MINUTES OF THE TOWN COUNCIL MEETING HELD ON APRIL 11, 2000

I. CALL TO ORDER AND ROLL CALL

The Town Council Meeting was called to order by President Jack McDonald at 9:30 a.m. on April 11, 2000, in the Town Council Chambers. On roll call the following Elected Officials were found to be in attendance: Mayor Lesly Smith, President Jack McDonald, President Pro-Tem Samuel McLendon, Councilman William Brooks, Councilman Norman Goldblum, and Councilman Allen Wyett. Also in attendance for all or a portion of the meeting were: Town Manager Robert Doney, Town Attorney John Randolph, Chief Code Compliance Officer Brian House, Finance Director Jane Skittone, Fire-Rescue Chief Vincent Elmore, Golf Pro Richard Dytrych, Human Resources Director William Crouse, Information Systems Manager Spencer Wilson, Planning, Zoning & Building Director Robert Moore, Assistant Planning, Zoning & Building Director Veronica Close, Zoning Administrator Paul Castro, Planner/Project Coordinator Timothy Frank, Police Chief Frank Croft, Public Works Director Al Dusey, Public Works Administrative Assistant Charlotte Van Horn, Purchasing Agent Charles Boggs, Recreation Supervisor II Alan Brown, Recreation Office Manager Lisa Walkowich, Risk Coordinator Karen Temme, Town Engineer James Bowser, and Town Clerk Mary Pollitt.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

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

III. PRESENTATIONS

A. Presentation of the Town's 17th Annual Par 3 Pro-Am Benefit Proceeds to the Rehabilitation Center for Children and Adults and the Town's Recreation Department

Mayor Smith presented a check in the amount of $8,800 to a representative of the Rehabilitation center for Children and Adults.

B. Recognition of Pamela Hoffpauer, Zoning Commission, From 1998 to 2000

Ms. Hoffpauer was not present at the meeting.

C. Recognition of Max Schorr, Code Enforcement Board, From 1999 to 2000

President McDonald presented a plaque to Mr. Schorr, recognizing his service on the Code Enforcement Board from 1999 to 2000.

IV. COMMENTS OF MAYOR LESLY S. SMITH

Mayor Smith made the following comments:

"Thank you. We have a busy agenda but I do have some comments. We seem to have so much before us that is controversial that I think I will begin with remarks that, surely will NOT be controversial...and I hope you won't think that out of character for me.

"I was one of the fortunate participants two weeks ago in the Police Academy course on crime prevention and I have to tell you, it was fabulous. Thanks to the Shiny Sheet, many of you have read about how much fun we had and more important, the critical lessons we learned about how, as citizens, we can be of service to our Police Department.

"My congratulations to Chief Croft, Assistant Chief Reiter, and Janet Kinsella for spearheading this incredible program; I encourage everyone here today to take advantage when it is offered in the future.

"In the same vein, hats off to Fire Chief Elmore and our Beach Patrol for the public safety course on CPR and how to use the defibrillators that are becoming common in many public facilities. I have to tell you, at the beginning of the class the dummy I was assigned - a real dummy, I'm not casting political aspersions - was in real danger of dying if it was counting on me for survival. Like many of you, I suspect, I had a vague idea of how to do all this - but when faced with actually doing it, I had a lot to learn.

"Thanks to the men on the Beach Patrol, I have acquired some new skills. I was thinking of applying for a lifeguard job this summer.

"Speaking of the beach, in our ongoing mission to save our shoreline, I note that we have a letter dated April 8th from Mr. Cooley suggesting that we hold funding our beach protection plan until we make a claim against the Federal government, and asking some questions about pursuing state government, as well, I have two comments on this:

"First, the criticism most frequently leveled at government is that it moves too slowly.

"In the case of beach preservation, we moved carefully and methodically; we hired the best experts in the country to conduct a study, we appointed a citizen task force to evaluate their recommendations, we debated the merits of our plan at public forums and we finally approved the plan this winter. Mr. Cooley also wonders what we have done with our State Legislature regarding the ECL line and state funding. Let me repeat what I said before: We have contacted the appropriate state agencies and I myself, if appointed by the Council, will be going to Tallahassee to advocate for our beach issue and ECL issue. However, I would like to hear Mr. Randolph's opinion on the appropriate actions.

"We have before us today some options for renovating Town Hall and allocating the space we acquired in negotiating with Neiman Marcus. I have been very clear about my preference for park space and, while we are indeed sitting in each other's laps in Town Hall - well, almost - we don't need to emulate the School Board's Taj Mahal. I hope we can find an option that maximizes our public facilities while still leaving the green space for rest and contemplation. The negotiations have been initiated by the Building Department for space at 375 South County Road. The price per foot of $25 is completely out of line and if we are not offered an amount of approximately half of that or a little bit more, I would recommend that we walk away from that situation.

"Also on our plate today are some recommendations for changing how we choose boards and commissions and consideration of some occupations - architecture and real estate, for example - that may present conflicts of interest. As a former member of ARCOM and a staunch supporter of the Landmarks Commission, I can't stress too strongly the importance of an architect's perspective on BOTH these commissions. So I would highly recommend that the exemption from conflict we extend to architects on ARCOM be extended, as well to members of the Landmarks Commission.

I believe we should request a ruling from the Florida State Commission on Ethics. Further, it is my belief that the Commission will support Mr. Randolph's recommendations and therefore I recommend that we change the Landmarks Ordinance and have the Landmarks Ordinance contain the same requirements as the ARCOM Ordinance does. The state office of historic preservation requires architects to be on the Commission by Ordinance and I believe the Town should follow the same course.

"On how we choose members of our boards and commissions, my only concern is that our system encourages more people to participate in Town government, not fewer people. I support urging citizens to apply for only one commission so that more people do have a chance to be selected. And in stating the obvious, I would urge Council members to set aside political differences and vote on the basis of the genuine substantive contributions applicants can make to our government process.

"It is my hope that with the renovation beginning on South County Road in the summer of 2001, that the sidewalks be widened to allow people to walk two abreast and possibly we should require that the electrical wires be put underground during this process.

"As a last note, I would like to recommend that we adopt an improved attitude of civility and courtesy in this town. I have seen pedestrians step off the sidewalk and risk their lives in attempting to cross the various streets. Years ago we had pedestrian crosswalk signs on the roads; these were outlawed by DOT. However, I believe that we should stop and let the people cross the street and in the areas where possible, we should repaint the crossroads in the road."

Mayor Smith then read a Proclamation declaring April 17, 2000, as Gertrude Maxwell Day in honor of the birthday of Mrs. Maxwell and the incorporation of the Town of Palm Beach. She thanked Mrs. Maxwell for her many years of service and dedication to the Town of Palm Beach.

Mrs. Maxwell graciously accepted the Proclamation, thanking the Mayor and Town Council members.

V. APPROVAL OF THE AGENDA

The following changes were made to the Agenda:

DEFER to the May 9, 2000, Town Council Meeting - "Approved Agenda" Item X. Other B. - South Ocean Boulevard Issues - Traffic problems relating to construction projects.

Motion made by Councilman Brooks, seconded by President Pro-Tem McLendon to defer Item X. Other B, to the May 9, 2000, Town Council Meeting. On roll call the motion carried unanimously.

DEFER to the May 9, 2000, Town Council Meeting - Item XII. Old Business, B. Other, 3. - Request for Town support for proposed Palm tree lighting beautification project on South County Road by the Greater South County Road Association, Inc.

Motion made by Councilman Wyett, seconded by President Pro-Tem McLendon, to defer Item XII. Old Business, B. Other 3, to the May 9, 2000, Town Council Meeting. On roll call the motion carried unanimously.

DEFER to the May 9, 2000, Town Council Meeting - Item XV. Development Reviews B. 2. - Variance No. 6-2000 - Edwin L. Ecclestone, Jr., 190 S. Ocean Blvd.

Motion made by Councilman Wyett, seconded by President Pro-Tem McLendon to defer Item XV. Development Reviews. B. 2. - Variance No. 6-2000 to the May 9, 2000, Town Council Meeting. On roll call the motion carried unanimously.

DEFER to the May 9, 2000, Town Council Meeting - Item XV. Development Reviews B. 3. - Variance No. 11-2000 - Julie A. Heberlein (Reveley), 200 S. Ocean Blvd.

Motion made by Councilman Wyett, seconded by Councilman Brooks to defer Item XV. Development Reviews, B. 3. - Variance No. 11-2000, to the May 9, 2000, Town Council Meeting. On roll call the motion carried unanimously.

ADD to the Town Council Agenda for April 11, 2000 - Discussion of Water Main Project on South County Road as Item XIII. C. Other 7.

Motion made by Councilman Goldblum, seconded by President Pro-Tem McLendon to add discussion of the water main project on South County Road to the Town Council Agenda for April 11, 2000. On roll call the motion carried unanimously.

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

VI. COMMUNICATIONS FROM CITIZENS - 3-MINUTE LIMIT PLEASE

Mr. Eric Gilbertson, 151 Chilian Ave., addressed the Mayor and Town Council, expressing concern regarding the groins south of Mid-Town Beach that were not maintained.

APPROVED AGENDA

VII. APPROVAL OF MINUTES OF MARCH 7, AND14, 2000

VIII. APPROVAL OF CHECK REGISTERS FOR MARCH 2000

IX. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL COMMISSION AT ITS MEETING OF MARCH 22, 2000

X. OTHER

A. Adoption of the Purchasing Policies and Procedures Manual per Memorandum dated March 29, 2000, from Finance Director Skittone

B. South Ocean Boulevard Issues - Traffic Problems Relating to Construction Projects - **Request for Deferral to May 9, 2000, per letter dated March 31, 2000 from Town Attorney Randolph**

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

The "Approved Agenda" was approved, as amended, through motion of Councilman Brooks, seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

REGULAR AGENDA

XI. PUBLIC HEARINGS

A. Landmark Designation of 335 El Vedado Road; Resolution No. 15-00

Planner, Project Coordinator Timothy Frank reported that staff had evaluated the residence at 335 El Vedado Road, finding that it met the criteria for designation as a landmark in the Town of Palm Beach.

