

TOWN COUNCIL MINUTES FOR MEETING HELD ON APRIL 11, 1995

I. CALL TO ORDER AND ROLL CALL - The meeting was called to order by President Smith at 9:30 a.m. On roll call the following Elected Officials were found to be in attendance: Mayor Paul R. Ilyinsky, President Lesly S. Smith, President Pro Tem Jack McDonald, Councilmen Samuel C. McLendon and Allen S. Wyett. Also found to be in attendance were: Town Manager Robert J. Doney, Town Attorney John C. Randolph, Police Chief Joseph Terlizese, Fire-Rescue Chief Vincent K. Elmore, Director of Public Works Albert P. Dusey, Building Official Robert L. Moore, Town Engineer James Bowser, Assistant Town Manager Peter B. Elwell, Recreation Director Russell Bitzer, Assistant to the Town Manager David Jakubiak, and Town Clerk Mary A. Pollitt.

II. INVOCATION AND PLEDGE OF ALLEGIANCE - The invocation was given by Dr. Warren from Bethesda-by-the-Sea. The Pledge of Allegiance was led by President Smith.

III. PRESENTATIONS

SPECIAL RECOGNITION

A. Presentation of Plaque of Appreciation to Co-Chairmen Rodney Fink and John Matich of the Citizens' Association South of Sloan's Curve for Fund-Raising Program for New Diagnostic Cardiac Monitors for the Fire-Rescue Department - Mayor Ilyinsky presented a plaque to Mr. Fink and Mr. Matich recognizing their extraordinary efforts on behalf of the Town for the purchase of a new diagnostic cardiac monitor for the Fire-Rescue Department. Mayor Ilyinsky noted that acts of kindness such as these make Palm Beach different from any other town.

1. Presentation of Plaque of Appreciation to Mr. and Mrs. Joseph Jones for Generous Donation of \$16,000 for one (1) Diagnostic Cardiac Monitor - Mayor Ilyinsky presented a plaque to Mr. and Mrs. Joseph Jones for their extraordinary gift to the Town of \$16,000 for one diagnostic cardiac monitor. Mayor Ilyinsky expressed his sincere thanks on behalf of Chief Elmore and the Town.

APPOINTED OFFICIALS

A. Recognition of Marie Hope, Architectural Commission -

Mayor Ilyinsky presented a plaque to Mrs. Hope recognizing her years of service as a member of the Architectural Commission.

Mrs. Hope addressed the Town Council and expressed her appreciation for the plaque and stated the community had given so much more to her than she could ever give to the community. She continued that people live in Palm Beach because they love the community so much. She urged the Council to keep the Town a conservative and wonderful community.

Mrs. Hope noted that her life had changed significantly during the past year, and she complimented the Police Department for its attention and support during that time.

A PLAQUE WAS PRESENTED TO MRS. HOPE.

B. Recognition of Cathleen McFarlane, Architectural Commission

Mayor Ilyinsky presented a plaque to Mrs. McFarlane recognizing her years of service as a member of the Architectural Commission.

Mrs. McFarlane responded that she enjoyed the time she served on the Architectural Commission and she agreed with the comments previously made by Mrs. Hope.

C. Recognition of Joyce McLendon, Seaview Park Commission

Mayor Ilyinsky presented a place to Mr. McLendon in Mrs. McLendon's absence. Mr. McLendon noted that his wife would be present later in the meeting.

TOWN EMPLOYEES

A. Retirement of Nathaniel Horton, Mechanic I, W.P.C.O., Public Works Department - 21 years and 9 months

Mr. Horton was not present.

IV. COMMENTS OF THE MAYOR

Mayor Ilyinsky reported the Chamber of Commerce presented its community award to the Town, and he congratulated Russ Bitzer for running the Recreation Department so well. He complimented Larry Osteen, the Chairman, on his efforts.

Mayor Ilyinsky noted that the Preservation Foundation had received the Florida Trust Award for Pan's Garden which is one of the loveliest parks of its type in the center of a small town in the United States. He noted that the Preservation Foundation recently completed another successful palm sale.

Mayor Ilyinsky noted that a new club, Mar-A-Lago, is now in Town. Most of the dialogue which ventilated the pros and cons of this new organization is in the past. Mayor Ilyinsky said he would be less than candid if he were to say that he did not always agree with the change, but he wished this organization, now that it is in existence, and its new membership every success in the world in their new endeavor. He was sure they will be good neighbors as the Town hopes to be good neighbors to them. He wished them luck.

V. APPROVAL OF AGENDA

Mrs. Smith noted that numerous items have been put forth to be added to the agenda. She suggested that the Council have discussion only on the various items to expedite the items through the meeting and the actions to be taken would be to refer them to a committee or refer the item to the next month's agenda or to a Special Town Council meeting. If the Mayor and Town Council wish any research to be conducted by the Town Staff or the Town Attorney prior to the consideration of the item, the particular interest and need for additional information should be explicitly directed. This will allow sufficient time for the Mayor and Town Council to reflect on the item and to receive the input from the Town Staff without having them sit through an entire meeting in anticipation of what might be submitted.

Mrs. Smith said that one of the items submitted for the agenda is valet parking.

Mr. Shaw suggested that valet parking should be on the agenda for a multitude of reasons including the massive congestion that is on the streets that has grown since the increase in the number of restaurants. He requested that it be added as a discussion item for further review at the May 9, 1995, Town Council meeting.

Mr. Wyett suggested the issue of valet parking should be referred to the Public Safety Committee where the rules and regulations can be worked out.

Motion made by Mr. Shaw to add the Discussion of Valet Parking under item X.B.6. The motion was seconded by Mr. Wyett.

Mr. Doney suggested that the item offered by Mrs. Smith regarding the procedure to add agenda items be added to the agenda under "Approval of Agenda". He mentioned that would be under item X.B.7.

Mrs. Smith replied that the Method to add Agenda Items should be item X.B.6., not item X.B.7. Valet Parking would be item number 7.

Mrs. Smith passed the gavel to make a motion to add the Method of Adding Agenda Items under item X.B.6. The motion was seconded by Mr. Shaw.

Mrs. Smith requested that the roll be called for Item 6.

On roll call, the motion carried unanimously.

Mrs. Smith requested that the roll be called for Item 7.

On roll call, the motion carried unanimously.

Mrs. Smith said the next item for discussion to be added to the agenda was the Governmental Forum to be held May 4-5.

Mr. Shaw made a motion to add the issue of Public Officials attending the symposium, "Excellence in Government" on May 4-5 as Item X.B.8. The motion was seconded by Mr. Wyett. On roll call, the motion carried unanimously.

Mrs. Smith said the next item to be added to the agenda would be a discussion of the formation of a Shore Protection Committee. A motion was made by Mr. McDonald to add the discussion of the Formation of a Shore Protection Committee to the agenda under Item X.B.9. The motion was seconded by Mr. Wyett. On roll call, the motion carried unanimously.

Mrs. Smith continued that the next item to be considered to be added to the agenda was the discussion of the Operation of the Par 3 Golf Course Operation.

Motion made by Mr. Wyett to add to the agenda, under item X.B.10., the Operation of the Par 3 Golf Course During the Early Morning Hours. The motion was seconded by Mr. McDonald. On roll call, the motion passed unanimously.

Mrs. Smith said the next item was the discussion of the Review of the Schedule of the Zoning Commission.

Motion made by Mr. Wyett to add, under item X.B.11., the Review of the Zoning Commission Requirements during the Zoning Season including the meeting requirements; require two readings by the Zoning Commission for approval; notify all residences within 1,000 continuous feet in all directions and make legal notices easier to read and understand. The motion was seconded by Mr. McLendon. On roll call, the motion carried unanimously.

Mr. Shaw reported that recently the County Appraiser's Office had made a determination regarding setting the values of property in the Town of Palm Beach. He said this policy may have a negative effect on the future of Palm Beach and may result in a loss of recreational facilities and green space. This could endanger the Comprehensive Plan and the quality of life in Palm Beach. Mr. Shaw made a motion to add an item, X.B.12, to the agenda for the discussion of the Creation of a Recreational Zoning Category. The motion was seconded by Mr. McLendon. On roll call, the motion carried unanimously.

Mr. Wyett said he would like to add an item to the agenda to review the voting procedures for Town commissions.

Mrs. Smith replied she had reviewed that request and felt that a policy had been established for voting on the commissions. This is something that should be looked at by the Ordinance, Rules and Standards Committee, and it would not be appropriate to change the policy since the Council used a ballot procedure at the last meeting.

Mr. Moore requested that item XIII.C.3., Special Exception Number 7-95, Worth Avenue Associates Ltd., 150 Worth Avenue, be deferred until the May 9, 1995, Town Council meeting.

Mr. Shaw made a motion to defer item number XIII.C.3, SE #7-95, until the May 9, 1995, Town Council meeting. The motion was seconded by Mr. McLendon. On roll call, the motion carried unanimously.

Mr. Shaw made a motion to move the Alcoholic Beverage License, item number VII.B.1. on page 2, Je Me Souviens, Inc., from the Approved Agenda to the Regular Agenda. The motion was seconded by Mr. Wyett.

Mr. Randolph reported that any council member has the right to move an item from the Approved Agenda to the Regular Agenda. That item would be discussed after it was moved and does not require a vote.

Mr. Doney said the Alcoholic Beverage License for Je Me Souviens, Inc. could be heard as the first item under the Regular Agenda or item VII.C.

Mr. Shaw questioned that item B.4. regarding the Mar-a-Lago beverage license should be moved to the Regular Agenda because it would be part of a blanket approval with some of the Council members having a potential conflict of interest for that one item.

Mr. Randolph said if the Council members were to vote on the Approved Agenda and that was included on that agenda, an individual member would have a conflict.

Mr. Shaw requested that item B.4. regarding the Mar-a-Lago beverage license be moved from the Approved Agenda and be placed on the Regular Agenda as item VII.D.

Motion made by Mr. Wyett to approve the Approved Agenda. The motion was seconded by Mr. Shaw. On roll call, the motion carried unanimously.

Motion made by Mr. Shaw to approve the Regular Agenda. The motion was seconded by Mr. McDonald. On roll call, the motion carried unanimously.

NOTE: Items listed on the "APPROVED AGENDA" will be approved by one motion of the Town Council, unless the Mayor or an individual Council Member requests that certain items be deleted from same and be individually considered.

APPROVED AGENDA (ITEM VI. THROUGH VII.)

VI. APPROVAL OF MINUTES OF FEBRUARY 14, 1995, AND MARCH 24, 1995

VII. LICENSES AND PERMITS

A. Charitable Solicitations

1. Landmarks Preservation Commission; No. 358-95
2. Deaf Service Center of Palm Beach County, Inc.; No. 389-95
3. National Association of Police Athletic Leagues, Inc.; No. 390-95

B. Alcoholic Beverage Licenses

1. Jo's Restaurant of Palm Beach, 375 South County Road - Application for a New 4COP-SRX Alcoholic Beverage License
2. L'Europe, 331 South County Road - Application for a New 4COP-SRX Alcoholic Beverage License

C. Je Me Souviens, Inc., 336 Royal Poinciana Plaza - Application for Transfer of Ownership of 4COP Alcoholic Beverage License (See Item XIII C.2.)

Mr. Doney reported that a memorandum from Mr. House was included in the back-up material.

Mr. Shaw stated the reason he requested the item be moved from the Approved Agenda was because he did not question the licensing; however, another item on the agenda, Special Exception Number 4-95, pertains to the same applicant and suggested if a problem existed with the special exception, a transfer of the beverage license would not be necessary. Mr. Shaw noted that one of the footnotes covering the zoning stipulated that if there were a change in the ownership, the special exception must be re-visited and approved. That is the reason for it being on this agenda.

Mr. Randolph offered that both items may be considered at the same time. The two issues are separate and independent but if a liquor license is granted and the special exception were not approved, the first action would be null and void.

Mr. Shaw said his purpose for moving the beverage license was to try to hear the two items at the same time.

Motion made by Mr. Shaw to move this item to be heard with XIII.C.2. The motion was seconded by Mr. Wyett. On roll call, the motion carried unanimously.

- D. Mr. Donald J. Trump/The Mar-a-lago Club, 1100 South Ocean Boulevard - Application for a New 11-C Alcoholic Beverage License

Mr. Moore noted that The Mar-a-Lago Club had qualified for its State license and the staff recommended approval.

Motion made by Mr. McLendon to approve the application for a new 11-C Alcoholic Beverage License. The motion was seconded by Mr. Wyett. On roll call, the motion carried unanimously with Mr. Shaw and Mr. McDonald declaring conflicts of interest as they are members of the Mar-a-Lago Club. Conflict of interest forms are on file in the Town Clerk's office.

Mr. Randolph advised that being a member of the club was not necessarily a conflict under the law. This is an on-going club at this time and the success of the club may depend on the granting of the liquor license. From that standpoint, he advised that would have to be weighed by Mr. McDonald and a determination made as to whether or not voting on this issue would inure to his special private gain as a member of the club. He said that in an abundance of caution, it would be best to declare the conflict.

