be good from the Town's perspective to not have to worry about the repair of a perimeter or seawall as that would cut down governmental interference. Mr. Harris understood this but with respect to the walls, it is something that each homeowner should have to take care of and there is a problem as if there is each owner is participating in a homeowner's association, then having to pro rata pay for their share of fixing a wall on someone's else's property. Mr. Prosperi stated they had no intention of doing away with the drainage easements but with the other easements they are doing away with, if there is a wall on a property, it would be that property owner's responsibility and these walls are being set back from the property line, that was the reason they tried to distinguish those things where the perimetrical boundaries of the properties with each separate property owner's lot line would determine the responsibility the maintenance way and saw no reason to distinguish between the seawall on Lot 5 from any other, as each would maintain their seawall. He stated on the drainage easement they were left in place as that seemed to make sense.

Mr. Heeke believed this should be deferred and discussed among the staff and Town Attorney as he felt uncomfortable being in a position to undertake some things that they might not otherwise have to do. Mr. Randolph stated he has been in touch with staff on the modifications and he thought they had to come to Council to make any changes and he has not been involved as to what needs to be taken care of to satisfy the Town as far as drainage, etc., and that can be looked at and he will advise the Council further.

Mr. Heeke stated he was concerned about the mangroves.

Mr. Moore reported the applicant already knows the Building Department is objecting to the fact that the mangroves as they wanted to take their opportunity here to remove it and use the issue that there are sixteen other agencies that regulate mangroves, but we have told them that the

Apava Subdivision (cont'd)

easement must stay as some sort of responsibility and needed to be addressed, but they feel the mangrove line needs to stay. He understood they may reverse their stand on the mangrove line but they wanted to have an opportunity to address the Council on it. He stated they do have the opportunity to mitigate the mangroves anyway under a mitigation plan which would be handled separately through all of the agencies, including the Town, but then the Town would not be abdicating its rights as the last agency to review it.

Mr. Prosperi indicated he would be happy to defer this matter and come back to the Council at a later date. Mr. Heeke agreed and asked them to come back to the next Council meeting and look over the mangrove area and the common drainage easement problem. Mr. Harris stated the wall maintenance question is a new problem to him and that should be looked at. Mr. Heeke stated that is another issue and as a practical matter would be better handled with the Town dealing with a single entity rather than a group of property owners. Mr. Harris stated he lives in a waterfront community and there is no property owner's association and everyone expects to take care of its own. He stated on the drainage issue, they could leave the Homeowner's Association in place to maintain the drainage structures. Mr. Heeke stated if they are having the Association left in place, part of the argument is it hasn't been set up and it isn't going to be set up because it is unwieldy and here they are setting it up for another purpose. Mr. Harris stated he couldn't state that just because it hasn't been set up is the reason it couldn't exist, as it is a simple matter to create, but by the same token, they are trying to simplify it as much as possible.

Mr. Harris recalled there are many associations that do nothing but maintain drainage structures for the South Florida Water Management District, so that is not an unusual situation and that can happen, but what they are trying to do is to simplify it so they don't have to have a Board of Directors for this small number of lots. He believed the walls could be maintained and repaired by each property owner whose responsibility it is.

Mr. Heeke announced the matter is deferred until the next meeting.

XV. COMMUNICATIONS FROM CITIZENS - 3-MINUTE LIMIT -

Communications from Citizens

A. Adrian Winterfield addressed the Council on the PUD-4 which will considered on the Mar-a-Lago property later in the week, he suggested there are several issues which should be addressed which do not pertain to the substance of the application itself, but he felt are important in the procedure after the Council makes its decision:

(1) Establishment of the PUD change in zoning?

(2) When does the period during which time the public may request a referendum - commence?

(3) Is the procedure for conducting the referendum as spelled out in the Zoning Ordinance the applicable procedure?

B. Consent Agenda - Mr. Winterfield pointed out on the Agenda today there was a resolution on it which awarded a bid and he thought items of that kind should not be on this Approved Agenda.

XVI. ANY OTHER MATTERS -

Letter from Mr. Hudson - West Palm Beach Marina

A. LETTER RECEIVED FROM MR. HUDSON ADDRESSED TO MAYOR MARIX. Mr. Doney noted the Mayor wished to address this item which was written on the proposed West Palm Beach Marina, but she has left the meeting. Mr. Heeke suggested she write a memo which can be circulated to the Council. Mrs. Douthit stated there was a question about the bridge traffic and the opening and closing of bridges to encompass a larger marina. Mr. Heeke suggested it be included in the Mayor's Comments at the next meeting.

Reorganization of Finance Dept.

B. REORGANIZATION OF FINANCE DEPARTMENT. Mr. Doney noted there is a memorandum in the back-up of the Mayor and Council on the reorganization and the appointment of Mrs. Crozier as Finance Administrator.

Letter - Elderd, PB Co. Film Liaison Office

C. LETTER FROM CHUCK ELDERD, PALM BEACH COUNTY FILM LIAISON OFFICE. Mr. Doney noted a letter has been received from Mr. Elderd asking the Town to allow his office to be a one stop permitting process for movie making, to which the Town Council did not agree.

Letter - Bouchlas ship-wreck archeology

D. LETTER FROM REV. ROBERT BOUCHLAS OF ST. MICHAEL PRESS PUBLISHING COMPANY. Mr. Doney stated the Town staff's initial objections and comments have not been addressed with regards to a Dredge and Fill Permit to conduct excavation of ship-wreck archeology activities offshore between Wells Road and Via Marina. Town Council unanimously recommended Mr. Doney follow through on this matter with the Town's objections to DER.

Letter - Prudden erosion problem

E. LETTER FROM MR. PRUDDEN DATED MARCH 16, 1992. Mr. Doney recalled in 1988, this matter was discussed with regards to property ownership at the north end and the Town Council's policy decision in 1988 was that the Town would not provide any financial commitment to addressing the erosion problem as the properties are all privately owned. Town Council agreed that their position had not changed.

Letter - So. PB re: Beach Renourishment Council

F. TOWN OF SOUTH PALM BEACH'S LETTER TO MR. ILYINSKY REGARDING BEACH RENOURISHMENT COUNCIL. Mr. Doney stated the Town of South Palm Beach has asked for financial participation in a beach nourishment project with the Town of South Palm Beach, Town of Manalapan, Town of Lantana, and the Citizens Association South of Sloan's Curve. Mr. Heeke suggested this be put over to the Town Council May meeting.

Budget for FY92-93

G. BUDGET FOR FY92-93. Mr. Doney clarified the budget will be prepared as it has been in past years, as there were discussions of alternatives earlier today, but he wouldn't alter the procedure unless the Town Council directed he do so. Mr. Heeke indicated he was comfortable with the past procedures and anyone can ask the questions on particular line items. Mr. Doney responded he didn't wish to have miscommunication or misunderstandings on this. Mr. Heeke commented on an overall optimum society, they would like to look to the future and have long range planning, but for this particular budget, they have to look through it the same as they have prior budgets. He didn't believe anyone wanted to jeopardize any of the levels of services provided and he had confidence in staff to minimize unnecessary increases.

H. RE-ESTABLISHMENT OF THE COASTAL CONSTRUCTION CONTROL LINE. Mr. Doney announced the public hearing on this matter will be held on May 27, 1992 at 7 PM by the Department of Natural Resources in the Town Council Chambers.

XVII. ADJOURNMENT - Meeting adjourned at 8:45 PM. Adjournment

Grace T. Peters
Town Clerk