Councilman Wyett moved acceptance of the designation report regarding the property at 335 El Vedado Road. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

Town Attorney Randolph read Resolution No. 15-00 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 KNOW AS CHAPTER 54, ARTICLE IV 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 54, ARTICLE IV OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Historic Preservation Consultant Jane Day reported that the house at 335 El Vedado Road was an example of the neoclassical revival style, and was designed by Clarence Mack in 1940, and was his own private residence. The major architectural details of the house were on the waterfront view of the house, with a cabana being added in 1959. The current property owner had requested landmark designation.

President Pro-Tem McLendon moved approval of Resolution No. 15-00. The motion was seconded by Councilman Wyett. On roll call the motion carried unanimously.

XII. OLD BUSINESS

A. Ordinances (Second Reading)

1. Ordinance No. 2-00 - Coastal Construction Code, Amending Definition of Substantial Improvement

Town Attorney Randolph read Ordinance No. 2-00 by title (second reading):

AN ORDINANCE OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH AT CHAPTER 18, BUILDINGS AND BUILDING REGULATIONS, ARTICLE V. COASTAL CONSTRUCTION CODE, SECTION 18-278, DEFINITIONS, TO REFLECT CHANGE IN FLORIDA STATUTES DEFINITION OF "SUBSTANTIAL IMPROVEMENT" FS161.54 WHICH NOW ELIMINATES THE 5-YEAR ACCUMULATION OF CONSTRUCTION VALUE IN DETERMINING THE 50% RULE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Director of Planning, Zoning & Building Robert Moore explained that Ordinance No. 2-00 would comply with the State Statute eliminating the five-year period of accumulation of value that may be constructed to improve a home; it would be a benefit to property owners to have a one-year accumulation, rather than the five-year period of accumulation.

Councilman Wyett moved approval of Ordinance No. 2-00 on second reading. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

2. Ordinance No. 3-00 - Hours of Construction Work for Worth Avenue and C-WA Zoning District

Town Attorney Randolph read Ordinance No. 3-00 by title (second reading):

AN ORDINANCE OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH AT CHAPTER 42, ENVIRONMENT, ARTICLE V. NOISE, SECTION 42-199, HOUSE FOR CONSTRUCTION WORK, AND CHAPTER 18, BUILDINGS AND BUILDING REGULATIONS, ARTICLE IV. BUILDING CODE, SECTION 18-242, AMENDMENTS, SO AS TO MAKE CODE REFERENCES TO WORTH AVENUE AND C-WA ZONING DISTRICT CONSISTENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilman Goldblum moved approval of Ordinance No. 3-00 on second reading. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

3. Ordinance No. 4-00 - Amendment to the Retirement Ordinance Relating to the Deferred Retirement Option Program (DROP)

Town Attorney Randolph read Ordinance No. 4-00 by title (second reading):

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 82 OF THE CODE OF ORDINANCES RELATING TO THE RETIREMENT SYSTEM AT SECTION 82-64(d) TO DELETE REFERENCES TO A NEW ANNIVERSARY DATE; AT SECTION 82-64(d)(3) TO CORRECT SCRIVENER'S ERRORS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Councilman Brooks moved approval of Ordinance No. 4-00 on second reading. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

4. Ordinance No. 6-00 - Amendments to the Electrical Code

Town Attorney Randolph read Ordinance No. 6-00 by title:

AN ORDINANCE OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 18, ARTICLE VI, "ELECTRICAL CODE", OF THE TOWN OF PALM BEACH CODE OF ORDINANCES SECTION 18366 ADOPTING BY REFERENCE THE 1999 EDITION OF THE NATIONAL ELECTRICAL CODE AND ADOPTING BY REFERENCE THE PALM BEACH COUNTY AMENDMENTS; PROVIDING FOR ADDITIONS AND DELETIONS TO SAID CODES IN SECTION 18-367 "AMENDMENTS", AND AMENDING SECTION 18-372, "PENALTIES"; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

President Pro-Tem McLendon moved approval of Ordinance No. 6-00 on second reading. The motion was seconded by Councilman Brooks. On roll call the motion carried unanimously.

B. Other

1. Royal Park Bridge Status Report by Public Works Director Dusey *(East End Landscape Plan deferred from February 8, and March 14, 2000)*

Public Works Director Al Dusey reported that there was a public meeting scheduled for April 12, 2000, which would be conducted by the Florida Department of Transportation (FDOT) in the Town Council Chambers from 3:00 p.m. - 7:00 p.m. An informal presentation would be made of the plans for the new Royal Park Bridge, and questions from the public would be answered. The demolition contract had been awarded, and work would be started on May 8, 2000, which would take approximately one year. Construction of the permitted facility would then begin.

Mr. Dusey noted that he had submitted a site plan detailing the treatment of the sanitary sewer pump station, and recommended that the Town Council give final approval of the plans.

Councilman Goldblum moved approval of the site plans for the sanitary sewer pump station on the east side of the Royal Park Bridge. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

Mr. Joe Borello, FDOT, explained that the west end of the bridge would contain a designated right hand turn lane, which would not be a ramp style, and would be more of a standard right turn lane for traffic safety reasons. He noted that FDOT was still conducting meetings with the City of West Palm Beach in order to confirm the design of the west side of the bridge; the proposal of FDOT was to keep both sides of the bridge the same. The current plan was to make the presentation to the West Palm Beach Commission next month; all of the plans would need to be approved by September 2000. He explained that design of the permanent bridge structure was about 60% complete, and there would still be time to make modifications to the plans, with construction to begin in approximately one year.

Mayor Smith expressed concern that Flagler Drive may eventually be two-laned, although that would be opposed by the Town of Palm Beach for public safety reasons, and explained that may be a reason why the right hand turn lane from the bridge onto Flagler Drive was being standardized, rather than ramp style.

Ms. Polly Earl, President of the Preservation Foundation, thanked the FDOT for their design efforts, and requested that a true perspective view of the design of the bridge be presented so that residents would have the opportunity to consider it before the design was finalized.

Mr. Borello responded that the specific view being requested would be available next week, and before presentation to the Landmarks Preservation Commission; FDOT would be working with Mrs. Earl in that regard. He agreed that he would present the view to the Town Council at the May 9, 2000, Town Council Meeting.

2. Telecommunications Issues:

a. Cable TV System Franchise Renewal Process with Comcast Cable Communications, Inc. - Status Report by Assistant to the Town Manager Jakubiak *(Refer to Page 5, XIII. A.5.)*

Town Attorney Randolph referred to the letter of Assistant to the Town Manager Jakubiak, to the Mayor and Town Council, dated March 30, 2000, reporting that staff was in negotiation with Comcast Cable Communications, Inc., and hoped to have an agreement prepared for the Town Council Meeting of May 9, 2000. He explained that the current franchise would expire on April 8, 2000, and requested that a 30-day extension of the franchise be entered into in order to allow negotiations to continue. He presented a resolution proposing that the franchise be extended for a term of 30-days.

(Approval of the franchise extension would be considered under Item XIII. New Business, Item 5. - Resolution No. 16-00).

b. Request by Miller & Van Eaton, P.L.L.C. for an Adjustment in Hourly Rates

Town Attorney Randolph referred to memorandum of Assistant to the Town Manager Jakubiak, dated March 30, 2000, to the Mayor and Town Council, attaching a request for an increase in fees of 2% by Miller & Van Eaton, P.L.L.C., for an average hourly rate of $189 to $192 per hour.

Mayor Smith commented that she believed it was inappropriate for an attorney to ask for an increase in rates before a conclusion had been reached.

Councilman Wyett moved denial of the request for an increase in fees of 2% by Miller & Van Eaton, P.L.L.C. The motion was seconded by Councilman Brooks. On roll call the motion carried unanimously.

3. Request for Town Support for Proposed Palm Tree Lighting Beautification Project on South County Road by The Greater South County Road Association, Inc. *(Deferred from October 12, 1999, February 8, and March 14, 2000)* **Request for Deferral to May 9, 2000, per letter dated April 7, 2000, from Mr. James K. Brower**

This item was deferred to the May 9, 2000, Town Council Meeting, earlier in the Agenda, under Item V. "Approval of the Agenda."

4. Town Hall Needs Analysis:

a. Status Report by Public Works Director Dusey

Public Works Director Dusey referred to his memorandum of March 30, 2000, to Town Manager Doney, summarizing the status of the Town Hall needs analysis. An offer had been received to lease 8,000 sq. ft. of space at 375 S. County Road, which was an alternative that would not be favorable compared to other alternatives. The offer would equate to an average annual payment of approximately $280,000, and would support a $4 million bond at 6%, 30-year term.

Mr. Dusey noted that, under separate cover, an update on the negotiations for the 150 Australian Avenue property had been provided. He explained that funding would be required in order to do an appraisal.

Mr. Dusey reported that the Police Department had approached the Public Works Department concerning expansion needs, and it would be helpful to receive direction concerning the proposed facility on the Beaumont lot, so that the needs of the Police Department could be more specifically addressed.

Possible solutions to the parking problems being experienced were:

Seven on-street parking spaces could be eliminated if the seven Town vehicles used by the Planning, Zoning & Building Department could be taken home.

The use of the parking lots could be maximized through better management to take advantage of the average of 10% of Town personnel that are on leave every day.