REGULAR AGENDA

VIII. COMMITTEE REPORTS

- A. Ordinances, Rules, and Standards Committee Report of March 21, 1995

REPORT OF THE ORDINANCE, RULES & STANDARDS COMMITTEE MEETING OF MARCH 21, 1995

I. CALL TO ORDER AND ROLL CALL: A meeting of the Ordinance, Rules & Standards Committee was called to order by Chairman Jack McDonald at 2:00 p.m. on March 21, 1995, in the Town Council Chambers. On roll call, Chairman McDonald and Committee Member Shaw were found to be in attendance. Also attending the meeting were Mayor Ilyinsky, Councilman Wyett, Town Manager Doney, Town Attorney Randolph, Police Chief Terlizzese, Assistant Town Manager Elwell, Assistant to the Town Manager Jakubiak, Director of Public Works Dusey, Planning, Zoning and Building Director Moore, Recreation Director Bitzer, Lifeguard Supervisor Fletemeyer, Code Enforcement Officer House and Town Clerk Pollitt.

II. APPROVAL OF AGENDA: The agenda was approved as written.

III. CONSIDERATION OF POTENTIAL REVISED ATTENDANCE REQUIREMENTS FOR TOWN BOARDS AND COMMISSIONS: After discussion, Chairman McDonald requested that summarized attendance and conflict of interest data be provided on the list of applicants for applicable Town Boards and Commissions who are eligible for reappointment by the Town Council, at the time that list is presented to the Town Council. Mr. McDonald noted no decisions were made at the meeting regarding attendance requirements; however, he requested Mr. Doney, Mr. Moore, Mr. Bitzer, Mr. Shaw, and Mr. Wyett briefly respond, in writing, expressing their concerns and recommendations for the attendance issues for the various Town Boards and Commissions. Mr. McDonald said he did not expect to have these reports before the April 11, 1995, Town Council meeting; however, this matter would be discussed at the April 11th Council meeting to determine the Town Council's desired direction on same.

IV. CONSIDERATION OF ETHICS ISSUES: After discussion of the possibilities of adopting an Ethics Ordinance for the Town of Palm Beach and possible conflicts with the provision of the State Statute related to ethics issues, Mr. McDonald requested that Mr. Wyett should prepare a written list of his recommended ethics issues and work with Mr. Randolph toward the preparation of a draft, to be reconciled with the State Statute, for consideration at a future ORS Committee meeting; this matter will require Town Council discussion and direction at the April 11th Council Meeting.

V. CONSIDERATION OF POTENTIAL AMENDMENT TO TOWN'S SEA TURTLE ORDINANCE NOS. 16-87 AND 4-94 (TOWN'S CODE OF ORDINANCES, SECTIONS 14-65 THROUGH 14-70.1) - SEE MEMORANDUM DATED JANUARY 24, 1995, FROM TOWN MANAGER: After discussion of the advantages, disadvantages, enforcement, and the issues of a mandatory Sea Turtle Protection Ordinance, and after hearing the comments of Mr. Randolph, Mr. Doney, Chief Terlizzese, Mr. Moore, Mr. House, Mr. Fletemeyer, Ms. Mimi Lambert, and Mr. Charles Levin; it is the RECOMMENDATION OF THE ORDINANCE, RULES & STANDARDS COMMITTEE TO AMEND THE EXISTING VOLUNTARY SEA TURTLE PROTECTION ORDINANCE AND MAKE IT MANDATORY; A WRITTEN WARNING WOULD BE ISSUED FOR THE FIRST VIOLATION AND A \$250 FINE WOULD BE IMPOSED FOR THE SECOND AND SUBSEQUENT VIOLATIONS. THE COMMITTEE DIRECTED THE TOWN MANAGER TO INCLUDE INFORMATION ON STATE APPROVED LIGHTING WITH THE LETTER MAILED ANNUALLY TO ALL OCEANFRONT PROPERTY OWNERS.

VI. ANY OTHER MATTERS: There were none.

VII. ADJOURNMENT: The meeting was adjourned at 3:45 p.m.

ORDINANCE, RULES & STANDARDS COMMITTEE

Jack McDonald, Chairman

Leslie A. Shaw, Committee Member

Mr. McDonald reported that the ORS Committee had met on March 21, 1995, and recommended that the Town Council institute a mandatory lights out or shield lights ordinance for the protection of the sea turtles.

Mr. McDonald made a motion to accept the minutes of the ORS Committee meeting. The motion was seconded by Mr. Shaw. On roll call, the motion carried unanimously.

Discussion took place on the Turtle Ordinance. Mr. McLendon stated that he had attended the meeting at the South of Sloan's Curve Citizens' Association concerning sea turtles, and that he still had some questions about how long the turtle season really needed to be. He had originally thought it was five months and now it was up to seven or eight months. Some people had indicated a question of safety if the issue of no or shielded lights was carried too far. He said that he was very sympathetic to the turtles, and that he believed there were things that could be done to increase the survival rate from 1%, which was the current rate.

Mr. Wyett commented that he had received some phone calls from residents saying that there were too many regulations, but if it was going to help the turtles he was in favor of it.

Mrs. Smith stated that she could speak for the northend of the Town; that the northend was in darkness--the residents were very concerned about the turtles. She said that lights were kept off, there were no dogs on the beach, people were careful with flashlights, and there were organized nature patrols where the turtles could be seen laying eggs. She felt it was very important that children be educated in regard to the protection of this species.

Mr. McLendon inquired of Mr. Dusey if the issue of low pressure sodium lights had been addressed?

Mr. Dusey replied that high pressure sodium lights were used, and that conversion had not been done to low pressure sodium lights.

Mr. McLendon asked if high pressure were more brilliant than the low pressure?

Mr. Dusey said that high pressure was a very natural light, and that lights visible from the beach were shielded, and the lights at Phipps Park had been removed totally.

Mr. McLendon clarified that an attempt was thus made to avoid any illumination on the beach, whether it be through sodium lights or otherwise?

Mr. Dusey responded that was correct. In the locations where roadways were near the beach, the lights were shielded.

Mr. McLendon commented that he had learned that flashlights were offensive on the beach for the turtles.

Mrs. Smith commented that people on the beach to observe the turtles and the nesting do not have lights on because they were aware of the problem. Once the laying of the eggs starts the flashlights do not bother the turtles, but the residents were very concerned and careful about the issue of lights.

Mr. Wyett asked how the Ordinance could be enforced?

Mr. McDonald commented that the police department had accepted the responsibility of enforcing the Ordinance.

Mr. Shaw noted that in the past, the Town had sent a letter to all of the oceanfront owners, and he felt that letter should be sent out as quickly as possible with some modifications--one of the things brought out was that it was not facts per se that were the problem, but a certain temperature of the lighting. High pressure sodium lights were not a problem, and if there was a safety issue, Mr. Shaw felt that a list of the types of lights approved should be included in the letter.

Mr. Doney commented that Mr. Elwell would speak to a report of detailed lighting requirements received from the Department of Environmental Protection.

Mr. Elwell explained that low pressure sodium lights and yellow bug lights were not specifically included in the State guidelines, but rather that the yellow type lights may be acceptable in certain applications. In the draft of the notice, a line had been included saying that some limited use of low pressure sodium lights or yellow bug lights may not be a threat to the turtles, in order to raise an awareness of proper light usage, and also to raise the question that more information could be obtained concerning the matter. In addition, Mr. Elwell explained about the change of the format in the notice--the ORS Committee had discussed, and then requested from staff, that the notice be more "user friendly" this year--that it be something eye catching and not just a letter with the attached Ordinance, all subject to Town Council approval.

Mr. McDonald made a motion to approve the turtle letter; seconded by Mr. Wyett. On roll call the motion carried unanimously.

Mr. Doney clarified that an appropriate Ordinance Amendment for first reading would be heard at the May 9, 1995 Town Council Meeting.

B. Public Works Committee Report of March 28, 1995

REPORT OF THE PUBLIC WORKS COMMITTEE MEETING
OF MARCH 28, 1995

I. CALL TO ORDER AND ROLL CALL: The meeting was called to order at 2:00 p.m. by Chairman Leslie A. Shaw. On roll call, Chairman Shaw and Committee Member Samuel C. McLendon were found to be in attendance. Other Elected Officials attending were Mayor Paul R. Ilyinsky, President Lesly S. Smith, and Councilman Allen S. Wyett. Others attending the meeting were Town Manager Robert J. Doney, Public Works Director Albert P. Dusey, Town Engineer James M. Bowser, Solid Waste Division Manager Ronald L. Meadows, Town Clerk Mary A. Pollitt; Jim Barry, Environmental Director of Coastal Wetlands Division, Palm Beach County, Department of Environmental Management; and John Matich, 3475 South Ocean Boulevard.

II. APPROVAL OF AGENDA: The agenda was approved as printed.

III. SPOIL ISLAND ENVIRONMENTAL ENHANCEMENT: Mr. Dusey reported that Jim Bowser, after investigation, suggested that four spoil islands, two at Sloan's Curve, Hunter's Island and Fisherman's Island, may be eligible for grants for enhancement type projects. Jim Barry offered to draft an interlocal agreement first defining the project and continuing with the development of plans, specifications and permits. Mr. Barry suggested that 75% of the funds would come from the federal government and the remaining 25% can be shared between the County and the Florida Inland Navigation District. He said the Town may not have to provide any of the funds, and the time frame depends on the scope of the project the Town decides upon. He continued that the proposed project with federal funds would probably require a 2 - 3 year window.

After hearing the comments of President Smith, Mr. Doney, Mr. Dusey, Mr. Bowser, and Mr. Barry, IT WAS THE RECOMMENDATION OF THE COMMITTEE TO APPROVE THE STAFF'S PROCEEDING WITH THE COUNTY TO DEFINE SITE SPECIFIC PROJECTS WITH SCOPES OF WORK AND RETURN WITH ALL INFORMATION, INCLUDING THE COST ESTIMATION, TO THE TOWN COUNCIL BEFORE THE PROJECT WOULD MOVE FORWARD.

IV. YARD TRASH COLLECTION AND DISPOSAL ISSUES

A. CHIPPING: The Committee discussed the feasibility of the use of chippers by individual property owners and yard service companies as a way to decrease the amount of yard trash placed on the streets. After hearing the comments of Mr. Dusey, Mr. Matich and others, the Committee took no formal action on this question.

B. SET-OUT SCHEDULE: The Committee discussed the unsightly piles and volume of yard trash and issues related to the enforcement of the existing ordinance regarding the placement of yard trash on the streets. After hearing the comments of Councilman Wyatt, Mr. Doney, Mr. Dusey, Mr. Meadows, and Mr. Matich regarding the methods of removal and the location of trash piles, the Committee took no formal action on this issue.

C. OFF-STREET TRASH STORAGE AREAS: After the Committee discussed the types of off street storage areas for private residences and condominiums, the Committee took no formal action.

D. TRASH HOLES ALONG A1A - FLORIDA DEPARTMENT OF TRANSPORTATION COMPLAINT: After hearing comments from Mr. Dusey and Mr. McLendon, Mr. Shaw said he endorsed Mr. Dusey's suggestion not to do anything regarding the original complaint until FDOT contacts the Town concerning this issue with specific recommendations. No formal action was taken on this matter.

V. DUAL DISTRIBUTION SYSTEM FOR NON-POTABLE WATER: After discussing the issues of upgrading the water, sanitary and storm sewer systems for the projects scheduled in the summer of 1995, THE COMMITTEE RECOMMENDED CONSIDERING THE DUAL DISTRIBUTION SYSTEM AS A SEPARATE LINE ITEM ON THE BID WITH THE OPTION TO HAVE NON-POTABLE LINES INCLUDING THE DISTRIBUTION LATERAL HOOK UPS INSTALLED ON THE UPCOMING PROJECTS AND THOSE PROJECTS THAT ARE TO BE CONSIDERED IN THE FUTURE.

VI. ANY OTHER MATTERS: Mr. Shaw referred to a letter received pertaining to the quality of lighting on some of the Town's streets between Worth Avenue and the area to the south. He added a similar letter had been received regarding the street markings in the south end of Town, i.e. the reflectors.

Responding to questions from Mr. Shaw, Mr. Bowser reported that DOT had taken their trucks out of service for approximately three weeks to change the nozzles and install a new paint system. Mr. Bowser said DOT will continue with the markings when those changes have been made, and reflective pavement markers will be installed with the project.

VII. ADJOURNMENT: The meeting was adjourned at 4:15 p.m.

PUBLIC WORKS COMMITTEE

LESLIE A. SHAW, COMMITTEE CHAIRMAN

SAMUEL C. MCLENDON, COMMITTEE MEMBER

Mr. Shaw reported that there were a number of items addressed in the he meeting: one was the Spoil Island Environmental Enhancement Program--there were four islands just off the coast in the intracoastal that needed to be refurbished, with funding involving 75% federal funds; 25% coming from the County and Florida Inlet Navigation District. Mr. Shaw continued that there was a possibility that the Town may have a minimal amount of participation, but this had not been established. Mr. Shaw believed the project would take about 2-3 years from start to completion, and the Committee had approved the staff proceeding with the County to define the site specification project, the scope of work, and to return with all information to the Town Council before the project would move forward.