The Boynton Landscape property would offer 24 parking spaces, and there was a potential of 28 parking spaces at 150 Australian.

Mr. Dusey summarized that staff was requesting the following considerations by the Mayor and Town Council:

1. Consider whether staff should be authorized to negotiate more favorable lease terms for the 375 South County Road property; if so an allocation of $5,000 would be needed from the general fund contingency to investigate renovation costs and suitability.

2. Consider whether the Planning, Zoning & Building department should be authorized to secure short-term leased space for their immediate needs.

3. Consider whether staff should pursue construction on the Beaumont lot and Town Hall renovations. (Choose an alternative for design development, choose to stop consideration of the construction of a Town facility on the lot, choose to leave the Town's space allocations as currently existing).

4. Determine if parking needs identified by departments should be accommodated.

5. Determine if staff should explore the feasibility or desirability of Planning, Zoning & Building Department taking vehicles home.

Councilman Wyett suggested the creation of a panel, composed of one member from the Planning, Building & Zoning Department, Landmarks Preservation Commission, Architectural Commission, Public Works Department, and one Town Council member, in order to determine the best way to provide for the space needs of the Town.

Former Mayor Yvellene de Marcellus Marix suggested that space efficiency experts be hired to evaluate the space needs; she suggested the use of a personnel efficiency expert, as some of the space could be used in tandem with off-hours personnel use; in addition she suggested that a bonus be given to those employees who car pool, perhaps with preferential parking spaces, or other incentives. She mentioned that the Town also owned property in West Palm Beach, and suggested that could be used for parking, with arrangements made to transport employees to Palm Beach.

Councilman Wyett moved approval of the creation of a Space Needs Study Panel. The motion was seconded by Councilman Brooks.

Town Attorney Randolph clarified that the proposed committee would be subject to all requirements of the Sunshine Law.

Mayor Smith volunteered for the proposed committee, suggesting that it be concluded in eight weeks.

Councilman Wyett suggested that the committee be composed of one member each of the Planning, Zoning & Building Department (designated by the Department Director), Fire-Rescue Department (designated by the Fire-Rescue Chief), Landmarks Preservation Commission (designated by the Chairman of the Commission); Architectural Commission (designated by the Chairman of the Commission); Public Works Department (designated by the Department Director); with the inclusion of the Mayor.

On roll call the motion to create a Space Needs Study Committee carried unanimously.

Town Manager Doney insisted that the Department Heads involved in the process be directly involved with the proposed committee; he also requested that Town Attorney Randolph attend the meetings; he advised that the Town Clerk would need to be in attendance at each meeting. He requested the advice of the Town Attorney regarding the appointment of such a committee.

Town Attorney Randolph advised that the committee could be appointed by motion.

Councilman Wyett suggested that the proposed committee be authorized to obtain architectural renderings of the location, that the attendance of Town Attorney Randolph would not be necessary at all meetings; and that the meetings could be merely recorded without the presence of the Town Clerk.

Town Manager Doney replied that it would be necessary to have committee reports in order to have clear direction of the actions of the committee.

President McDonald advised that Mr. Doney could make such decisions relating to the committee.

Town Attorney Randolph advised that Town Manager Doney should not be a member of the committee, as his hands would be tied as Town Manager.

Town Manager Doney advised that he would assign the various Department Heads to attend the committee meetings, and that he would meet with the Department Heads to discuss the matter.

In response to Town Attorney Randolph, President McDonald replied that Town Manager Doney would speak with the Department Heads, but would be flexible, and that the Town Council did not require that the member be a Department Head

Director of Planning, Zoning & Building Moore requested that the Town Council give authorization to himself and Public Works Director Dusey to continue negotiations with Mr. Handelsman regarding the leasing of the property at 375 South County Road.

President McDonald agreed that authorization was given to Mr. Moore and Mr. Dusey to continue negotiations.

(Please see discussion that took place after the luncheon recess, the motion to create a Space Needs Study Committee was re-opened and a motion was made to send the space needs issue to the Public Works Committee).

b. Request for Funding for Appraisal of 150 Australian Avenue Property

Public Works Director Dusey reported that an appraisal on the property at 150 Australian Avenue was estimated to be in the amount of $1,500.

Councilman Goldblum moved approval of the funding, from the general fund contingency, for an MAI appraisal of the property at 150 Australian Avenue in the amount of $1,500. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

c. Consideration of Proceeding with Development of the Boynton Landscape Property

Public Works Director Dusey reported that the estimate to build 24 parking spaces and a very nice park on the front two-thirds of the Boynton Landscape property was estimated at $250,000, and an appropriation would be needed form the general fund contingency.

Director of Planning, Zoning & Building Moore commented that the Goodman Company had been contacted as to the use of the property earlier than November. Mr. Goodman had indicated that was a possibility. There was a question of liability, and Mr. Goodman authorized Attorney Brindell to address the issue.

Town Attorney Randolph advised that a draft agreement was in progress.

President McDonald commented that he would prefer that the park be in existence in the next season, not two seasons from now.

Councilman Wyett suggested deferral until the report of the Space Needs Study Committee was completed, and that the Boynton Landscape property could be used as temporary office space until a final determination was made.

Mayor Smith commented that several landscape architects were interested in the park project, and that she had hopes that services would be donated; therefore, she urged that the Town Council move ahead with the park design for the Boynton Landscape property.

Councilman Goldblum moved approval of moving forward on the park design, with parking in the back of the property. The motion was seconded by Councilman Wyett. On roll call the motion carried unanimously.

Public Works Director Dusey noted that the amount of funding needed was $250,000 from the general fund contingency.

President McDonald praised Mayor Smith for her persistence in her efforts regarding the acquisition of the Boynton Landscape property.

5. Schedule an Ordinances, Rules, and Standards Committee Meeting to Discuss:

   a. Code Enforcement Board Issues Regarding Maintenance of Property, Cleanliness of Construction Sites, and Hurricane Preparation Plans for Construction Sites *(Referred to Ordinances, Rules, and Standards Committee at the January 11, 2000, Town Council meeting; Deferred from March 14, 2000)*

The Town Council approved an Ordinances, Rules, and Standards (ORS) Meeting to be held on May 11, 2000, at 10:00 a.m., to discuss the Code Enforcement issues regarding maintenance of property, cleanliness of construction sites, and how quickly the Town could put a lien on property that was not properly maintained.

   b. Proposed Amendments to the Architectural Commission Ordinance *Deferred from March 14, 2000)*

Councilman Wyett moved approval of sending the issues regarding the proposed amendments to the Architectural Commission Ordinance to the Ordinances, Rules & Standards (ORS) Committee. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

6. Town Boards and Commissions:

   a. Application Form for Interested Residents

Director of Planning, Zoning & Building Robert Moore reported that an application form for residents interested in becoming members of Town Boards and Commissions had been designed, with the input of Town Attorney Randolph, Recreation Director Russell Bitzer, Assistant Director of Planning, Zoning & Building Veronica Close, and himself. He presented it for the review of the Town Council.

Councilman Brooks suggested that the year a resident became a registered voter be included in the application.

Councilman Wyett suggested that information be included regarding owning or renting property in the Town of Palm Beach. He also suggested that residents interested in more than one board or commission list them in order of their interests on the application. Regarding Item 6 on the application, he suggested that the language read "present occupation or former," which would also eliminate the need for Item 7.

Mr. Moore explained that the purpose of Question 6 & 7 was for use as background for the commissions, as there were very substantial requirements for the background; perhaps a present occupation would not qualify a person, however, a prior occupation would qualify them.

Councilman Goldblum referred to Items 6 and 7 on the application, and suggested that the years of occupation be requested.

Mayor Smith suggested that a resume be required as well as the application.

President McDonald suggested that the requirements include the language that the applicant be a registered voter living in the Town of Palm Beach, and agreed that the year the applicant became a registered voter would be useful information. He also suggested that the language addressing financial disclosure forms include that it was required by State law, not merely by the Town of Palm Beach. In addition, he agreed that the applicant could express interest in more than one board or commission, however, the applicant could not be a candidate for more than one commission at one particular meeting. He stated that he did not believe its should be distinguished whether an applicant was a renter or owner.

The Town Council unanimously agreed that it would be mandatory that a resume be attached to each application.

Councilman Brooks moved approval of the application presented, with the modifications made today. (Language stating that the applicant be a registered voter living in the Town of Palm Beach; the year the applicant became a registered voter; language addressing financial disclosure forms include that it was required by State law, not merely by the Town of Palm Beach; applicants could express interest in more than one board or commission; on Items 6 & 7 include request for years of occupation; a resume be attached to each application). The motion was seconded by Councilman Goldblum. On roll call the motion carried unanimously.

b. Conflicts of Interests Issues

Councilman Wyett suggested that the Town code include the ruling that members of any club declare a conflict of interest.

Mayor Smith recommended that an opinion be obtained from the State Board of Ethics regarding conflicts of interest.

Ms. Polly Earl, Executive Director of the Preservation Foundation commented that she understood that the State standards mandated the service of architects on the Landmarks Commission, which was a benefit for everyone involved, and that those architects should be allowed to recuse themselves when they had a conflict that came before the board. She urged that the Town Council take up the question via communication with the State Ethics Commission, and also try to rectify the Town Landmarks Ordinance, so that actively practicing architects could serve on the Landmarks Commission, but would not be able to vote on their own projects.

Town Attorney Randolph commented that he had given an opinion regarding the conflict of interest situation as it related to the Landmarks Commission, which had been provided in the back up to the meeting today. After providing legal opinions and analysis of same, in his letter dated March 22, 2000, he had indicated that:

"In summary, where professionals sit on commissions of the Town, they should not represent the interests of others who have business which will come before the commission on which they sit. They have more than a voting conflict of interest which can be corrected through recusal, but rather have a prohibited conflict of interest which cannot be cured by recusal. It appears that because of the language of the architectural Commission ordinance requiring that architects sit on the Commission, architects fall within the exception to the statute and would not be precluded from representing clients within the Town who do business before the Architectural Commission. That same exception, however, would not appear to members of the Landmarks Preservation Commission."

Mr. Randolph noted that if there was disagreement with the opinion, or a need for clarification, there may be a need for the Landmarks Ordinance to be amended in order to require architects to sit on the commission. That in itself, would not deal with the conflict situation; in addition, an opinion from the State Commission on Ethics would be obtained as to whether or not that would take those architects within the exemption that was cited in his letter.

Mr. Cooley commented that he had questioned, in his November 11th letter, whether or not the architects on the commission should be practicing extensively in front of their own commission, and whether or not it would be proper for an architect on one commission to be working hand in hand with a lawyer on another commission, in essence trading votes. He explained that he saw nothing wrong with architects on commissions, and considered it very helpful to the Town, however, he was attempting to steer the Town away from putting itself in a position where the citizens and applicants would be treated differently if they did not hire an architect who just happened to sit on the Commission, or had a lawyer friend who was sitting on another commission; it was a conflicts of interest that he had been concerned with, not whether an architect should serve on the Commission.

Ms. Earl urged that the Town Council consider the overall standards of the State, as well as standards at the national level, in determining the proper procedure for the Town of Palm Beach.

Councilman Goldblum moved approval of referring the matter to the Ordinances, Rules and Standards (ORS) Committee, simultaneously directing Town Attorney Randolph to request a opinion ruling from the State Commission on Ethics. The motion was seconded by Councilman Wyett. On roll call the motion carried unanimously.

Town Attorney Randolph explained that if the Landmarks Ordinance was amended so as to have architects on the Commission, that could be done separately and independently from obtaining a ruling from the State Commission on Ethics; even if the Commission on Ethics ruled that the architects could not practice in the Town of Palm Beach, there could still be non-practicing architects on the Commission.

Councilman Wyett suggested that Town Attorney Randolph also investigate the conflict of interest issue, so that membership in clubs, such as Mar-A-Lago, would be included. The motion died for lack of a second.

Town Attorney Randolph clarified that he would follow the instructions to take a proposed amendment to the Landmarks Ordinance to ORS, indicating that it would be a requirement that there be two architects on the Landmarks Preservation Commission.

Councilman Wyett moved that Town Attorney Randolph prepare an ordinance that would more strictly define the conflicts of interest, beyond the definition of the State law, to include any membership in a club, regardless of a financial interest in the club. The motion died for lack of a second.

c. Voting Procedures for Commissions

Councilman Wyett commented that he had submitted a written suggestion to the Town Council in memorandum form, dated April 7, 2000, regarding appointments to Town Boards and Commissions and the voting procedures for making the appointments.

After discussion Councilman Wyett moved approval of his proposal regarding appointments to Town Boards and Commissions. The motion died for lack of a second.

Mayor Smith commented that there had been some discussion by members of the public regarding the third term for those appointed to boards and commission; she explained that it resulted in a person being able to sit on a commission for fifteen years, and she suggested that the question of a third term be sent to the Ordinances, Rules & Standards (ORS) Commission for further discussion, and perhaps amendment.

Councilman Wyett moved approval of sending the third term issue to the ORS Committee. The motion was seconded by Councilman Goldblum. On roll call the motion carried 4/1, with President Pro-Tem McLendon casting a dissenting vote.

7. Status Report Regarding Noise Conditions on Park Avenue *(Deferred from March 14, 2000)*

Director of Planning, Building & Zoning Robert Moore reported that Chief Code Compliance Officer Brian House had done some research in regard to noise conditions on Park Avenue, and had suggested two changes to the nuisances ordinance; one to deal with putting out of garbage and trash during evening hours; the second involving disturbance of neighbors that would be directly affected. He explained that discussions were taking place with Town Attorney Randolph in order to prepare an ordinance for first reading at the May 9, 2000, Town Council Meeting.

XIII. NEW BUSINESS

1. Resolutions

1. Resolution No. 11-00 - Non-Ad Valorem Revenue Bond Authorization

Town Attorney Randolph read Resolution No. 11-00 by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, FLORIDA, AUTHORIZING THE ISSUANCE OF NOT EXCEEDING $25,000,000 TOWN OF PALM BEACH REVENUE BONDS, SERIES 2000, BEACH RESTORATION PROJECT, FOR THE PURPOSE OF FINANCING ALL OR A PORTION OF THE COSTS OF IMPROVING, RESTORING AND RENOURISHING OF BEACHES LOCATED IN THE TOWN OF PALM BEACH, FLORIDA; AUTHORIZING AND DIRECTING THE TOWN MANAGER OR THE FINANCE DIRECTOR TO DEEM FINAL THE PRELIMINARY AND OFFICIAL STATEMENT RELATING TO THE BONDS FOR PURPOSES OF RULE 15(C)212 OF THE SECURITIES AND EXCHANGE COMMISSION; APPROVING THE FORM OF AND AUTHORIZING THE DISTRIBUTION OF THE PRELIMINARY OFFICIAL STATEMENT RELATING TO THE BONDS; AUTHORIZING AND DIRECTING THE TOWN MANAGER, THE FINANCE DIRECTOR, AND OTHER PROPER OFFICIALS OF THE TOWN OF PALM BEACH TO EXECUTE AND DELIVER ANY AND ALL DOCUMENTS AND INSTRUMENTS AND TO DO AND CAUSE TO BE DONE ANY AND ALL ACTS AND THINGS NECESSARY OR PROPER FOR CARRYING OUT THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilman Goldblum moved approval of voting on Resolution 11-00 at the meeting to be held on April 13, 2000, which

concerned coastal management issues. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

Mr. Michael Hole, Salomon Smith Barney, addressed the Town Council, offering to delay his presentation until the April 13th meeting if so desired.

The Town Council determined that Mr. Hole would make his presentation on Thursday, April 13, 2000.

Attorney Nick Miller, Edwards & Angell, advised that the two resolutions (No. 11-00 and 12-00) authorizing bonds, could be considered at the meeting on Thursday, April 13, 2000.

Councilman Brooks moved approval of the deferral of Resolutions No. 11-00 and 12-00 to the Special Town Council Meeting, to be held on Thursday, April 13, 2000. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

2. Resolution No. 12-00 - Non-Ad Valorem Revenue Bond Series Resolution

Resolution No. 12-00 was deferred to the April 13, 2000, Special Town Council Meeting. *(See discussion above.)*

3. Resolution No. 13-00 - Exclusion from the Florida Department of Transportation Adopt-A-Highway Program

Town Attorney Randolph read Resolution No. 13-00 by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, ACCEPTING RESPONSIBILITY FOR LITTER CONTROL ON ALL STATE HIGHWAY RIGHTS-OF-WAY WITHIN THE TOWN OF PALM BEACH.

Councilman Wyett moved approval of Resolution No. 13-00. The motion was seconded by Councilman Brooks. On roll call the motion carried unanimously.

4. Resolution No. 14-00 - Application to the Florida Department of Environmental Protection for Beach Erosion Control Program

Town Attorney Randolph read Resolution Nol 14-00 by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING THE FUNDING APPLICATION TO THE STATE DEPARTMENT OF ENVIRONMENTAL PROTECTION FLORIDA BEACH EROSION CONTROL PROGRAM.

Councilman Wyett moved deferral of Resolution No. 14-00 to the Special Town Council Meeting scheduled on Thursday, April 13, 2000. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

5. Resolution No. 16-00 - Extending the Term of the Cable Television Franchise of Comcast Cablevision of West Palm Beach, Inc. *(Refer to Page 3, XII. B. 2. a.)*

Town Attorney Randolph read Resolution No. 16-00 by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, EXTENDING THE TERM OF THE CABLE TELEVISON FRANCHISE WITH COMCAST CABLEVISION OF WEST PALM BEACH, INC.

Councilman Goldblum moved approval of Resolution No. 16-00. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

B. Appointments

1. Architectural Commission - One Alternate Member, Three-Year Term to Expire March 2003

The Town Council appointed William J. Strawbridge, Jr., as an alternate member.

2. Code Enforcement Board - Three Member, Three-Year Terms and One Alternate Member, Three-Year Term to Expire April 2003

The Town Council appointed Eugene Lawrence, P. Robert Bale, and Harry Horwich, M.D., as regular members. M. S. "Bud" Rukeyser, Jr. was appointed as an alternate member.

3. Landmarks Preservation Commission - One Member, One-Year Term to Expire March 2001

The Town Council appointed Jack Pyms as a regular member, and Laurel Baker as an alternate member.

4. Recreation Advisory Commission - Two Member, Three-Year Terms and One Alternate Member, Three-Year Term to Expire April 2003

The Town Council appointed Stuart Shulman and Larry Ochstein as regular members. Dick Raffo was appointed as an alternate member.

C. Other

1. School Concurrency Interlocal Agreement - Presentation by Leo Noble, Consultant

After a short presentation by Mr. Leo Noble, the Town Council took no action on the School Concurrency Interlocal Agreement.

2. Underground Utility Lines (Electric and Telephone) in Several Locations Within the Town of Palm Beach per Memorandum dated March 23, 2000, from Councilman Wyett

Councilman Wyett moved approval of a meeting of the Public Works Committee regarding underground utility lines. The motion was seconded by President Pro-Tem McLendon.

After discussion, and roll call, the motion to hold a Public Works Committee Meeting on May 10, 2000 at 2:00 p.m. was approved unanimously.