Mr. Shaw reported that the other item discussed was yard trash collection and disposal. Mr. Shaw continued that a major problem was the limited compliance to the Ordinance regulating yard trash collection and disposal, and the Committee had decided the first step should be to request a more aggressive compliance by residents, rather than change or amend the Ordinance, for the time being.

Mr. Shaw noted that another item discussed by the Committee had been chipping; it had been established that the noise level and the costs of purchasing and operating a chipping service as a means of collecting yard trash would not be feasible for the Town at this time. It was hoped that more interest would be taken in minimizing the impact of yard clippings through individual property owners doing their own chipping. Mr. Shaw noted that off-street storage areas were looked at, discussion had taken place concerning redefining trash placement in the roadway, and a response had been made to a letter from the Department of Transportation.

Mr. Shaw continued that the issue of the dual distribution system had been discussed and it was the Committee's recommendation that it be considered and that it be a separate line item on the bid with the option to have non-potable lines either included or excluded from the distribution, and that distribution systems would also include lateral hook-ups.

Another matter brought up had been street lighting, both from the standpoint of cars and pedestrians. Mr. Bowser had transmitted information from the Department of Transportation that they would be improving streets from the Broward County Line to the Flagler Memorial Bridge on A-1-A, and Mr. Shaw remarked that a vast improvement in the quality of roads in Palm Beach should be seen.

Mr. McDonald made a motion to accept the report of the Public Works Committee Report of March 28, 1995; seconded by Mr. Wyett. On roll call the motion carried unanimously.

Mr. McLendon commented that he thought the Ordinance regulating trash would have to be revisited.

Mayor Ilyinsky commented that he was concerned about the Spoil Island Environmental Enhancement, since he lived right over the top of one of the islands, and he questioned who owned the islands?

Mr. Dusey replied that the Town owned them.

Mayor Ilyinsky then asked Mr. Dusey if the islands had been leased to the Audubon Society? Mayor Ilyinsky added that he was always a little suspicious of government spending on Town owned property.

Mr. Dusey responded that the west side of the islands needed mangrove replacement, and the idea was to plant the natural vegetation for improvement to the environment. Mr. Dusey added that the Audubon Society leased property from the Town, around the Post causeway area that were not included in the islands in question.

Mr. Doney commented that the recommendation of the Public Works Committee addressed the concern of the Mayor. If the Town Council approved the recommendation that the Committee approve the staff's proceeding with the County to define site specific projects, with scopes of work, and return with all information, including the cost estimation, before the project moved forward that would allow the Town Council ultimate control.

Mr. Wyett made a motion to endorse the Public Works Committee remarks on the recommendation to approve staff proceeding with the County to define site specific projects, with scopes of work, and return with all information, including the cost estimation, before the project would move forward; seconded by Mr. McLendon. On roll call the motion carried unanimously.

Mr. Shaw made a motion that the recommendation to include the dual distribution system be included as a separate line item on the bid; seconded by Mr. McLendon. On roll call the motion carried unanimously.

Mr. Doney commented that he wanted to clarify direction to Town staff. On Item III of the ORS Meeting of March 21, 1995, there had been comment and discussion concerning the attendance for Town Boards and Commissions, and Mr. Doney inquired as to Town Council approval as to staff direction in this regard.

Mr. McDonald stated that Town staff had been asked by the ORS Committee to indicate any problems with attendance on any of the Boards or Commissions, and to give input regarding any suggested changes--they were to submit that in writing subsequent to the April 11, 1995 meeting.

Mr. Doney asked that Town Council approve Item IV of the ORS Meeting of March 21, 1995. Mr. McDonald then moved that the Town Council approve Mr. Wyett meeting with Mr. Randolph regarding recommendations for the possible review, discussion, and implementation of an Ethics Ordinance; seconded by Mr. Wyett. On roll call the motion carried unanimously.

C. Water Committee Reports of March 30, 1995 and April 6, 1995

REPORT OF THE WATER COMMITTEE MEETING HELD ON MARCH 30, 1995

I. CALL TO ORDER AND ROLL CALL: A meeting of the Water Committee was called to order by Chairman Samuel McLendon at 2:00 p.m. on March 30, 1995, in the Town Council Chambers. On roll call, Chairman McLendon and Committee Member Allen S. Wyett were found to be in attendance as members of the Committee. Other Elected Officials attending the meeting were: Mayor Paul R. Ilyinsky and Councilman Jack McDonald. Others attending the meeting were: Robert J. Doney, Town Manager; John C. Randolph, Town Attorney; Peter B. Elwell, Assistant Town Manager; Albert P. Dusey, Director of Public Works; James M. Bowser, Town Engineer; and Mary A. Pollitt, Town Clerk.

II. APPROVAL OF AGENDA: The agenda was approved as printed.

III. WATER SUPPLY MATTERS

A. CONSIDERATION OF PROVISIONS OF PROPOSED WATER FRANCHISE AGREEMENT WITH CITY OF WEST PALM BEACH

The Committee members, Staff and Town Attorney Randolph reviewed the February 4, 1994, draft of the franchise agreement with the City of West Palm Beach and after suggesting changes through Section IX., Chairman McLendon requested that Staff merge the suggestions made at the meeting and present the revised draft agreement at the next meeting of the Water Committee. The next meeting for the Water Committee will be April 6, 1995, at 2:00 p.m.

IV. ANY OTHER MATTERS

There were none.

V. ADJOURNMENT

The meeting was adjourned at 4:35 p.m.

WATER COMMITTEE

SAMUEL C. MCLENDON, COMMITTEE CHAIRMAN

ALLEN S. WYETT, COMMITTEE MEMBER

REPORT OF THE WATER COMMITTEE MEETING HELD ON APRIL 6, 1995

I. CALL TO ORDER AND ROLL CALL: A meeting of the Water Committee was called to order by Chairman Samuel McLendon at 2:00 p.m. on April 6, 1995, in the Town Council Chambers. On roll call, Chairman McLendon and Committee Member Allen S. Wyett were found to be in attendance as members of the Committee. Other Elected Officials attending the meeting were: Mayor Paul R. Ilyinsky, President Lesly S. Smith, Councilman Leslie A. Shaw, and Councilman Jack McDonald. Others attending the meeting were: Robert J. Doney, Town Manager; John C. Randolph, Town Attorney; Peter B. Elwell, Assistant Town Manager; Albert P. Dusey, Director of Public Works; James M. Bowser, Town Engineer; Mary A. Pollitt, Town Clerk; and Dr. Sten Lilja, 1330 North Ocean Boulevard.

II. APPROVAL OF AGENDA: The agenda was approved as printed.

III. WATER SUPPLY MATTERS

A. CONTINUED CONSIDERATION OF PROVISIONS OF PROPOSED WATER FRANCHISE AGREEMENT WITH CITY OF WEST PALM BEACH

The Committee members, Staff and Town Attorney Randolph continued their review of the February 4, 1994, draft of the franchise agreement with the City of West Palm Beach (including review of the modifications suggested at the March 30, 1995, Water Committee meeting). After completing their review, Chairman McLendon requested that the Town Attorney and the Town Staff revisit several items in the agreement, incorporate the comments from the participants at the meeting, and present the revised draft agreement at the next meeting of the Water Committee.

Chairman McLendon reported he will be meeting with Mayor Nancy Graham on April 18, 1995, at 2:00 p.m. to continue the negotiations between the City of West Palm Beach and the Town of Palm Beach.

IV. ANY OTHER MATTERS

There were none.

V. ADJOURNMENT

The meeting was adjourned at 5:00 p.m.

WATER COMMITTEE

SAMUEL C. MCLENDON, COMMITTEE CHAIRMAN

ALLEN S. WYETT, COMMITTEE MEMBER

Mr. McLendon stated that a meeting was held on March 29, 1995 between he and Mayor Graham, to explore future meetings. The Town and the City of West Palm Beach had agreed to proceeding with a friendly lawsuit to determine the legality of the 25% surcharge. Agreement had also been reached to negotiate the other issues that had been in proposed agreements over the years, and the point had been made that the Town's concern was to try and continue to be a part of the West Palm Beach system, however, the Town did not agree with the use of water rates to subsidize projects such as the police department, nature walk, and fire protection.

Following that meeting, the Water Committee had met on March 30, 1995, and again on April 6, 1995, with the purpose of going through, section by section, the February, 1994 Proposed Agreement in order to make suggestions for negotiation. With staff assistance, the Water Committee was still in the process of completing that.

Mr. McLendon continued that the next meeting with the City of West Palm Beach was scheduled for April 18, 1995.

Mrs. Smith asked Mr. McLendon what would occur at the April 18, 1995 meeting?

Mr. McLendon replied that the meeting would involve Town staff and Mayor Graham and the City of West Palm Beach staff.

Mr. Wyett made a motion to approve the report of the Water Committee; seconded by Mr. McDonald. On roll call the motion carried unanimously.

IX. OLD BUSINESS

A. Other

1. Consideration of a Mobile Dredge with cost Potentially Shared with Other Municipalities, Inlet Districts, and/or Palm Beach County

Mr. Elwell addressed the Town Council, stating that there had not been much additional input at the Beaches and Shores Meeting of April 10, 1995. He remarked that the one official action that had been reported was the South Lake Worth Inlet District was not interested in pursuing a mobile dredge with the Town of Palm Beach. There had been some general discussion about it, and Mr. Elwell had asked that this item be placed on the Agenda for the May meeting, and that any official action from the policy making boards of each of the jurisdictions be included at that time.

Mr. McLendon inquired if discussions regarding the mobile dredge had always been limited to the fact of purchase and operating a dredge, or a joint effort to contract for dredging?

Mr. Elwell replied that discussions had always been related to purchasing, however in recent discussions feedback had been requested on what other local governments would be interested in pursuing a mobile dredge with the Town.

Mr. Wyett mentioned that he had attended a Civic Association presentation concerning dredging, and that he had learned that an ocean going dredge would cost approximately twenty million dollars, and would only be practical if it was operated seven days a week, 52 weeks a year. Based on that, Mr. Wyett felt that the Town was headed in the wrong direction as to how to do any dredging.

Mrs. Smith asked Mr. Elwell if he felt it was a wasted effort to continue to discuss dredging, and should the issue be withdrawn?

Mr. Elwell replied that Town Council could give staff direction in this matter, however, there would be one more consideration of the matter given at the next Beaches and Shores Council Meeting.

Mr. Louis Pryor addressed the Town Council, suggesting that the Town Council dismiss the idea of a shared dredge, as he felt it would be premature to dismiss the idea of any dredge.

Mr. McLendon suggested that rather than closing the door completely, to discuss sharing the mobilization costs of dredging among the local governments.

Mr. Elwell commented that, based on the discussion today, he and Mayor Ilyinsky could go to the May Beaches and Shores Council Meeting and express the idea that the Town would not be pursuing the mobile dredge concept for the time being.

Mr. McDonald made a motion that the Mayor and Assistant Town Manager appear at the May Beaches and Shores Meeting to express the lack of interest in mobile dredging; seconded by Mr. Wyett. On roll call the motion carried unanimously.

2. Consideration of the Lake Worth Inlet Management Plan Recommendation

Mr. Dusey introduced Dave Decker from Applied Technology Management, who had compiled the draft of the Lake Worth Inlet Management Plan.

Mr. Dave Decker, Vice President of Applied Technology Management, Inc. introduced Mr. Mike Barnett and Mr. Gregg Braun as part of the team developing the Lake Worth Inlet Management Plan. Mr. Decker stated that today they would summarize their findings and recommendations as a brief overview of what had been done. Mr. Decker continued that they had been working collectively with the State of Florida and Palm Beach County and the Town Staff to develop the Plan.

Mr. Decker then presented a slide presentation of the study area of the Inlet and related shore lines. He added that the Plan had been mandated by the State of Florida through a statute requiring that plans be developed for all inlets with the intention of them serving as guides for the State of Florida to review environmental issues and related regulatory decisions. The cost of the Plan was approximately \$140,000 to date, which had been shared by the State of Florida, Palm Beach County, and the Town of Palm Beach. The primary objectives of the Plan were to look at the effectiveness of sand bypassing across the Inlet, to determine what the minimum requirements would be for maintaining the navigation channel, and to look at the need for supplemental nourishment. The goals established to evaluate those objectives were to look at effectiveness, costs, and acceptable alternatives.

There had been six elements established by the Florida Department of Environmental Protection included in the Plan. The current study was the first example of a study following the format of the six elements. There had been about 25 other Inlet Management Plans completed across the State, however, this plan was the first to follow the new outline established by the State. Development of the Plan had been made somewhat cumbersome because of the requests of the State for the completion of one phase for their perusal before authorization was given to move on to another phase. So far, phases one through five had been reviewed with the State, and formal authorization had been received to move forward with phase six.

An excess of 100 studies and reports done over the last 50 years had been used in gathering information and making recommendations for the Plan. Some of the items looked at were the physical characteristics of the Inlet, navigation records, dredging records, and Natural Resource Studies done by the County.