Councilman Wyett clarified that he expected the appropriate personnel from the Public Works Department, as well as representatives of the public utilities to be in attendance.

3. Census 2000 Outreach Efforts

President McDonald commented that the census forms could be returned until April 15, 2000; if the forms were not returned, house calls would be made by census takers. He noted that currently 56% of Palm Beach County had responded.

4. Potential Settlement Proposal Regarding Town of Palm Beach vs. O'Connor & Taylor, Inc. Regarding South Fire-Rescue Station

Town Attorney Randolph reported that O'Connor & Taylor, Inc. would repair the roof on the South Fire Station, however, requested $6,000 from the Town of Palm Beach towards the roof, on the basis of the length of time that the roof had already been in place; that had indicated that they would need 8 weeks to complete the job, beginning two weeks from today.

Councilman Brooks moved approval of the proposal of $6,000 from the Town of Palm Beach towards the roof repairs on the South Fire Station. The motion was seconded by Councilman Goldblum. On roll call the motion carried unanimously.

5. Florida Institute of Government/Palm Beach Community College Workshop on Thursday, April 27, 2000, Regarding the Effective Elected Official

There was no interest expressed by the members of the Town Council in attending the Florida Institute of Government/Palm Beach Community College Workshop regarding the Effective Elected Official.

6. Deadline Regarding Submission of Written Request by the Public to Add an Agenda Item for the Monthly Council Meeting

Town Manager Doney requested policy direction concerning the submission of written requests by the public to add issues to the Agenda for monthly Town Council Meetings.

Councilman Goldblum made a motion to approve a deadline of two Fridays before the regular Town Council meeting for written backup. In addition, any staff member could advise a member of the public that the item would not be on the next agenda unless submitted within that time frame, with the exception of emergencies. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

7. Discussion of Water Main Work Project on South County Road

Councilman Goldblum moved approval of going ahead with the water main project. The motion was seconded by Councilman Brooks. On roll call the motion carried 4/1, with Councilman Wyett casting a dissenting vote.

A verbatim transcript follows:

BOWSER: First of all, I thought we had put out a notice, but just for general note, the South County Road construction project is to begin April 24th, and be completed in October. Two years ago Department of Transportation talked to the city of West Palm Beach about having a joint project agreement to have the water main replaced in this section of County Road, and West Palm Beach declined, because at that time we were in franchise agreement discussions, and they didn't know who was going to own the water main, so they didn't want to spend the money. Last fall, West Palm and FDOT talked again, and I believe FDOT said it was too late to have a joint project agreement. January I brought up the issue as to whether it was possible, and that got the ball rolling. We met with the contractor in February, and there have been a number of discussions. The City went out and designed a water main for this segment, and Ranger has just come back with a quote to the City and the State and is now asking for the Town's input with regard to the project. The change order price is approximately $1.2 million to do 4,500 feet of water main, and also an extension of time, 47 days, to have the new project completion date of December 8th. The City of West Palm Beach is in favor of awarding this, and the Department was really asking the Town today as to the time extension into the season. Staff, however, in our review of the project, and we've talked to at least one local contractor that we have a lot of confidence in, – pricing – this was not competitively bid – it's an extremely high price, and we believe that the project could be done for less money if bid separately. Now this is in our five year plan with the City of West Palm Beach to – part of this $18 million improvement, so if the work is not completed now we will be facing a project on County Road within the next five years to come back and have this water main replaced. Basically, the question to you today is one, if you want to give a time extension, understanding that we are concerned that the contractor will finish the job on time, and the Department has been very good to split this project into two phases – Royal Poinciana will continue the following year, but in trying to get this during our season, work starts April 24th, and be completed in October, gives us a little bit of float if the contractor is late that we can have this road done before the season begins. Adding this water main work, and it is a lot of work – we've estimated that a separate project – $700,000 or so in today's dollars. So, I mean, we could be almost a half million dollars high on this price. Contractors are saying though, the prices – they expect in the next few years to be going up considerably. I mean, this boom in the economy is putting a lot of pressure on wages, and they believe that their prices are going to start going up, unless the economy slows down.

There's just not enough people to do the work, and this is an example. So, we can't guarantee a future price. I would say that we couldn't do any worse than $1.2 in the future. I would hope we could do better.

McDONALD: Yes, but we'd have to dig up the streets again, Mr. Bowser and that's the problem.

BOWSER: That's right.

McDONALD: All right. So, comments?

BROOKS: How many streets, Mr. McDonald?

McDONALD: I think it's just the one street, isn't it?

BOWSER: Today we're talking about South County Road between Royal Palm Way and Royal Poinciana – works starts April 24th. One thing that they will do, and now the project was originally to be phased to where phase one would work between Royal Palm and Barton, and phase two, which is Barton to Royal Poinciana would basically stay the way it is – unworked on until they basically got the first segment done, and then they would go and work on the second segment, so it wouldn't be the whole length. If this is approved, they will be working Royal Palm to Royal Poinciana because they would –

GOLDBLUM: Is it going to effect us any way with The Breakers building?

BOWSER: Well, The Breakers building, I think is – they have enough – all they need do is have access to their site, and I'm confident that they can work with this contractor to gain access to their site. They have enough storage on site, so their project, I don't believe, will be terribly impacted. I don't see a conflict in the two.

WYETT: I've got two questions. One, their doing it in two segments – say they're running late on segment one, so that if they started segment two after segment one was finished, and you're not going to make even the December that you just mentioned to me – it's going to possibly run later. Can we stop segment two and do it next year?

BOWSER: I don't believe so.

WYETT: Well, you've got a problem. If that road narrows, the traffic jam in this Town will be horrendous, horrendous, and you've got to take that into consideration. Is there any possibility that we can delay this whole project until next year?

BOWSER: I don't believe so. This has already been delayed one season, and next year they have another project that's been planned, and that's Royal Poinciana, and the contract's been awarded. I mean, they're starting in two weeks.

DONEY: Mr. President, perhaps Mr. Bowser could also clarify the number of lanes that will be opened north and south.

BOWSER: One lane in each direction at all times during the project. So, they'll be one northbound lane and one southbound lane. So, they're going to work on half of the road, do the work on that half, while two lanes remain, one in each direction on the other side, and then they'll flip flop traffic. So County Road is not planned to be closed, although I could anticipate that there may be some evening work that they would want to do where there would be temporary closures, but right now there's nothing planned to be closed.

WYETT: Are you starting the project at the southern end of the project, or the northern end?

BOWSER: They're starting in the southern end. If they add the water main work they're going to work on both ends, because there's just not enough time. The 47 days – if you went out there just to do the water main by itself, I would anticipate it would take about 110 days, just to go out and do the water main work. They've only asked for 47 days because the work will be coincident with a lot of the other work that is going on. They're also planning on bringing in another sub-contractor to do the water main work at the same time, and that's how they could compress this time schedule.

WYETT: Can the residents call you if this thing is late, because I can tell you there's going to be an awful lot of telephone calls.

McDONALD: What's the completion date, Mr. Bowser, again?

BOWSER: Right now it's the second week of October. The new completion date would be December 8th.

McDONALD: All right, what's the Council's desire?

GOLDBLUM: I think you have to do it.

BROOKS: What concerns me is the two lanes – still allowing ingress and egress from The Breakers – both entrances – the congestion is going to be tough. When can we start this?

BOWSER: It will start April 24th.

WYETT: Can we get a construction moratorium during the Thanksgiving period, when we are flooded with residents here?

BOWSER: That could be a condition that I can take back. It will extend the December 8th deadline.

WYETT: I think I'd rather have congestion a few more days later, than have it just over that short period of time.

McDONALD: Wouldn't you still be down to two lanes, Mr. Bowser, whether they're working or not?

BOWSER: I would anticipate that they would have a lot of it. Actually, they had hoped to have everything pretty well done by Thanksgiving, understanding that they put a final level of asphalt – they put down 3/4" asphalt, and get the roads pretty well all figured out – everything settled, and then they come back and do a final overlay. Now, they may be able to delay that during the Thanksgiving holiday -- if the work is done as they anticipate it, and push into December to do that final overlay, which is less disruptive – you'd still have two lanes of traffic while they're doing that, but again, there is an incentive for the contractor though – there is a bonus if he gets done on time. I mean, there is an incentive, but it's all up to the subcontractors on how good they're going to be.

McDONALD: Well, let's have a motion, and then we'll have some further discussion if we need it.

GOLDBLUM: Do they do the asphalt at night down here?

BOWSER: No. I mean, they can, but usually that's limited to the Interstates, but they have not – to the best of my knowledge they will not be doing asphalt work at night.

McDONALD: Is there a motion?

GOLDBLUM: I'll make a motion to go ahead with the project.

McDONALD: All right. Any conditions attached?

DONEY: Before you vote on the motion, could I ask Mr. Dusey also to clarify, because I think it needs to be indelibly reminded to the Town Council and the Mayor of the amount of money that is going to be used for water system improvements in the Town of Palm Beach that is what Al?

DUSEY: We get $18 million -- if they spend $1.2 on this, then something else doesn't get done.

McDONALD: That's correct, but Mr. Bowser said that – I agree with you, there's a six or seven hundred thousand difference now – but, he also said that the prices are going to go up considerably, and he can't really say if there's going to be much of a savings, if any, in the future. There may be, and it also means tearing up the road again. But, I understand that there is – it will count against our $18 million dollar credit.

WYETT: You say you'd have to rip up the road twice, I understand that, but is it as extensively as they're ripping it up the first time?

BOWSER: Oh no.

WYETT: Could you describe to us a little better how ripping up the second time would be? Because, even at an increased cost, if you're seven hundred is somewhere near reasonable, ten or twenty percent is still an increase – next year it's still a lot less than $1.2 million.

BOWSER: I would anticipate that they would have to close two lanes of traffic. Again, we would be back to one lane in each direction for the 4,500 feet, and they would have to probably re-work every intersection – mill and resurface, because of the tie-ins that we would need to do to the side streets. Now, we could do that. We could do that on off-hours, to where we mill in the evenings, to where your traffic during the day would not be hindered because the intersections would be best served by doing it at night.

McDONALD: Thank you, Mr Bowser. Mr. Brooks, any comments? Mr. McLendon? Mr. Goldblum?

GOLDBLUM: Can they start from the northend? Or do you say they're starting from both ends and working it together?

BOWSER: Most of the work is in the southend. They have extensive drainage work. If we give them the time extension to December 8th and agree to the pricing, they will start and work from one end of the job to the other. It will start right in the beginning. You'll have lane restrictions for the entire length of the project, whereas without the water main you will only have lane restrictions either at the northend or the southend.

WYETT: If you incline to approve this, I think it should be our future option seeing where they're at, to exempt out the period around Thanksgiving – Wednesday through Saturday, at least to the point where they cannot have trucks going back and forth infringing upon the two open lanes. I mean, work within the two construction lanes is one thing, but if they have to bring in heavy trucks going back and forth, you're going to have flag men stopping traffic back and forth during that period of time – during Thanksgiving that would be unacceptable.

COOLEY: I just have a question. How big of a pipe is this?

BOWSER: It's a twelve inch water main.

COOLEY: If my division is right, that's $266 a lineal foot for a twelve inch pipe? What would it ordinarily cost to lay a twelve inch pipe?

BOWSER: It all depends on how you organize the contract. It is more expensive working in the DOT right-of-way. We had worked out some numbers to where we though that $750,000 would be a reasonable price, so under those numbers you're still at about $160-$165 a foot, and that's – DOT you have to rebuild the road to a very high quality and standard. You have to do a lot of milling, and the maintenance of traffic, and whatnot, but again, it's a good bit of money, and there are arguments on both sides. We are concerned about the $18 million, and not getting all the projects done, but we also recognize that there will be a second disruption on a very critical artery in Town within the next five years for a second time.

WYETT: So really what it comes down to is whether the residents of this Town would rather save $500,000 of tax revenue, which will cost them that, because we'll have a shortfall in repair of the pipes; or if they would rather have a little disruption – a lot of disruption, I shouldn't say a little. The question is – is the disruption worth $500,000?

BOWSER: Well, and again, I don't want to come back in the future when this job – if we did do it separate and it comes in more – you know, that's todays' dollars on our best estimates – talking to a contractor who does this quite often.

McLENDON: The Breakers wouldn't be inclined to give us an easement – or West Palm – an easement for the water main for their frontage, which is what, 40% of the total?

BOWSER: Well, I'm not The Breakers. They do have golf improvements. The holes are fairly close. I mean, it would be fairly disruptive to the golf course, but unfortunately I wish I was told in October, when I believe the parties talked the first time, that I could have this pursued much sooner, and that we would have been here three months ago with this question. It's a very difficult question to bring to you today, two weeks before the construction. It's not how we would like to have had this done.

McDONALD: All right. Let's move the question. Mrs. Pollitt?

(Town Clerk Pollitt calls roll and motion to approve the project carries 4/1, with Councilman Wyett casting a dissenting vote).

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The Town Council Meeting of April 11, 2000,
was adjourned for the luncheon recess at 12:30 p.m.

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The Town Council Meeting of April 11, 2000, was reconvened at 1:50 p.m.

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Town Attorney Randolph remarked that he had reflected on the motion that had been made by Councilman Wyett to create a Space Needs Study Committee for the Town, and expressed concern regarding the composition of the committee – he advised that he did not believe staff members should be appointed to the committee, as staff members were always available to provide any input the committee may need. He cautioned that once a staff member was appointed to a committee, they would need to follow the Sunshine Law, and in order to confer with each other, they would have to abide by that law. He recommended that the composition of the committee be reassessed.

President Pro-Tem McLendon moved that the issue regarding the Space Needs Study Committee be re-opened. Councilman Goldblum seconded the motion. On roll call the motion carried unanimously.

Councilman Wyett moved approval of sending the space needs study to the Public Works Committee, which could then ask the staff for advice. He requested that Mayor Smith officially participate in the Committee; Mayor Smith agreed. The Public Works Committee meeting would be set at the next Town Council meeting, which would be held on May 9, 2000. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

XIV. COMMENTS OF THE TOWN COUNCIL MEMBERS

President Pro-Tem McLendon commented on the Sunshine law interpretations and the potential conflict of interest of the Town Council or Commission members. He noted that there had been some expressed sentiment that if Council members attended/participated in other meetings or forums, it could be a Sunshine violation. He stated that he did not understand this concern since a Council person or Mayor was entitled to an opinion on a subject and its alternatives, and as long as it was expressed publically in a recognized and advertised forum, that should be no violation.

President Pro-Tem McLendon stated that potential conflict of interest issues had been discussed many times; if a person would profit from a vote on an issue, there was implied conflict, and it was expected that the Council person would recuse themselves from discussing or voting on such issues. He offered that membership alone in an organization, including clubs, would not automatically trigger a recusal. It was a potential problem for anyone who was an equity member of a club, however some citizens believed there was a potential personal benefit even if no equity was involved – that issue had been submitted to the State for an opinion. He stated that certain professions, such as attorneys, salesmen, or real estate, should not be pre-judged; the actions of the individual should be considered.

Councilman Wyett questioned the bid process regarding the $1.2 million project cost related to the water main issue on South County Road.

Town Attorney Randolph explained that it was not the money of the Town, however a valid question to raise would be how the City of West Palm Beach came to the contract without having gone through a bid process. He remarked that it was unfortunate that the Town Council had been put in the position of having to make a decision at the eleventh hour, and suggested that it may be advisable to write a letter to the Mayor of the City of West Palm Beach regarding being put in such a position, and inquiring about the cost of the project.

Councilman Wyett disagreed that it was not the money of the Town of Palm Beach, since that money was pledged to the Town, and was paid for by revenue paid by the residents of the Town.

Town Attorney Randolph replied that from a legal standpoint, from a bidding process, the money was not money for the Town to deal with as far as the bidding was concerned.

Councilman Wyett moved approval of drafting a letter of outrage to the City of West Palm Beach from Mayor Smith questioning the $1.2 million cost of the water main project, and the bidding process. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

President McDonald reported that he had attended the first airport Committee Noise Meeting. He commented that the flights into and out of Palm Beach International Airport had a load factor of 85%, which placed it second in the nation to Las Vegas in terms of how many passengers are flying in and out of the airport. He noted that the airport was forecasting that there would be an additional 400,000 air travelers and a total of 700,000 additional visitors to Palm Beach County when the convention center was completed.

XV. DEVELOPMENT REVIEWS

A. Time Extensions - None

B. Variances, Special Exceptions, and Site Plan Reviews

Old Business - Major

1. VARIANCE NO. 48-99 - Robert Crompton, 311 Pendleton Lane; located in the R-B Zoning District. To allow expansion of a non-conforming residence by the construction of a two-story addition providing a 10' side yard setback in lieu of 15' required and providing a building height of 23'10" in lieu of 22' maximum allowed. *(Deferred from December 14, 1999, January 11, 2000, February 8, and March 14, 2000)*

Town Clerk Pollitt administered the oath to all those who would be testifying in the Development Review matters.

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

Mayor Smith declared a conflict of interest regarding Variance No. 48-99, as she was an affected neighbor, and believed that it may affect the value of her property.

Attorney Frank Lynch, on behalf of Robert Crompton, addressed the Town Council, stating that the plans had been revised, such that the only variance being requested was the side yard setback variance, as the height of the house had been brought down to conform with the Town Code. He explained that the applicant was requesting the addition of a two story addition to a single family residence, and all windows on the second floor had been eliminated so that there would be no windows in the addition facing the property of Mrs. Smith.

Attorney Lynch displayed architectural renderings of the addition in question, and photographs of the existing foliage in the area. He noted that Mr. Arnold, a neighbor, had indicated via letter that he had no objection to the variance request. The hardship was that the lot was a 95' wide lot, in lieu of the required 100'.

Director of Planning, Zoning & Building Robert Moore reported that the original application had been amended, and staff had no objection to the side yard variance, however, staff had requested that approval would include the condition that sufficient site screening be provided.

Councilman Goldblum moved approval of Variance No. 48-99, including the requirement of sufficient site screening between the properties, and a deed restriction to ensure that it would stay in perpetuity; the hardship was the undersized lot. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried 4/1, with Councilman Wyett casting a dissenting vote.

2. VARIANCE NO. 6-2000 - Edwin L. Ecclestone, Jr., 190 S. Ocean Blvd.; located in the R-B Zoning District. To allow construction of an awning providing no side yard setbacks on the north or south in lieu of 10' required and providing a 3' rear yard setback in lieu of 10' required. *(Deferred from February 8, and March 14, 2000)* - **Request for deferral to May 9, 2000, per letter dated March 31, 2000, from Mr. James R. Brindell**

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

3. VARIANCE NO. 11-2000 - Julie A. Heberlein (Reveley), 200 S. Ocean Blvd.; located in the R-B Zoning District. To allow construction of additions at a 27.84% lot coverage in lieu of 25% maximum allowed, and to allow a 4.715 cubic content ratio in lieu of 4.5 maximum allowed. *(Deferred from March 14, 2000)* **Request for deferral to May 9, 2000, per letter dated April 10, 2000, from Mr. James R. Brindell**

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

New Business - Minor

4. VARIANCE NO. 15-2000 - Estate of Elizabeth R. Van Norden, 1284 N. Lake Way; located in the R-B Zoning District. To allow construction of a taller, pitched roof where a flat roof now exists, at a portion of the residence that is currently providing 9.8' setback in lieu of 15' required.