It had been concluded that there was a need to bypass 171,000 cubic yards of sand on an annual average basis--moving sand from the north side of the Inlet to the south side of the Inlet, and how the sand was moved was the subject of various alternatives that were analyzed. It had also been concluded that there was a historic deficit of approximately 12 million cubic yards on Palm Beach as a result of the Inlet being constructed earlier in the century. The bulk of that sand had

accumulated on the north side of the Inlet, or had been taken to places like Peanut Island or offshore as a result of dredging.

Environmental factors that might affect recommendations or alternatives had been evaluated and identified that would be affected by any type of sand placement project. Thirteen alternatives had been identified, including sand bypassing, fixed and floating dredge systems, maintenance modifications, and possible use of offshore sand sources for supplemental nourishment on Palm Beach. Mr. Decker added that it was somewhat difficult to evaluate and compare the alternatives, because certain alternatives provided better solutions to various objectives than others.

Mr. Decker summarized the recommendations for the three objectives of sand bypassing, navigation channel dredging, and supplemental nourishment. On sand bypassing the recommendation had been to reactivate the existing Sand Transfer Plant. In addition to reactivating the Plant, recommendations were being made for numerous improvements to be made to the Plant to improve its effectiveness by approximately 60%.

On channel maintenance it had been recommended that the Corps of Engineers continue to maintain its navigation channel maintenance dredging as it has done historically, and that it place all of the spoil that is beach compatible on the south beach.

On supplemental nourishment a recommendation had been made for supplemental bypassing (supplemental bypassing involved the additional sand that would need to be moved south to achieve an annual average of 171,000 cubic yards per year). Supplemental bypassing would include enlarging the Corps of Engineer sand trap on the north side of the Inlet and to have the Corps dredge that sand trap periodically. Beach nourishment was the second component of supplemental nourishment, and it had been recommended that the Town, the Corps of Engineers, and the State of Florida proceed forward with implementing a supplemental beach nourishment project on a large scale.

Mr. Decker said that the report before the Town Council today had also been transmitted to the Corps of Engineers, the Department of Environmental Protection and to the County with comments from them encouraged. Then, the Plan would be revised and it would be submitted to the State for formal adoption.

Mr. McLendon asked if the proposed sand trap would not just decrease the frequency of the Corps of Engineer dredging?

Mr. Decker replied that it would to a certain extent, but it would be made more regular, and it was recommended that the Corps of Engineers be encouraged to maintenance dredge that sand trap, regardless of whether the channel maintenance needed to be accomplished.

Mrs. Smith commented that in the 1940s the Beach Erosion Board had recommended that one million cubic yards of sand be pumped onto the beaches in Palm Beach and that had been done as far south as Banyan Road, and she inquired as to why it was not part of the present plan that sand be pumped directly onto the beaches as far south as the mid-town area?

Mr. Decker replied that environmental constraints, the hard bottom, were the big issue. Because the shoreline had eroded, the hard bottom had become exposed and now supported all of the sea life in the area. The State of Florida was not supportive of any action that would potentially cover those hard bottom areas. Therefore, recommendations for the disposal area were limited between the south jetty and 3,500 feet south of the jetty.

Mrs. Smith asked Mr. Decker if he was moving on a perfect schedule, when would he anticipate that the public hearings on the Plan would take place?

Mr. Decker replied by July of 1995.

Mrs. Smith stated that the Council was meeting today in order to support the Plan and endorse the draft document which would be going to the State Department of Environmental Protection. She then asked Mr. Dusey if there was anything else he felt the Council should do today?

Mr. Dusey replied that if the Town Council could formally endorse the Plan as it had been presented to them, it would be helpful in taking it on to the next step.

Mrs. Smith asked if there was any member of the public wishing to speak on this matter?

Dr. Sanford Kuvin, resident of Palm Beach and Chairman of the Concerned Citizens For Preservation of Beaches and Property, addressed the Town Council, stating that before the Plan was endorsed by the Town Council he hoped that they would hear some debate about it. Dr. Kuvin continued that there had been four previous studies done and paid for by the Town since 1974, with not one of them being acted upon. For forty years, the combination of the Sand Transfer Plant with the Army Corps of Engineers' obligatory dredging of the Inlet and the depositing of sand in the spoil area south of the jetty had kept shores in a stable and steady state, until the Sand Transfer Plant was closed down because of litigation four years ago. Now, a plan was being presented that lacked scientific credibility in the sense that if the L-Groin in Riviera Beach was tampered with deep political trouble could result. Also, Mr. Decker had mentioned the lengthening of the pipe with no cost estimate given, no indication of whether plastic or metal pipes should be used, what the valves would be, what the property rights were, what the permitting rights were for extending a pipe 1,500-2000 feet down the line. No one had articulated the plan that had been submitted three days ago to the Town Council about the alternatives to put the current by-pass pipe under the Inlet and what angle that pipe would take, and whatever angle that pipe takes would predetermine any additions or subtractions to the length of that pipe.

Dr. Kuvin added that not just a few dollars were at issue, but rather hundreds of thousands, if not millions, of dollars being added to the budget, with no outcome predicted. He felt that two other items had to be addressed; one was the achievement of a goal of 100,000 cubic yards per year. In actual fact, if County records were looked at, it would be found that up to 90,000 cubic yards has been achieved in terms of sand transfer, depending on the efficiency of an inefficient plant which is hoped to be brought up to appropriate standards. The biggest problem would be the lengthening of the pipe without adequate study. The study that had been done was a wave refraction study, which measured the patterns of waves and the energy that this wave pattern emitted over the past 20 years. There had been no wave refraction study under limitless wave variables in a water tank; there had been no study to color the sand to see if the sand, in fact, does flow south to

north, when in fact every coastal engineer of repute says that the literal flow of sand is uniformly south. To suddenly reinvent the wheel and suddenly come up with yet another fifth proposal that has all sorts of holes in it from a cost, political, and pragmatic point of view was asking for trouble. What should be done was to get on with the job of rehabilitating the Plant. If, perchance, there was some northern flow of sand the Army Corps of Engineers will take that sand from the Inlet and put it right back where it should be at no cost to the Town. There was every logical reason to get this Plant functioning. Dr. Kuvin asked that the Plan presented today be looked at with a very critical eye by the Town Council before support for it was given.

Mr. Gehman, a resident of Palm Beach, addressed the Town Council, stating that he has been very interested in the beach erosion problem, and is a supporter of the Sand Transfer Plant for years. He added that there were several things that he wished to address. He was aghast to realize that no one knew who owned the Sand Transfer Plant today. The Town of Palm Beach had the problem of beach erosion which had been caused by the Inlet--on the other hand, the major beneficiary of the Inlet was the Port of Palm Beach. Mr. Gehman believed that the Town should not have to bear the total financial responsibility for maintaining and operating the Sand Transfer Plant once it was rejuvenated. The Port of Palm Beach should be required to be a major provider of financing for that Plant. Mr. Gehman suggested that efforts be made to contact the Port of Palm Beach for assistance in the situation. Mr. Gehman continued that beach maintenance had been talked about, but the width of beaches would not be enlarged; therefore, he suggested the possibility of using a large pile of man made island, Peanut Island, to put back on Palm Beach to rebuild beach standards. He knew that would be difficult to do, but felt that the Port of Palm Beach would be very much interested in the proposal because it would expand their turning basin and increase shipping safety.

Mrs. Smith replied that the Town had tried to work with the Port of Palm Beach, and they were not anxious to contribute any money to the Sand Transfer Plant.

Mr. Louis Pryor, representing the Civic Association, addressed the Town Council, stating that he wanted to emphasize that the study vindicated the Council decision made early last year--to take the bull by the horns and reactivate the Sand Transfer Plant. At the same time, he said, it should be recognized that the study defined the problem, but from the Town's viewpoint the study was limited. It was focused on the Inlet and not on long term solutions for the Town of Palm Beach. The reason for this was that the purposes of the Inlet Management Plan were three, and one of the three was to evaluate and recommend corrective measures to mitigate the erosive impact of the Inlet. The study addressed maintenance of beaches rather than improvement. One issue to be considered was how to hold the sand after it was replaced. Also, groins were an issue that would have to be considered. The study recommended maintenance dredging by the Corps of Engineers, who would be depended upon to pump 70,000 cubic yards per year--40% of what was being lost today. How could it be insured that beach renourishment would be an equal priority in the eyes of the Corps of Engineers? Mr. Pryor felt certain the the citizens would applaud the Town Council if it insured that the Town becomes the owner of its own destiny.

Mr. Joel Martino, 109 Ocean Terrace, addressed the Town Council, stating that he had become very concerned about the Plan because of the possible environmental and aesthetic impact of the pipe which could possibly extend down the beach, which could be a very ugly sight. The environmental impact of the recent dredging around Peanut Island had been to dump tons of metal, fishing line, and trash all over the beaches. This led him to believe that some of the study that had been done might also have certain implications aesthetically and environmentally.

Mr. Dusey responded to the problems of the trash on the beaches, stating that the Town staff had taken a position with the Corps of Engineers to encourage them to remove the debris.

Mr. Shaw stated that the difference between a dredging project and the sand transfer would be that the debris may be eliminated. One of his concerns with the Plan was the renourishment of the beach on the inside of the Inlet. There had been a decrease in the Inlet beach side versus the ocean beach side, and as the Inlet got wider it affected the property owners in the northern area of the Town.

Mr. Decker replied that no consideration had be given in the Plan to the interior of the Inlet. The study had focused primarily on moving sand on the ocean side.

Mr. Shaw asked what the total amount of sand would be to be replaced with supplemental dredging?

Mr. Decker replied that there were 171,000 cubic yards moving down the beach on the north side of the Inlet. Of that number, approximately 59,000 cubic yards make their way across the Inlet and move southward. These numbers were based on the period from 1970 onward. Of the 171,000 cubic yard, 62,000 cubic yards were being by-passed with the by-passing Plant when it was operating. Of that, approximately 27,000 cubic yards moved their way back into the Inlet. Approximately 13,000 cubic yards were being taken offshore with the maintenance dredging. Maintenance dredging in the channel annually averages 42,000 cubic yards that were being placed on the south beach. Actually on an average basis, 62,000 cubic yards of sand had been by-passed across the Inlet and 42,000 cubic yards were being by-passed in maintenance dredging. Some of that sand was making its way back, with the net result being 58,000 cubic yards of sand. The goal was to make that 62,000 cubic yards figure into a 100,000 cubic yards figure--ending up with more sand moving south. The objective was to make the 171,000 cubic yards north equal to the south. Mr. Decker added that it was very difficult to explain, because some sand is being recycled, being picked up and moved up twice.

Mr. Shaw asked if the shortfall was then 70,000 cubic yards?

Mr. Decker replied that the shortfall was actually the difference between the 171,000 cubic yards and 58,000 cubic yards. The goal was to increase the movement of sand south. The sand trap would not be totally effective--all of the sand would not be captured, eliminating the need for channel dredging. It would reduce the need for channel dredging, which was one of the purposes. The rationale for the sand trap element was that it was proposed to marry this expanded sand trap to the federal project, so that it would be included as part of the federal dredging effort, helping to offset some of the expense.

Mr. Shaw asked if jet pumps were used in conjunction with the Sand Transfer Plant would that be a better solution rather than just relying on the periodical dredging?

Mr. Decker replied that the jet pump option was the number two alternative, and if the Coastal Florida Study strongly recommended going to the jet pump system, and federal interests supported that, the recommendation would be to go to that. The difference between the recommended plan and the jet pump system was very small, relating primarily to the up-front capital costs--4.5 million dollars for the up-front cost of the jet pump system.

Mr. Decker then responded to some of the statements given by Dr. Kuvin. Concerning the lengthening of the pipe, Mr. Decker said that they did not agree with Dr. Kuvin. What they had noticed in doing their wave refraction study was that within the distance of 1,000 feet of the south jetty the net transport of sand was to the north, and wave refraction studies performed as part of this study and by the Corps of Engineers in 1988 documented that. The reason behind that was the driving force for sand moving from the north to the south were severe storms in the fall and winter months. Those waves were sheltered by the jetty. They had noted in their study that the net transport of sand was northward, not southward in the distance within 1,000 feet of the south jetty. That was the reason for wanting to extend the pipelines further south, so that the sand from across the Inlet would get outside of the shadow effect of the jetty, where it would result in moving down and benefiting other areas of the Town.

Mr. Decker continued that a water tank study and sediment tracer studies had not been included in this plan as they were extensive and expensive studies beyond the scope of this study.

Mrs. Smith asked if any Inlet studies had done such studies?

Mr. Decker replied that they had been done, but that he believed that they had not been required. It may have been deemed the most reasonable approach in determining what the influence of the jetties or the wave patterns might be. He knew that Jupiter Inlet District had sponsored the Jupiter Study, and the University of Florida had performed that study and they had done a wave tank analysis, but not a sediment tracer study.

Dr. Kuvin remarked that the wave refraction study recorded patterns as to the amount of energy that was disseminated, but that it was a hypothetical study and he did not see the reason for embarking on a hypothetical change.

Mr. Decker replied that in regard to the Corps of Engineers maintenance dredging efforts, it was important that the Corps differentiate between beach nourishment projects and maintenance dredging projects. The current federal project that supported the channel dredging was a federal maintenance dredging project. The Section 111 Study, which never came to fruition, that was accomplished by the Corps in the early '80s recognized that the extension of the Sand Transfer Plant outfall was one of the needs that should be implemented if they were to move forward with the beach nourishment element of the study. Mr. Decker maintained that the Corps had recognized that a large percentage of the sand that was being placed immediately south of the Inlet was making its way back into the Inlet. That had been brought out in the Section 111 Study. Mr. Decker continued that in regard to remaining with the present program in terms of by-passing, achievement of the 171,000 cubic yard per year goal would not be made, but rather a 58,000 cubic year per year rate would be maintained.

Dr. Kuvin asked what cost estimates were involved, as well as property rights and possible litigation costs?

Mr. Decker replied that some discussion had taken place with the Florida Department of Environmental Protection on several issues, and they had been reminded that this was a planning study and many of those questions would have to be addressed with engineering studies. The issues had not been totally ignored, and he assured Dr. Kuvin that evaluation of alternatives had been made. As far as the issue concerning property rights in extending the pipeline, Mr. Decker commented that conceptual discussion had been to extend the pipeline seaward of the mean high water line, so it would actually be buried and out of sight on State lands.

Dr. Kuvin asked if the angulation of the pipe had been taken into account?

Mr. Decker replied that the objective with this study had been to look at the need for by-passing sand, and how to best get that sand moving southward on Palm Beach. In terms of cost, Mr. Decker reported that details of design must be addressed, and it was beyond the scope of their effort.

Mrs. Smith asked if there was any other member of the public wishing to speak to the issue?

There were none at this time.

Mrs. Smith asked Mr. Decker if there would be Public Hearings held in July regarding this matter?

Mr. Decker replied that they were hoping for July.

Mr. Wyett remarked that he understood that about 170,000 cubic yards would be transferred and asked if that would stop the present beach erosion?

Mr. Decker responded that if 170,000 cubic yards could be moved across the inlet and move south the status quo would be maintained. It would help discourage additional erosion. The supplemental nourishment element would be needed to basically restore the beaches to what they may have been years ago.

Mr. Wyett continued that it should be very clear to the public that this was only a partial answer, possibly a very necessary answer, and that the Town Council must consider other aspects in order to restore the beaches.

Mr. Dusey noted that an endorsement of the plan was necessary so that when meeting with the State it could be said that the elected officials had approved pursuing the plan.

Mrs. Smith stated that she would like to have conceptual approval available, as in concept the sand transfer plant was wanted and the Lake Worth Inlet Management Plan was needed in order to proceed. Mrs. Smith asked if a motion to approve or to support the Plan would include everything in the Plan?

Mr. Dusey remarked that the Lake Worth Inlet Management was a very critical element of the Comprehensive Coastal Management Plan that would attempt to solve erosion plans. Mr. Dusey said that he would recommend endorsement of the Plan as he thought it would stabilize the beaches.

Mr. Doney suggested that if there were any particular items in the listed plan recommendations that the Town Council did not wish to recommend at this time, then the Town staff would have the direction it needs as advancement was made with both the Florida Department of Environmental Protection and the Army Corps of Engineers.

Mr. Wyett repeated the plan recommendations:

Reactivating of the fixed sand transfer plant. This had already been authorized and was in progress.

Removal of the L-Groin.

Expanding the existing settling basin with a 500 x 200 ft. extension.

Extending the southern limits of the Corps of Engineers' disposal area.

Offset any bypassing shortfalls by dredging the existing sand trap.

Pursuing a beach restoration project along with Palm Beach Island to partially offset the historic sand losses resulting from the Inlet.

Mr. Wyett moved that the Town Council approve these recommendations, seconded by Mr. Shaw. Upon roll call the motion carried unanimously.

3. Consideration of the Lake Worth Inlet Sand Transfer Plant - Request by Palm Beach County for Additional Funding -

Mr. Bowser, Town Engineer, addressed the Town Council, stating that Bob Clinger of Palm Beach County was present to request additional funding for the restoration of the Sand Transfer Plant. Mr. Bowser referred to data from April 7, 1995, where the request of the County was outlined. Essentially, the County had indicated a \$16,241.37 shortage that would be necessary in order for them to order the engine and transmission for the Sand Transfer Plant, noting a need for an appropriations increase so that they could make the order within a few weeks. Otherwise, they would have to rebid the project. There had been an item in the correspondence received from the County that gave the indication that there may have been a misunderstanding as to how the appropriations made by the Town to the County to restore the Plant were being spent. It had been understood that the \$205,152.00 was going to completely restore the Plant, and that when the Plant was restored the Town would then pay for the operation and maintenance of the Plant. Indications by Mr. Phillips had led to the deduction that the County may be counting on the operation and maintenance monies now in order to restore the Plant. Mr. Bowser said that staff would support the additional appropriation for the engine transmission beyond the \$205,152.00 original appropriation, with the understanding that the original figures had just been estimates, however, Mr. Bowser believed that the County needed to address the issue of utilization of the operation and maintenance costs. Mr. Bowser referred the microphone to Mr. Clinger.

Mr. Bob Clinger of Palm Beach County Environmental Resources Management addressed the Town Council, stating that in the effort to refurbish the Sand Transfer Plant and to put a submerged discharge line underneath the line it was understood that the Town had been provided an estimate of cost for the replacement of parts of the Plant. In that effort, the Town had appropriated \$205,152.00. What had been planned was to try and do as much of the work as possible with County forces, thus saving a considerable amount of money. Although two people had been hired who would ultimately become the operator and maintainer of the Plant, at this point in time they were being utilized as people who were restoring the Plant to its desired capacities.

Mr. Clinger continued that a point had been reached where additional costs were associated with the purchase of the pump and the engine. The Plant had originally been a design which included a 12-inch intake pipe and a 10-inch discharge line, which was being modified to a 14-inch intake pipe and a 12-inch discharge line. This would allow future use in other designs and ultimately would be compatible with future use of the entire system. Originally, it had been thought that only a new engine would be needed, but because of the intake and discharge changes a larger pump was required and a compatible engine. That was what was being asked for today--the costs that exceeded the original estimation.

Mrs. Smith asked Mr. Clinger why there was a bill for \$23,238.00 for maintenance, when maintenance has not been started in the facility yet?

Mr. Clinger responded that he would definitely be back in touch with the Town staff as soon as he could get that clarified.

Mr. Wyett commented that he understood the need for additional funds, however, he was perplexed as to the reasons why things were running so late. When he had visited the Plant with the Civic Association, he had been told that it would be operational in September. He asked when the Plant would be operational and who was in charge to make sure that the Plant would be operational?

Mr. Clinger replied that the date would be approximately November 1, 1995. September was the beginning of the dredging season, so there may be a two month delay in the pumping season. The delay came about for various reasons. The consultant that initially was hired was not insured sufficiently, resulting in a few months of unanticipated delay. The other part of the delay concerned the amount of time the work would take. After the feasibility study it was understood that the time would be longer than anticipated. Essentially, about three months of time had been lost from the original anticipated effort.

Mr. Wyett inquired if the November date was not met, who would be responsible for it?

Mr. Clinger responded that he served as a liaison between the Town and the County. His department, the Department of Environmental Resources Management, negotiated an interlocal agreement

with the Town. However, in the County responsibilities were mixed between engineering and his department.

Mr. Wyett asked if there was anything the Town could do to ensure that operation would be timely?

Mr. Clinger noted that the Town had done very well so far, and he could not think of anything further.

Mr. McLendon inquired if the plans and specifications for the crossing were complete?

Mr. Clinger responded that they were not complete. The feasibility study had just been received, and hopefully within a week direction would be given to do the design plans. He added that the Town had indicated that bidders would be pre-qualified for the project.

Mr. McLendon asked what material would be used for the piping on the crossing?

Mr. Clinger replied that the report recommended that welded steel would be used. Welded steel that had been used there in the past had lasted almost 25 years.

Mr. McLendon inquired if radio directed boring under the channel had been considered?

Mr. Clinger responded that directional drilling was being considered, whereby a drilling mechanism was used along with certain survey equipment.

Mr. McLendon asked if anyone was looking at the recommendation for extending the pipe further down the beach.

Mr. Shaw asked how closely the original projections for equipment and capacity were in comparison to the draft of the Inlet Study?

Mr. Clinger replied that part had not been studied, and it had been suggested that was something that needed to be addressed.

Mr. Shaw inquired about the aspect of seasonal pumping--it had been his understanding that there would be pumping on a year round basis, with periods where there may be no pumping done at all. If year round pumping took place, would that exceed capacity by increasing the pump size, versus pumping in a four month period the same amount of sand that would have been pumped in twelve months.

Mr. Clinger noted that he wished to clarify something that was going on in the coastal processes. There was generally a net southerly drift, so that the sand is coming from the north towards the south. It was only in that situation that sand moves toward the Sand Transfer Plant, and that generally occurred only when there were northeast type waves and winds between September and April of every year. That was why pumping was done during that time, because that was the only time the pit fills up with sand. If there was no sand in the pit, then dredging was not done. That did not mean that the pit could not fill in the summer, but it would not occur very often.

Mr. McDonald moved for approval of the appropriation in the amount of \$16, 241.37, seconded by Mr. Wyett. On roll call the motion carried unanimously.

Mr. Doney requested that Mr. Clinger also attend the May 9, 1995 Town Council Meeting, as there were several important pending issues remaining.

Mrs. Smith asked Mr. Clinger if there was anything he would like to bring up today, so the process would not be held up?

Mr. Bowser noted that there were some concerns regarding the recommendation for the welded steel versus the polyethylene because of costs. There was also some disagreement as to the outfall location of the piping and its continuity with its alignment further downdrift. There were some environmental concerns with respect to the report noting that if the discharge point came seaward of the existing shoreline, there was an environmentally sensitive driller's mud which would involve increased costs. The preference of the County was to put it upland, and there were some concerns about dune impact, private property owner rights, and easements that may make that alternative difficult. There were a number of questions that remained for staff to sift through. Mr. Bowser noted that in the Interlocal Agreement the County had the decision on the design parameters, and that the Town would then take the design plans and specifications and put them out to bid.

Mr. Clinger responded that the pipe should be installed so that it can be maintained easily, and constructed with the least amount of environmental concern, at the least cost. Mr. Clinger said that could be accomplished by going from a land location to a land location, starting from where the existing pipe starts on the north side of the Inlet, but instead of coming out exactly where the present pipe comes out in the water, to have it come out onto land. In that situation, the environmental concerns would be reduced. Maintenance would also be easier by going onto land. Mr. Clinger recommended going from a land side on the north side to a land side on the south side of the Inlet, both from a construction standpoint, and a long term operation and maintenance standpoint.

Mr. McLendon commented that he very much supported the land to land alternative.

Mr. Doney suggested that the matter come back at the May 9, 1995 Town Council Meeting, as he knew that Mr. Dusey had design concerns, and he could not be present at today's meeting.

Mr. Wyett asked if any easements would be required on the land to land recommendation?

Mr. Clinger replied negatively. Construction would take place within the existing easement area on the southend of Palm Beach Shores. Mr. Clinger added that there may be a construction easement needed, however, for the equipment.

Mrs. Smith noted that further discussion would take place at the May Council Meeting.

Mr. Wyett made a motion to defer the remainder of the discussion until the May 9, 1995 Town Council Meeting, seconded by Mr. McLendon. On roll call the motion carried unanimously.

4. Consideration of Request by The Beach Club Regarding Town's Position on Groins - Deferred from March 14, 1995 (Letter Dated March 28, 1995, from Mr. Robert Grassi, Advising of Withdrawal) -

Mr. Wyett made a motion for this item to be withdrawn from the Agenda, seconded by Mr. Shaw. On roll call the motion carried unanimously.

5. Consideration of Feasibility Study of Non-Potable Water Alternatives - Report and Presentation by Hutcheon Engineers, Inc.

Jim Bowser, Town Engineer, addressed the Town Council and referred to Mr. Dusey's memorandum dated April 6, 1995. Mr. Bowser noted that Hutcheon Engineers was unable to determine if the South Florida Water Management District would allow the Town's treatment facility on South Florida property adjacent to the canal. Mr. Bowser identified a 6.76 acre parcel located in West Palm Beach with the Florida East Coast railroad tracks on the west, the Palm Beach Canal on the south and Dixie Highway on the east. Mr. Bowser noted that the 1989 assessed value of the property was over \$1.7 million, and if construction of a treatment facility was necessary for this system, this site may be one of the items to be considered.

Mr. Bowser continued that Mr. Dusey pointed out the study provided for a water storage facility in the Phipps Ocean Park, and the Town Council had instructed that no storage could be provided in the Town. The consultant noted there would be significant increases to the system if this storage were not provided for; however, if the Council feels storage in Phipps Ocean Park is not an item that should be pursued, the consultant should re-run the model and the cost estimate. He continued no economic impact was made, because it was not requested or funded. If, after review of the non-potable water supply system, a particular alternative is chosen, Mr. Dusey suggested DUS Utility Consultants could be hired to prepare a proposal. This consultant group prepared a rate analysis for the Town in the past and had performed well.