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

Zoning Administrator Paul Castro advised that the applicant was proposing to eliminate a flat roof and replace it with a pitched roof. Since the variance was minimal, and the proposal would result in a more aesthetically pleasing house, staff recommended approval. If the existing roof remained there was the possibility of damage in the future, as water could not flow off of the current roof.

Councilman Wyett moved approval of Variance No. 15-2000. The motion was seconded by Councilman Brooks. On roll call the motion carried unanimously.

New Business - Major

5. VARIANCE NO.13-2000 - Steven Allen, 169 Root Trail; located in the R-C Zoning District. To allow construction

of a new roof system thereby demolishing more than 50% of the cubic volume of this nonconforming single family residence. The new roof increases the height in the nonconforming setbacks which are 1.1' from the east property line and 1.3' from the west property line, where 10' are currently required, and 2' from the rear property line where 15' is required. Applicant proposes to add a front entry cover providing a front yard setback of 19.4' in lieu of 25' required.

Ex-parte communication was declared by President Pro-Tem McLendon, who had visited the site with Attorney Paine and the owner; by Mayor Smith, who had visited the site; by Councilman Goldblum via visiting the site with the owner; by Councilman Wyett, who had spoken with the owner on the telephone, and visited the site.

Director of Planning, Zoning & Building Robert Moore commented that the property was very unique, with a very small lot. The applicant wished to change the roof, and increase the nonconformity on the property, and acquire some additional space for storage on a second floor.

At this time, Town Clerk Pollitt again administered the oath to all those who had not been sworn.

Attorney Jim Paine, representing Steven Allen, addressed the Town Council, stating that the applicant would like to restructure the roof, as the existing roof had a very unique double gabled end, which caught water in the middle. In addition, there was a storage problem, because the house was only 700 sq. ft. He exhibited photos of the street scape, noting that the new roof would be guttered, so that drainage would be taken away from the side yards towards the front.

Mr. Paine explained that the architect for Mr. Allen was Mr. Fagan, who lived on the street as well, and the project had been presented to the Architectural Commission and approved. In the plan review stage it was decided that the variances were needed. The property had been in disrepair for two years.

Mr. Moore gave the following staff comments: Comprehensive Plan: the hardship has not been demonstrated; changes the character of the neighborhood; application and drawings were incomplete at the time that staff reviewed them. A subsequent survey had been provided. Town Manager: requested additional information on justification for the variance. He indicated that there was no record that the applicant had gone before the Architectural Commission.

Ms. Constance Gasque, 167 Root Trail, addressed the Town Council, objecting to the variance being applied for by Mr. Steven Allen at 169 Root Trail. She stated that she believed the roof was a thinly veiled attempt at a second story on a late 1800's building; Mr. Allen knew what he was purchasing when he bought the property, and was now claiming hardship because of no storage space and no space for his visiting children. She stated that the roof design had worked perfectly since the 1800's, and the reason for the water damage sustained by the property was in part due to Mr. Allen's purchase of the house from an invalid who had inherited it under the terms of a New York Life Trust, who was unable to maintain the property or pay the taxes. Ms. Gasque maintained that Mr. Peter Reed, through lawyers, sought to have Ms. Peg Harig declared incompetent, so that no monies would be paid to her for the sale of the house. She stated that after she intervened, Ms. Harig received $10,000 from the purchase price, although under New York State law she was entitled to 50% of the sale, however, she could not afford an attorney to represent her. She explained that during the time of the impending sale of the house, weeds started to grow out of the roof via the eaves, jalousie windows rotted out, and the front door was constantly blown open; therefore massive amounts of rain water came into the house, resulting in water damage to the property. Ms. Gasque asserted that neglect, not a faulty roof, was the cause of the water damage.

Ms. Gasque stated that Mr. Allen had stated that the proposed roof had been approved by the Architectural Commission, and pointed out that she had checked with Mr. Frank, from the Planning, Zoning & Building Department, as to the status of the roof, and that the roof design had never been approved by the Architectural Commission. She explained that the roof proposed by Mr. Allen and Architect Fagan had a seven foot clearance, with plenty of headroom for an adult; the plans also showed two new wood frame "vents" that looked suspiciously like windows. She expressed concern that the air conditioner air handler would be housed in the new roof, and would be five feet from her bedroom window. She maintained that it was her opinion that it was the intention of Mr. Allen to create an avenue to buy, redesign, and eventually sell at a huge profit, a house of historical merit.

Ms. Gasque submitted her letter of April 6, 2000 for the record, and requested that the Town Council deny the variance request.

Mr. Nordoff, 171 Root Trail, addressed the Town Council, objecting to the application of Mr. Allen, stating that Mr. Allen was a real estate salesman, and that he knew the size of the house when he had purchased it. He asserted that there were three other houses for sale on Root Trail that were larger that Mr. Allen could have purchased. He mentioned that he had six windows on his home, which was very close to Mr. Allen, and that he did not believe the proposed roof should be allowed. He noted that the current roof of the house at 169 Root Trail had been up for 35 years, and still did not leak, and the house was not unsightly. Mr. Nordoff exhibited drawings of the properties in question which indicated his windows, which would be blocked by the proposal of the applicant, and stated that he did not wish to be impacted by the height of the proposed roof, and wanted to be protected by the Town Zoning Code.

Attorney Paine responded that the air handler placement in the attic was not intended to air condition the attic, but the applicant needed room in the attic for placement of the air handler to air condition the house. In addition, he noted that the overhangs would be adjusted to comply with the Zoning Code, and he believed that it was unfair to say that it was outrageous to base a hardship on a roof that did, inherently by its shape, hold water. He pointed out that the applicant had altered the original plan in order to mitigate the problem with second story windows of the neighbors; the applicant would prefer the original scheme, but had altered the plans to increase the light and ventilation available to the neighbors; both neighbors had two story houses that were much larger.

Mr. Timothy Frank, Planner/Projects Coordinator, stated that he had been asked if the project had Architectural Commission (ARCOM) approval, had reviewed the records, and could not find an ARCOM approval at that address, nor could he find any evidence of staff approval in the property file.

Mr. Eugene Fagan stated that he had presented the project to ARCOM and had received approval, in December 1999, or January 2000. He stated that he fully expected the modified roof plans to go back to ARCOM.

Director of Planning, Zoning & Building Moore commented that on a major change to a structure that would create a different facade or different look, all property owners within 200' had historically been notified. He offered to further research the matter.

Mayor Smith expressed concern that the attic portion may be used as a second floor on the house, as had happened in the past with other cases. She stated that she did not see a hardship.

Mr. Eugene Fagan commented that the reason for raising the roof was to put a wood shingle roof on the house, which was historically accurate. He noted that he had deliberately made the storage space in the attic at a seven foot height, and a legal room had an eight foot height. He explained that the area was a very tiny space, and it could not be considered a room.

Councilman Wyett moved approval of Variance No. 13-2000 with conditions, using Plan B, with the conditions that there never be a window, that no wall unit air conditioners be used, and the height of the roof be reduced one foot, if possible. He stated that no one had the right of visual easement unless he/she was the owner of the property, and the charm of Root Trail involved the tight crowding of the street, and the old cottage styles of homes there; the Town Council had tried to preserve the street as a beautiful relic of the past. The motion died for lack of a second.

Councilman Brooks moved deferral of Variance No. 13-2000 until the May 9, 2000, Town Council Meeting. The motion was seconded by Councilman Goldblum. Councilman Wyett suggested that the applicant show the Plan B to the neighbors, and discuss it with them. On roll call the motion carried unanimously.

6. VARIANCE NO.14-2000 - Raymond & Maria Floyd, 10 Blossom Way; located in the R-AA Zoning District. To allow construction of a one-story addition providing an east side yard setback of 23.77' in lieu of 35' required.

Ex-parte communication was declared by Councilman Wyett with Attorney Brindell, and by President Pro-Tem McLendon with Attorney Brindell.

Attorney James Brindell, on behalf of Mr. and Mrs. Floyd, addressed the Town Council, stating that the request today was for a variance from the corner lots provision in the Town Code. In this case, their corner lot situation was exacerbated by the fact that three sides of the property fronted on roadway; the west side was Ocean Blvd., and the north and east sides were Blossom Way. The house actually faced Ocean Blvd. Blossom Way was a private street, and the Town Code consequently required a 35' setback on three sides of the property. The proposed addition, which was 365 sq. ft., would not extend any further east than an existing similar portion of the structure which was on the northeast corner of the property. He explained that the hardships were that the lot was bound by streets on three sides (where most corner lots were bound by streets on two sides), and the result was that it imposed an unreasonable setback in the rear of the house; the lot was also irregularly shaped. He produced a letter of support from Mr. Walter McPhail, neighbor to the east, at 50 Blossom Way. He pointed out that the addition was minimal and was the only logical addition as a dressing area for Mr. and Mrs. Floyd.

Director of Planning, Zoning & Building Robert Moore gave the following staff comments: Comprehensive Plan: addition could be located elsewhere, however, it is architecturally compatible with existing structure; Town Manager: requests additional explanation justification for the variance application; Building Department: three street side yards is the hardship; no objection. Mr. Moore pointed out that when the property in question was first sub-divided it went through 23 appearances before the Town Council, and the Town was able to get fewer lots on the property than could have been put on the property, however, only five percent of the streets in Town suffer from the three-sided street situation, and it would truly be a hardship for the property.