Mr. Bowser introduced John Potts from Hutcheon Engineers.

John Potts addressed the Town Council and mentioned he was aware of the fact that the Town Council did not want storage on the island. He added there is a cost impact of that decision; however, that could be addressed in a final version of the report. The cost is borne out by the fact that irrigation usage occurs over a twelve hour period or shorter. The rate at which that water has to be pumped is much higher than if it could be pumped on a twenty-four hour basis. With the storage located on the island, the rate of the water coming across the Intracoastal to the island would be the twenty-four hour rate. Higher flow rates only occur from the storage tank out. He added that is a cost consideration, and it can be addressed in the report.

Mr. Potts stated that the other issue of the determination of the availability of property for a water treatment facility is difficult to discuss with South Florida Water Management District as a conclusive item until the Town of Palm Beach actually requests use of the property directly. He continued that SFWMD is a public body and has a problem with someone, such as the Town, using their property. The request would have to go through a process, and this report did not envision going through the whole process.

Mr. Potts said that irrigation demand has three components:

1. the average day on an annual basis--how much water is used--which is approximately 4.5 million gallons per day.
2. maximum daily rate--the maximum rate during a twenty four hour period that the Town would be using irrigation water. Any production facility must be able to produce water at this rate because maximum days will occur consecutive. 10.5 million gallons per day is the maximum rate and allows a substantial amount of everyday watering. This rate would allow everyone to irrigate every day. This rate could be reduced by requiring that irrigation be done every other day.
3. peak hourly rate--rate at which the water is pumped to the customers. The Town's current ordinance requires irrigation occur within a twelve hour period; therefore, the 10.5 million gallons must be used in a twelve hour period. If the irrigation occurs during a shorter period of time, the peak rate at which the system must pump water to the customers will go up. Recommendations were made in the report, as part of the variations, regarding the assumptions that were made concerning the peak hourly rate. 4.5 million gallons per day, average day, will not be used from the potable water system when an irrigation system is put into place. The Town uses 8 - 8.5 million gallons per day and roughly half of that amount is used for irrigation.

Mr. Potts said the distribution system piping contains approximately 180,000 feet that is required. This is the piping that takes the water to each individual user. The piping is projected to be HDPE or high density polyethylene and is an excellent material for this application. The cost of this system is projected at \$15 million, assuming that all pipe is installed within a roadway and that half of the roadway is reconstructed. If the assumption is made that the piping could be installed with a trenching machine, the estimate is then \$8.5 million. The assumption is made that the trench width only is repaved and the crossings would be installed using an open cut method, paving only the trench lines. Mr. Potts noted these decisions could lead to a reduction in the cost of the project.

Mr. Potts reported that the transmission piping which is the large pipe that moves north and south along the island moves the water to where it is needed. He continued his firm looked at two alternatives with the piping. One was the current demand--peak hour--of 28 million gallons per day and that had an estimated construction cost of \$9.1 million. If the assumption is made that the irrigation will only occur on an alternate day basis rather than every day, then the transmission system cost would be \$7.8 million. This reduction in irrigation would require a decision to implement an ordinance or a restriction that does not currently exist. The \$7.8 million estimate does assume the roadways would be repaired due to the size of the piping.

He continued that the plan calls for storage on the island. The water would come across to the island at approximately a point by Ibis Isle and would move a short distance north to Phipps Ocean Park for storage and repumping. The treatment plant was expected to be located within the C-51 Canal property seaward of the control structure. It would be a plant capable of delivering 10.5 - 10.9 MGD, and treatment would consist only of chlorination for disinfection and filtration. No further treatment was deemed necessary or required. The storage tank was planned to be an eight

million gallon storage tank that would provide the ability to be filled during the day and emptied at night. An additional safety factor was in that number.

Mr. Potts said the treatment components and storage, including the piping across the Intracoastal Waterway, was costed at \$5.9. He added an estimate of the annual O & M costs which totaled \$860,000.

Mr. Potts reported his firm met with the Water Management District, and they were supportive of the program. He said the program supports many of their goals and long range objectives. The District spoke highly of the concept of reducing the dependence on treated, potable water that is used as irrigation water. The District pointed out that without a large amount of storage, and 8 million gallons is not large, that the system would not be 100% reliable. Their concept was that during periods when no water was transmitted from the C-51 structure, no irrigation water would be available. Records were reviewed from the past five years, and during that period, an average of three periods per year existed when no water would have been released. The actual days varied from 6 to 61 days, and to be without irrigation water for 61 days would not be tolerable for the residents. A make up for those periods would have to be provided. The District pointed out the the system should include large volumes of storage, which on a practical basis is aquifer storage and recovery since property is not available for above ground storage. If the storage issue were addressed, this plan would meet all of their long range goals and objectives and would be very well received. Additionally, it may be in a position to receive grant funding as a demonstration project. Mr. Potts said the discussion with South Florida Water Management District proceeded no further since the aquifer storage and recovery was not yet authorized.

Mr. Potts emphasized that the District was looking for the ability for the system, if it had aquifer storage and recovery, to meet their prime goal of taking water and storing it when it is plentiful so it can be used during periods when it is not plentiful. South Florida always has too much or too little water at any one time.

Summarizing, Mr. Potts said the system components contained in the report carry a construction cost that varies from \$22 to \$30 million dollars. The system appears feasible and certainly could be accomplished if the cost is not considered. No technical reason exists for the program to not be feasible. He offered to discuss the issue of the aquifer storage and recovery.

Mr. Wyett said he knew a 12 hour irrigation watering period was used for the study since that was in the Town's ordinance. Mr. Wyett asked if canal water was used for irrigation if the period could be lengthened to 24 hours?

Mr. Potts responded the reason the time change was discouraged was the evaporation rate during the transporting of the water. If the irrigation is done during the day, over half of the water will be lost to evaporation unless drip irrigation techniques are used. Mr. Potts said other time periods could be considered, and the model was not terribly sensitive to the pipe size because the larger component, by foot, for installing pipe north to south along the island is roadway reconstruction and restoration of the area.

Mr. Potts reported that golf courses in West Palm Beach who use canal water for irrigation presently probably have consumptive use permits which mean they have a reduction in the amount of water they can use during drought periods, but are not cut off.

Responding to Mr. Wyett's question concerning funding, Mr. Potts said the District discussed funding amounts in the millions range, and they have a program currently that offers grants to communities who are doing unique or demonstration type projects. Mr. Potts said the grants would come through South Florida Water Management District, and he did not know of any other agencies who had grant funds at this time.

Mr. Potts stated the size of a storage tank to hold 8 million gallons of water would be approximately 30 feet high and 150 feet in diameter. Those dimensions could change if the height and diameter were adjusted accordingly.

Mr. Wyett asked Mr. Potts if he reviewed the Town's previous ASR report? Mr. Potts responded affirmatively. Mr. Wyett asked Mr. Potts if he recalled the costs, based on the company's report, to install an ASR?

Mr. Potts replied that the previous report looked at the Florida Aquifer ASR which is the deep aquifer, and Hutcheon Engineers recommends that the Town consider shallow aquifer storage which has a significantly lower cost. He added that report did not look at the shallow aquifer. It mentioned it in passing, but did not consider the subject seriously. He concluded a separate study would be needed if the ASR were considered.

Mr. McLendon recalled that the area south of Sloan's Curve contained either three or four parallel pipes. He asked if one of those pipes could not be used for the main for the non potable water and save the installation of approximately 19,000 feet of pipe.

Mr. Potts replied that was a possibility, and some portion of the piping could be used if it could be acquired from West Palm Beach.

Mr. McLendon asked about wells and what the cost would be for the wells in the ASR report?

Mr. Potts recalled he did not think the report was taken to the point where wells were considered. His recommendation was to have storage facilities that would store, in the order of magnitude, thirty days times 4.5 million or approximately 150 million gallons. In the Floridan aquifer, with an expected return of approximately half of the gallons put into storage, five or six wells with capacities of 2 to 3 million gallons per day each would have to be constructed at least 2,000 to 3,000 feet apart in the Floridan aquifer. Each of these wells would cost, with pumps, approximately \$600,000 apiece. Mr. Potts said this amount may be lower depending on the type of materials that would be required to construct the piping, etc., and his estimate was based on a project that involved a reverse osmosis system with glass piping.

Mr. McLendon stated Hutcheon Engineers should not go ahead with any other study of costs until the Water Committee and the Council has had the opportunity to study this issue. Mr. McLendon suggested that Mr. Potts could attend one of the Water Committee meetings and go over some of the details with the Committee. Mr. Potts agreed to that.

Mr. Potts said the Hutcheon report was not preliminary but it was a first draft of the report for this type of project. Mr. Potts pointed out that the ASR shallow aquifer version could have a cost impact, although nominal, because the transmission system currently has large piping since it has to start at one point and move to the extremities of the island. If the storage occurs over the length of the island, the system would have approximately 40 new inlet points and at that point, the pipes could become relatively smaller in diameter since it has augmentation or supply points throughout its length. The true impact of aquifer storage and recovery on a financial basis is not known at this point, but may not be that significant.

Mr. McLendon asked if it were feasible to have a storage mixture of shallow aquifers and the Floridan?

Mr. Potts responded the difficulty with a mixture is that the treatment system has to change. Current regulations require that anything put into the Floridan aquifer be made into drinking water quality. Mr. Potts said no explanation by the State has been given for that requirement.

Mr. Wyett asked how many days supply can be stored in a shallow ASR?

Mr. Potts replied the estimate would be approximately 400 million gallons in a shallow system which would provide 50 - 100 days supply. He did not think the Town would need a 50 - 100 day supply, but, territorially, if the island is given a 20 foot thick lens, that is the resulting storage amount.

Mr. McLendon asked if Mr. Potts would anticipate using any horizontal type wells? Mr. Potts replied affirmatively wherever it is possible to build them. Blasting rock could be a problem since no blasting would be done on the island.

Mr. McDonald questioned if surface storage would be a problem relating to any deed restrictions in Phipps Park?

Mr. Randolph replied he did not think there would be any deed restrictions.

Mr. Shaw said he found it satisfying to realize that several months later, the \$30 million dollar figure was first brought up as an estimate of the cost of this system. He noted the possibility exists for an 8 million gallon storage facility somewhere. Given the fact that the Town has four golf courses on the island, although three of them are in the private sector, if these golf courses would allocate a corner or a center towards a 2 million gallon storage facility, that could reduce the size of the transmission pipes, and it would satisfy some of the storage requirements.

Mr. Potts replied it would be similar to the aquifer storage and recovery in that it would provide input points at extremities of the system. The down side would be the limitation of the storage capacity, and it would be useful on a daily basis but not on a long term basis.

Mr. Shaw replied these types of arrangements allow the Town to have a multiple of inputs. He asked if water could be augmented from a potable source during a time of drought. He suggested a source such as to Riviera Beach that could be injected into the system from the north end.

Mr. Potts replied that Riviera Beach bothered him somewhat since the system would be built coming from the south and to introduce a flow from the north might cause some technical problems. The concept would work and the system could be supplemented with anything the Town can afford to buy. The difference, on an economic basis, is the ability for someone to provide water when it is needed, and the cost may be quite high. He noted that other than the hardware that would be installed underground, the Town would not be paying for the C-51 canal water--it is free.

Mr. Shaw said he thought the Town should have the ability to have water during periods of drought. He questioned the conditions of the consumptive use permit.

Mr. Potts explained the consumptive use permitting process may require the Town to reduce the amount of water it uses during times of drought. He noted that the current records are just gross records, and of the total 80 billion gallons of water that pass through the system the Town requires 1.5 of that. He said the water exists--it is just a matter of storage and how to hang on to it. He said the Water Management Staff would always deal with that issue and would try to force as much use of that water as they could.

Mr. Shaw stated the Town would be complying with their desires, and hopefully the District would comply with the Town's to provide water. He said that without ASR, the Town is not fully there. Mr. Potts agreed.

Mr. Potts said an issue he did not bring up was the fact that South Florida Water Management's study indicated a consistent release of water needs to be maintained from the C-51 canal to have a balance of fresh water in Lake Worth. Part of their plan is to even that out, and some days, that structure passes 4,000 cubic feet per second during a twenty four hour period. Their goal is to have more of a consistent release.

Mr. Potts continued that if the Town installed a shallow aquifer storage system that would bleed fresh water into the Lake as nature used to do when there was a shallow lens there, and that would assist SFWMD in reaching their goal.

Mr. Shaw complimented Mr. Potts on the information he obtained from the South Florida Water Management District.

Mr. McLendon noted that the crossing from the C-51 canal to the island was based on a fairly high velocity knowing that the pressure would have to be adequate to put the water into a tank and that would not be the design if the water was being fed into a system unless booster pumps were installed on the island side.