Councilman Brooks moved approval of Variance 14-2000. The motion was seconded by Councilman Goldblum. On roll call the motion carried unanimously.

7. VARIANCE NO. 16-2000 - Donna H. Ross, 163 Seabreeze Ave; located in the R-B Zoning District. To allow construction of a new roof system thereby demolishing more than 50% of the cubic volume of both the residence and the garage/guest house. Applicant proposes to replace flat roofs, false mansards and parapet walls with pitched roofs on both the residence and garage/guest house which would increase the roof heights which are in the required 15' east side yard setback and the west side yard setback for the residence, and the west side yard and the rear yard for the guest house/garage.

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

Attorney Kent Huffman, on behalf of Donna Ross, addressed the Town Council, stating that the request of the applicant was to replace an existing flat roof with a pitched roof. He distributed a diagram showing proposed construction, with existing construction highlighted, and a site plan.

Zoning Administrator Paul Castro gave the following staff comments: Comprehensive Plan: no demonstrated hardship; architectural character of the house is not necessarily improved with the change; Building Department: no hardship that exists as shown on the plans; Town Manager: requests additional explanation of the justification for the variance. Mr. Castro explained that the proposed construction was increasing the height within the setbacks of not only the house, but the guest house, and staff did not believe that the applicant had demonstrated a hardship related to the proposal.

Councilman Goldblum moved denial of Variance No. 16-2000. The motion died for lack of a second.

President Pro-Tem McLendon moved deferral until the May 9, 2000, Town Council Meeting with the hopes that the architect and owner could adhere to the staff comments. The motion was seconded by Councilman Wyett.

In response to Mayor Smith, Attorney Huffman stated that the owner perceived the current roof to be aesthetically unpleasing, and the existing flat roof did not have space for the installation of central air conditioning that would be installed in connection with an overall renovation of the residence.

On roll call the motion to defer carried 4/1, with Councilman Goldblum casting a dissenting vote.

C. OTHER

1. Agreement to Extend the Expiration of the Phipps Estate Subdivision Agreement to April 6, 2003 *(Deferred from March 14, 2000)*

Attorney James Brindell, on behalf of Phipps Estate Subdivision, addressed the Town Council, explaining that the Town Council had approved a three-year extension last month for the remainder of the lots left, and the Agreement was now in proper order.

Town Attorney Randolph advised that the Agreement had been reviewed, some amendments made, and approval was recommended.

Councilman Brooks moved approval of the Agreement to extend the expiration of the Phipps Estate Subdivision Agreement, to April 6, 2003. President Pro-Tem McLendon seconded the motion.

Councilman Wyett commented that the original agreement had been made for five years, and there had been controversy, with the vote being 3/2 on the Town Council; there were now many new zoning regulations and he questioned why the remaining lots should be exempt. He stated that he considered it unreasonable, and that the developer had more considerations than any other developer in the Town of Palm Beach.

Town Attorney Randolph advised that the only reason the Agreement was before the Town Council today was for the terms of the Agreement to be approved; the Town Council had approved the Agreement at the last meeting. He pointed out that there should be no discussion in regard to the past vote, unless someone on the prevailing side of the motion to approve the Agreement at the last meeting would bring it up again.

On roll call the motion to approve carried 4/1, with Councilman Wyett casting a dissenting vote.

2. Request by Breakers PUD to Extend Hours of Work Pursuant to Letter Dated March 31, 2000, from Mr. James R. Brindell

Attorney James Brindell, on behalf of The Breakers, addressed the Town Council, stating that the request to extend hours of work was for the construction schedule for The Breakers Club House, and the golf course. He distributed time lines of the proposed working hours, requesting the hours of 7:00 a.m. to 6:00 p.m., Monday through Saturdays, excluding holidays; the golf course construction work would start in May, and the basic work would be finished on September 1st. From September 1st until the start of the season, the grass would be cultivated. The construction of the Golf Club would start in May, and be finished in February 2001, with exterior work finished in October before the season began; interior finish work and exterior site work would be left after that.

Attorney Brindell addressed the concerns of neighbors to the south on Pendleton Avenue on the perimeter landscaping for the golf course, and noted that Attorney Royce represented one or more of those residents. Attorney Brindell noted that he and Attorney Royce had spoken, and were committed to meet with the clients and discuss the landscaping.

Director of Planning, Zoning & Building Moore commented that the golf course realignment had been part of the approved PUD, and residents had been assured that the realignment of the golf holes would be addressed appropriately with architectural features as well as landscaping. He noted that starting at 7:00 a.m. regarding the clubhouse work would be very difficult; he suggested that 8:00 a.m. would be more suitable; in addition he suggested that The Breakers speak to their contractor regarding the hours of construction in the particular area of Pendleton Avene, so as to minimize noise.

Attorney Ray Royce, on behalf of Mrs. Kane Tilney, 245 Pendleton Avenue, and the property owner of 207 Pendleton Avenue, addressed the Town Council. He stated that the residents on Pendleton Avenue were very concerned about the proposed changes to the golf course, and the manner in which it would affect them. He noted that he had not yet had an opportunity to look at the plans, and he and his clients would meet with Attorney Brindell in this regard.. He noted that Mrs. Tilney had related that she had already been somewhat bothered by incoming golf balls with a broken window, and awakened by trees that were being moved; his clients found the request for the 7:00 a.m. start up of construction work disturbing.

Attorney Royce advised that there were very large trees approximately ten feet from the property line of his clients, and removing those, or even planting around those trees, would be very close to the homes, and would be a major undertaking. He noted that the Town Council had the wisdom not to start its own work in the Town before the very civilized hour of 9:30 a.m. He urged the Town Council to allow The Breakers to begin work at a reasonable hour, such as 9:00 a.m., and deny the request to begin work at 7:00 a.m.

Mayor Smith commented that she was an affected neighbor, and the work was already starting and there was much activity in the area; however, she noted that on Saturday morning many people slept later, and there was nothing more annoying than the back-up beep from the trucks. She suggested that some consideration should be given to residents in that area. She strongly objected to work starting before 9:30 a.m. on Saturdays.

Attorney Brindell responded that there was no objection to starting later if work could continue a little longer in the afternoon; the work could be staged regarding the golf holes immediately to the south in order to give consideration to the neighbors. He noted that he had discussed the big trees with Attorney Royce, and had told him that they could stay; if more landscaping was desired it would be installed; The Breakers would work with the residents through the ARCOM process on the landscaping.

Councilman Brooks asked if the trucks using the back-up beeps could be stationed further away from the homes after 5:00 p.m., in consideration of those who may work and return home at that time?

Attorney Brindell replied that he believed the work would be staged on the golf holes that were adjacent to residences to be during the middle of the day, and then work on the rest of the golf holes that were further away would be done during regular hours.

Councilman Wyett suggested that there be a 200' zone coming north from the Pendleton home sites, and on Saturday the hours be restricted from 10:00 a.m. to 5:00 p.m., however, on the balance of the property all of the daylight hours could be used. In addition, he suggested that no work should occur before 8:00 a.m.

Mr. Moore advised that the following work hours were ordinarily permitted according to Town Code:

On May 1, 2000, work could begin at 8:00 a.m. and work could continue until 6:00 p.m. - Mondays through Saturdays.

From now until May 1, 2000, or after December 1, 2000, work must start at 9:00 a.m. and continue only until 5:30 p.m.

Mr. Moore explained that the buffer zone should be tied to the actual work on the golf hole involved. He suggested the hours of 10:00 a.m. to 4:00 p.m. in the buffer zone at all times, six days per week; work on the balance of the property could be done from 8:00 a.m. to 8:00 p.m., six days per week.

After further discussion, Councilman Brooks moved approval of the following work schedule: within the 200' buffer zone: work would be allowed from 10:00 a.m. to 4:00 p.m. Monday through Saturday. (Along the whole south boundary of the golf course including Pendleton Avenue area and Via Bethesda area). Work would be from 8:00 a.m. to 8:00 p.m. on the balance of the property - Monday through Saturday, going into the season and ending in February, with the normal times off between Christmas, Hanakkuh, New Year Holiday, or on Veterans Day -- the same conditions that had applied to the Neiman Marcus project. The motion was seconded by Councilman Goldblum. On roll call the motion carried unanimously.

Attorney Royce thanked the Town Council and Attorney Brindell and his clients for their cooperation regarding the project.

XVI. ANY OTHER MATTERS

President McDonald commented that the meeting on Thursday, April 13, 2000, would be a very important meeting, and requested that all Town Council members read the legal memorandum and the bond material provided so that the information would be understood, and ideas of what action would be taken could be discussed.

XVII ADJOURNMENT

The meeting was adjourned at 3:25 p.m.

Mary A. Pollitt
Town Clerk

Prepared by:
Susan Eichhorn
Deputy Town Clerk

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

LAST NAME—FIRST NAME—MIDDLE NAME Smith, Lesly Stockard	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Palm Beach Town Council
MAILING ADDRESS 300 Chapel Hill Rd.	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY
CITY Palm Beach COUNTY Palm Beach	NAME OF POLITICAL SUBDIVISION:
DATE ON WHICH VOTE OCCURRED	MY POSITION IS: ☒ ELECTIVE ☐ APPOINTIVE

WHO MUST FILE FORM 8B

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

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

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

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

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

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

ELECTED OFFICERS:

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

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

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

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

APPOINTED OFFICERS:

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

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

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

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

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

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Lesly S. Smith, hereby disclose that on 11 April, ~~19~~ 2000:

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

____ inured to my special private gain or loss;

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

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

____ inured to the special gain or loss of ____, by whom I am retained; or

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

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

I believe that as an adjoining property owner my property value may be affected.

Date Filed ____

Lesly S. Smith
Signature

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