Mr. Potts required he would recommend that booster pumps be installed and the undercrossing would then be kept at a lower pressure. He continued that another West Palm Beach location for the project would be between Southern and Belvedere, adjacent to I-95 on some publicly owned property. He noted the same water could be provided; however, it would not come from the C-51 canal and would allow the crossing to be partially on land with the Causeway at Southern Boulevard. He added it would move the distribution point closer to the middle of the island, and 22% of the water is going

south of Phipps Park and 78% of the water is going north of Phipps Park. Mr. Potts said if a 42 inch pipe goes to the north and a 24 inch pipe goes to the south, the ideal would be to be close to the middle of the island.

Mr. Potts continued that if the storage needs to be on the mainland side, the location he suggested in the noise abatement area is a better location and was suggested by Mr. Bowser. Mr. Potts noted that refinements could and will be made in this program as the Town moves ahead. The purpose of this plan was to determine a means to accomplish the program and if that proves to be feasible, improvements will only add to the feasibility.

Mr. Wyett asked if the crossing of the Lake would be accomplished by digging a trench or drilling under the Lake?

Mr. Potts replied either could be done, but there is a question to determine if directional boring can extend 1500 feet. Successful demonstrations have been done proving that shorter distances work well. He said his sources say horizontal boring will work under the Lake. The cost estimate is not affected, and generally there is a cost savings by using horizontal boring. A big savings would come from the permitting process.

Mr. Wyett asked Mr. Potts to provide a time frame from the permitting process to the operation of the first zone?

Mr. Potts replied the first zone could be operating in three years, with five years to implement the program. Mr. Potts said he did not think the Town would be digging up the entire island at one time. He added, if the aquifer storage was undertaken, the transmission piping could be installed, and the first year could be spent filling the aquifer and not using any of the water.

Mr. Potts, responding to questions from Mr. Wyett, said one individual block street would take approximately one week to do if the trenching technique were used. He said the trenching technique is possible if the 4 - 6 inch piping is used; however, larger diameter piping such as 12 inch would not be trenchable.

Mr. Wyett asked, if the Town decides to purchase the water system, would it be practical to use the old pipes for non-potable water and install a new system for potable water and questioned the cost factor?

Mr. Potts replied the amount of pipe to be installed underground would be approximately the same for either potable or non-potable uses. If the installation would be used for the non potable, connections for the fire hydrants and other amenities related to the potable water system would not have to be installed. He said when the amount is \$15 million, there is not a significant difference in the amounts if the existing water system is converted or not.

Mr. Shaw made a motion to accept the Hutcheon Engineers Report and the favorable conclusions that come from it. The motion was seconded by Mr. McDonald.

Mr. Wyett requested that an amendment be added to the motion to submit the report to the Water Committee for additional study and comments.

Mrs. Smith asked Mr. Wyett what comments he did not make at this meeting?

Mr. Wyett responded that he and Mr. McLendon were unable to go back and forth in this meeting and analyze the report. He said the report came in too late to consider at a previous Water Committee meeting.

Mrs. Smith replied her only hesitation in sending the report to the Water Committee was that the Committee was working so hard on the contract that every hour the Water Committee works creates a great expense for the Town. She suggested meeting individually on their own time and writing the remarks. By doing that, the Town would not have to pay the Town Attorney \$150 per hour while Mr. Wyett and Mr. McLendon analyzed the report.

Mr. Wyett replied they did not need the Town Attorney for this particular purpose.

Mrs. Smith said she thought the Town Attorney should be present at the Water Committee meetings in case any legal questions should arise. She recalled that when the Water Committee was established by the Council, the Town Staff and the Town Attorney would be at the Water Committee meetings. Mrs. Smith said the same result could be achieved by reviewing the study separately and noting any remarks. Mrs. Smith stated Mr. Shaw made the motion, and it was his right to accept the amendment or not.

Mr. Shaw responded he would like the motion to stand as is, and the report will be sent to everyone and the Water Committee can pick it up and it should not be made part of the motion.

Mr. McLendon asked Mr. Potts about the Department of Environmental Protection's requirement to put drinking water quality water back into the aquifer. He wanted to know if DEP required treatment when the water was taken out of the aquifer.

Mr. Potts said the water has to be retreated to meet the drinking water standards if the water fails to meet those standards upon retrieval. If the water has picked up enough hardness to fail the TDS test, then it has to be retreated. Mr. Potts noted that other communities do use the aquifer for their drinking water source. He mentioned that Jupiter is one of those communities. He continued that the concern is for the communities who are using the aquifer for drinking water that may be contaminated with water not intended for drinking purposes.

Mr. McLendon said there would be no reason not to incorporate small pumps in the storm drainage system that would pump into the recharge system that would affect any rainwater that should be moved out in a hurry. Mr. Potts agreed.

On roll call, the motion carried unanimously.

Mr. Shaw asked where the Town Council should go after this report and what direction should be given to Staff now that the report has been submitted? He said the report should not just sit there. He would like to see the Staff do some rate analysis based on present revenues, projections of repaying this bill, coming up with a resale factor so that figure could go to the Water Committee so they could understand what the Council can anticipate selling water for in five years.

Mr. Bowser responded that Staff could solicit a proposal from the U.S. Consultants to do a rate study based on the information contained in the report.

Mr. McLendon said some changes will undoubtedly be made and a rate study is premature.

Mr. Wyett said the rate study is very premature, and he did not think additional Town funds should be spent at this particular stage.

Mr. McLendon suggested he and Mr. Wyett meet, individually, with Mr. Bowser and Mr. Dusey and express individual thoughts, comments, criticisms, and appraisals of the report, and they can combine the comments. With their own suggestions, they can produce a combination of things and return to the Council.

Mrs. Smith said she understood Mr. McLendon's suggestion; however, the rate study has been done and is available. She added a lot of discussion has taken place concerning the rate study and she believed the non-potable water alternatives were going to be used in the negotiations for the water contract with the City of West Palm Beach.

Mr. Wyett agreed with that. He added he thought that all Town Council members should be involved with this if they are so inclined. He suggested that it would be better to include this in a Water Committee meeting with a recording secretary.

Mrs. Smith replied that this might end up being discussed in a Water Workshop. She asked Mr. Wyett if he thought this would be reviewed prior to Mr. McLendon's meeting on April 18th with Mayor Graham?

Mr. Wyett responded that this issue was not material to that meeting.

Mr. McLendon said he would have liked to have had different aspects to some of the questions before meeting with Mayor Graham than he has at this point, but it will not seriously affect the meeting.

Mrs. Smith said that after Mr. McLendon meets with Mayor Graham, another Special Town Council meeting will be called to receive a report on his meeting.

Mr. Shaw clarified that he did not expect this rate study to go out, but he just wanted to use some basic numbers. He said that based on the present rate and given the fact the West Palm Beach is already planning a 4% increase for the next few years with a 25% surcharge, given 4 million gallons of water that are being used for irrigation, a projection can be made, as a sampling, to determine what irrigation water will cost the Town through West Palm Beach through the years 5 through 15. He suggested taking the value that \$30 million is a projected cost for a Plant, to figure out exactly what the bond issue is going to be pay off the \$30 million for the Plant, and then establish what the water charge would be and see if it is feasible. He said the report determined the project was viable, and it is imperative that the Council establish what the cost will be to the residents based on a rate per unit and based on escalations.

Mr. McLendon said, based on a \$20 million cost and using Hutcheon's operating and maintenance estimates for a year, 5% interest bond issue, 25 year term, not uniform payments but 120% payments, the cost would be slightly over \$2.25 million per year.

Mr. Shaw asked how that figure related to a water bill?

Mr. McLendon responded that figure was roughly 50% of the present water bill and roughly 50% of the water so it was a wash.

Mr. Shaw said it was a wash today but the increases down the line, based on a 4% increase plus 25% for five years and arbitrarily go up to 6% for the balance of a fifteen year schedule, these are the answers that the Council needs to come up with.

Mr. Wyett questioned the use of using a fifteen year period when the program would have a twenty five year amortization. Mr. Wyett said many assumptions could be made by the Water Committee and answers could be obtained.

Mr. Shaw noted those are the answers that should be sought without the use of an outside consultant at this point.

Mr. Bowser referred to Mr. Dusey's letter that mentioned the potential of a \$1.7 million land purchase which could add cost to the project. This still needs to be investigated further. The dollars included in the report are proposing an 8 million gallon per day storage facility at Phipps' Ocean Park and the consultants' comments that savings could be had if a shallow aquifer ASR system were used--all of these items need to be discussed in addition to the use of the old water distribution system which is based on five distribution points. He was not sure the potable and non-potable systems could be flip-flopped.

Mr. McLendon said if a non-potable system was installed, probably both sets of pipes would be installed at the same time unless West Palm Beach wants to give away the old system.

Mr. Bowser reported the Public Works Department can do about 400 feet of trenching per week but they will be slowed down by having to drop a lateral to each house. One other cost to consider is the Public Works Department's recommendation that a slurry seal should be put on the streets after the trenching to avoid the patchwork appearance.

Mr. Wyett concluded that the report looks optimistic and gives the Town many options, and supplies Mr. McLendon with ammunition during his negotiations with West Palm Beach. He suggested that any further discussion be tabled until after Mr. McLendon's meeting with Mayor Graham. This discussion could continue at a Special Town Council meeting after Mr. McLendon returns.

Mrs. Smith said she thought that was an excellent idea and assumed that was a motion and asked for a second. Mr. McLendon seconded the motion. On roll call, the motion carried unanimously.

X. NEW BUSINESS

A. Appointments

1. Architectural Commission - Two Alternate One-Year Terms to Expire March 1996

Mrs. Smith said the appointments would be handled in the same manner as appointments were at the last Town Council meeting. She asked the Town Clerk to prepare ballots for the nominations.

Mr. Shaw nominated Fred Scheiman. Mr. McDonald nominated George Fisher. Mr. Wyett nominated Leta Austin Foster and Sandra Goldberg. Mr. McLendon nominated Robert Deziel.

Mrs. Pollitt read the names of the nominees: Frederick Scheiman, George Fisher, Leta Austin Foster, Sandra Goldberg and Robert Deziel.

Mr. Shaw nominated Pauline Boardman.

Mrs. Smith, after asking for additional nominees, declared the nominations closed for the two alternate positions.

Mr. Randolph reported that he and Mr. Elwell would be tallying the ballots and the lowest score would be the first alternate selected and the second lowest score would be the second alternate selected.

Mr. Randolph announced that Mr. Deziel and Mr. Fisher will fill the two alternate positions on the Architectural Commission and their terms will expire in 1996.

2. Code Enforcement Board - Two Three-Year Terms to Expire April 1998

Mr. Shaw made a motion to defer the Code Enforcement Board nominations until the May 9, 1995, Town Council meeting. Mr. Shaw said the reason for the deferral was the Ordinance required the positions to be filled with an architect, a businessman, an engineer, a general contractor, a realtor, a sub contractor and a general member. He said the members of the current Code Enforcement Board do not represent the categories other than "general member". He thought that before the positions are filled, a concentrated effort should be made to solicit applications for the board from people who meet the criteria.

Mr. Moore replied that Mr. Shaw was correct about the Ordinance, and that the openings should be filled from those categories whenever possible. He added the Town Ordinance requires that the members of the Board live in Palm Beach and it is not always possible to find a general contractor for instance. He noted a retired sub contractor is currently on the Board as is a realtor.

Mrs. Smith added that the Code Enforcement Board has no limitation for terms. She asked Mr. Moore if he could identify the required occupational categories on the list of potential nominees for the Code Enforcement Board. Mr. Moore agreed to do that.

The motion was seconded by Mr. McLendon. The motion carried 3/2 with Mrs. Smith and Mr. Wyett casting negative votes.

Mr. Moore noted that he would supply a list of the current board members and identify the slots they are filling.

Mr. McLendon clarified that the occupations be listed before they retired from their respective fields.

B. Other

1. Presentation on Investment Management Services by First Union National Bank of Florida, Capital Management Group

Marie Crozier, Finance Director, addressed the Town Council and introduced Brad Reitinger and Gerald O'Leary from First Union Bank. She said they would like to speak about the investment agreement that the Town has with First Union Bank regarding several items.

Gerald O'Leary, Manager of the institutional side of First Union's capital management group for South Florida, thanked the Town Council for the Town's business and continued confidence. He continued that three particular areas need to be addressed. The first one is recent relative performance trends and First Union's strategy with respect thereto. The second issue is First Unions reporting in terms of its design and frequency. The last issue is the recommended changes to the investment policy which were submitted to the bank. The bank has two suggestions they think would enhance the policy.

Mr. O'Leary mentioned that Brad Reitinger is the Portfolio Manager who has been actively involved in the Town's account since late January. He introduced Mr. Reitinger.

Brad Reitinger addressed the issue of performance trends. He said over the last 18 months the country has experienced a very significant rise in interest rates. This rise has been as large as has been seen in a generation. He said that in this environment, the strategy that is currently pursued within the guise of the investment policy for short periods of time will yield a little less than very short money market alternatives which is the SBA. The reason is that the very short money market alternatives can adjust quickly to the rising rate in the current environment. First Union's strategy takes a bit more of a lag factor. Since that is the case, over the past 3 - 4 months, the bank's advantage over the SBA has waned and the income level is less than that of the SBA; however, over the accumulative time period that First Union has managed the account, a nominal advantage over the SBA exists, after fees. He said he thought that after one to two quarters have passed to allow some of the lower yielding assets in the portfolio to mature, this approach will

approximate the higher yield levels of 1994. Over marketing, economic, and budgeting cycles, the strategy that First Union utilizes will produce income levels in excess of the SBA.

Mr. Reitinger continued that, in terms of reporting, the strategy previously discussed seeks to achieve an advantage over general issues such as the SBA over market cycle. He said First Union would like to change the frequency of reporting of the income from monthly to either semi-annual or quarterly basis. This is more in the spirit of the investment policy and the achievement of First Union's success is not due to short term fluctuations or interest rates on a month by month basis. The success is due to the procedures and strategies over a market cycle and a quarterly or a semi-annual reporting frequency would serve the Town Council and the record keeping portion of the Finance Department. It would provide additional informational content.

Mr. Reitinger said the third issue he wanted to present to the Town Council was the subject of the two enhancements to the investment policy. The investment policy has a number of sub paragraphs that authorize investments that could be utilized within the general fund of the self insurance fund. Paragraphs (d) and (e) actually list some of the U. S. agency securities that can be utilized that have the implied faith and credit of the United States government. First Union would recommend that those paragraphs be replaced with a paragraph (d) that states:

"that we can utilize all obligations of the United States government that have the implied faith and credit of the U. S. government."

This would be clearer and truly take the meaning and the spirit of the investment policy to the fullest extent rather than listing some of the available agencies that the bank has at its disposal.

The second issue concerning the investment policy was a section concerning prohibitions. This prohibition paragraph was a direct result of what occurred in Orange County and some other municipalities throughout the country. This current prohibition is one concerning derivatives, and the bank feels very comfortable with it. Mr. Reitinger would like to add a sub paragraph within the prohibition section that prohibits the express use of leverage within the investment management of the Town's funds. This is the more salient issue and some of the municipalities have had a problem over the last year or two with solvency problems more closely related to the use of leverage rather than derivatives.

Mrs. Smith recalled that when the Town Council talked to First Union regarding the management of this account, the Town was very strict regarding the issue of monthly reporting. She understood why it would be easier for First Union not to have to report monthly, but asked why it would be better for the Town of Palm Beach to receive a monthly report?

Mr. Reitinger replied that a monthly report makes it somewhat difficult to discern the advantages the guidance of the bank has over SBA, and rather, if the bank looked at the account over a longer time period, the Town Council would have a clearer picture of what exactly was going on and to what extent the bank was adding value over the SBA.

Mrs. Smith responded that Mr. Reitinger did not answer her question but had explained why First Union would like to have the change. She said she was very capable of looking at a monthly statement and was able to determine how the bank was doing. She did not see why the Town should change its position requesting a monthly report.

Mr. Reitinger suggested that an overall view could be added to the reporting of the funds, and the bank wanted to avoid looking at the performance of the fund on a month by month basis. He wanted to focus on the trends over a longer time period. He said the monthly reports could continue but he would like the Town to have the opportunity to look at the returns over longer time periods.

Mrs. Smith replied Mr. Reitinger's concerns seem to be that First Union has not stayed even with the State Board. She asked why it would not be beneficial to the Town to take part of the money and invest it with the State Board if they are receiving a higher return?

Mr. Reitinger said that these issues occur over a market cycle, and there will be time periods, not unlike the last three months, where interest rates rise to a significant extent. During those time periods, the State Board has an advantage over an approach similar to First Union's. However, First Union feels very strongly that over longer time periods, the Town Council would be better suited to take a long term approach. First Union takes the view to invest to 0-3 years maturity and this would benefit the funds over the SBA and short time periods.

Mr. Reitinger noted that over the fifteen months, the Town's funds have an excess of return over the SBA, even in a time period where interests rates rose an unprecedented amount.

Mrs. Smith requested that Mr. Reitinger provide some specific figures of how First Union has been better than the State board and why it is better for the Town to stay with First Union. She emphasized how much the return was greater over the State Board.

Mr. Reitinger responded that through February, 1995, accumulative figures show that First Union is in excess of the SBA, even over a short time period, on an income basis of approximately \$1,200 net for fifteen months. He added that fifteen month period was characterized as bad compared to a money market fund.

Motion made by Mr. Shaw to not accept the change in the reporting cycle from monthly to either semi-annual or quarterly. Mr. Shaw said the rewording of the derivatives or the exclusionary items should be checked with Mrs. Crozier and Mr. Randolph, and if they were comfortable with the change, then he would make that part of the motion.

Mrs. Smith asked Mr. Shaw to withhold his motion until Mrs. Crozier and Mr. Randolph have added their comments.

Mr. Shaw agreed to withhold the motion.

Mrs. Crozier reported that, in her opinion, the changes in the language comply with the spirit and intent of the policy in the Florida Statutes. To add additional language with respect to leveraging, she thought, was in the best interest of the Town. She said she would not have participated in that anyway; however, when specific prohibitions are in place, nothing is left open for interpretation.

Mr. Randolph shared Mrs. Crozier's opinion.

Mr. Doney suggested that if the Town Council were inclined to accept the proposed language changes, specifically in writing from First Union Capitol Management Group, that it be subject to the approval by the Town Attorney for compliance with the State and Federal laws, the Town Code and Charter, and the Town's auditors. Additionally, the Town Manager and the Finance Director will examine the language from the Town's perspective.

Mrs. Crozier noted that First Union had requested that the language be changed respective to the objectives and the instruments that they may invest in. She was comfortable with the recommendation that they made, and she wanted to clarify that the Council was agreeing to both of those changes in the investment policy.

Mrs. Smith asked Mr. Shaw if that were part of his motion?

Mr. Shaw agreed that was part of his motion.

Mr. McLendon seconded the motion.

Mrs. Smith asked if anyone from the public had any comment.

Mr. Adrian Winterfield addressed the Town Council and stated he was concerned with two items. He hoped that there has been no leverage exercised at present, and the suggestion is just to insure that there will be none in the future. If there has been any leveraging, he thought it would be most helpful if an explanation was forthcoming.

His second question concerned implied full faith and credit, and he was not comfortable with that phrase, because there might be, somewhere along the line, a government agency which seems to have implied full faith and credit and does not. He asked how the Council would solve that.

Mrs. Smith asked First Union if they would like to respond to Mr. Winterfield's concern since that was one of the reasons she would vote "no".

Mr. Reitinger replied that in terms of leverage, the bank has not used leverage and does not use leverage in any type of the accounts he was talking about. The reason to add the leverage prohibition was largely to have the Town Council feel more comfortable with what they are doing and to underscore the importance of the bank's feeling that leverage is not an appropriate investment vehicle to utilize in municipal funds, and that is, and has, occurred in the past in other municipal funds. This language was to underscore the importance the bank has in its stance against its use.

He continued that implied faith and credit is an issue as differentiated between full faith and credit. Mr. Reitinger said that full faith and credit are United States treasuries and some Ginny Maes. Those are backed by the full faith and credit of the United States government. He continued that many U. S. agencies, Fannie Mae, Federal Home Loan Bank, and those kinds of issues that the bank currently invests in are considered implied faith and credit. This means the government does not guarantee these investments, but the government has indicated that if the agency were to go under, the government would feel obligated to take over and deal with the obligations of the agency. That particular situation has never occurred in the history of the United States, but it is considered implied faith and credit rather than full faith and credit.

Mrs. Smith noted that many things happening now have not happened before.

Mr. McLendon asked what sort of differential numbers were associated with the returns between the two categories?

Mr. Reitinger replied that would depend over the market cycle, clearly, since those relationships are dynamic, and change relative to many different things that are occurring in the market. He said, as an example, the relative advantage that could be achieved by using implied faith and credit issues versus full faith and credit issues back in 1993, which was the end of the bull market and fixed income securities, was about ten basis points which is 1/10 of one percent. There have been time periods over market cycles in the past where those kinds of issues have enjoyed an advantage of between 50 and 75 basis points which is 1/2 to 3/4 of one percent. Currently, those issues are between 25 and 50 basis points, and again, that depends on how far out the funds are invested. It is an issue that is dynamic and very, very significant when dealing with funds of this nature.

Mr. Wyett asked how earnings or returns on the Town's investments are reached compared to 90 day Treasuries?

Mr. Reitinger responded that compared to 90 day Treasuries, the bank had not prepared that calculation but offered to do that. He said that the report currently addressed the income basis advantage the funds have, and the SBA is usually the alternative that is the most amenable to municipalities. Generally, the SBA beats the 90 day Treasuries, but that can change over time also. He offered to establish that as another objective.

Mr. Wyett said he was not asking Mr. Reitinger to change his objectives. He just wanted a comparison to judge the returns by.

Mr. Shaw clarified that Mr. Doney added something to the motion.

Mr. Doney recommended that the motion be subject to the final review and approval, in advance, by the Town Attorney, the Town's auditors, the Finance Director, and the Town Manager before the investment policy date 2/21/95 is amended with the advanced written proposed changes being provided by First Union Capitol Management Group so they may be studied by the aforementioned individuals.

On roll call, the motion carried 4 - 1 with Mrs. Smith casting a negative vote.

Mrs. Smith said she thought the people of Palm Beach should have FULL faith and credit, not implied.

Mrs. Smith asked Mr. Reitinger to clarify some of the figures previously presented.

Mr. Reittinger said the excess earnings of the Town's funds above SBA was \$1,499 and that represented earnings in excess of what the SBA would have done. He noted that investment policies were utilized that were more conservative than the types of securities the SBA is investing in. Mr. Reittinger said the securities that the bank is using on a credit quality basis are safer in general than the kinds of securities the SBA is currently utilizing. Additionally, since inception the Town has invested \$12,650,000 and that portfolio is currently worth \$12,942,624 which is a return over that time period of \$292,624. He noted that these were the issues he wanted to clarify for the Council.

2. Consideration of FY96 "Proposed" Budget Calendar

Mr. Doney reported that a memorandum was sent to the Mayor and Town Council, dated April 4, 1995, with a budget calendar attached for the FY96 proposed budget activities. He noted that the four page calendar had many activities and dates that need to be met. He pointed out that when the Town Council and the Finance & Taxation Committee have meetings, those dates were in bold print. Mr. Doney requested the Town Council approve the budget calendar, and, after that approval, the Staff would implement the calendar and report initially to the Finance & Taxation Committee. He said that date is Friday, May 26, 1995.

Mrs. Smith asked for any questions. There were none. Mrs. Smith mentioned, for the benefit of the new Council members, that the next 6 - 8 weeks are crucial and time consuming for the budget preparation. She said this is the most important thing the Council does and is important to all residents of the Town.

Mr. Doney recalled that for the last two fiscal years, an unfunded mandates report was prepared listing the federal, state and county mandates that the Town must budget for. Those mandates were provided in report form. Additionally, cost saving measures will be noted that have either controlled or reduced costs.

Mrs. Smith replied that these reports make it easier for the Mayor and Council to review the budget figures, and the report is very concise and complete.

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

3. Rain Damage to Town Hall - Consideration of Request for Appropriation of \$10,000 from the Undesignated General Fund Balance for Repairs

Jim Bowser, Town Engineer, addressed the Town Council. Mr. Bowser explained rain damage has occurred on the east side of Town Hall. He said this damage is an on going problem over many years, and many attempts to correct the situation, including the most recent attempt when the Town Hall was renovated, have failed. Concrete Preservation Specialists & Construction, Inc. has been contacted, and they have made some recommendations that they believe will eliminate the leaks. Their proposal is for \$8,100 with the possibility of an additional \$1,800 expenditure.

Mr. Bowser said the Public Works Department is requesting an appropriation of \$10,000 for the Undesignated General Fund Budget to fund this project.

Motion made by Mr. McDonald to approve the \$10,000 from the Undesignated General Fund for the repairs to the east side of the Town Hall. The motion was seconded by Mr. Wyett.

Mr. Shaw asked if there were a guarantee on the work?

Mr. Bowser responded there are usually no guarantees on this type of work, although the work will be tested with a pressure cleaner after completion. Mr. Bowser said his department will try not to accept the work if they think there is a problem. He added the company will return to do minor corrections if necessary; however, this is a really tough job since no good "as-built" drawings exist for the building. The company has investigated the building as best they can using the existing records. Mr. Bowser expressed confidence in the firm.

Replying to Mr. Shaw's question concerning the window caulking, Mr. Bowser said that generally no company will guarantee caulking around windows for more than one year.

Mr. McLendon asked if the rain went through the glass panes?

Mr. Bowser replied that with these windows, rain does come through.

On roll call, the motion carried unanimously.

Mr. Bowser requested that work be allowed to commence on this project prior to May 1. He noted that the use of a high lift normally is not allowed until after May 1st. He requested an exception be granted by the Town Council to allow the work to start early.

Mr. Wyett made a motion to allow an exception to the May 1st requirement for the repair work to begin as soon as possible. The motion was seconded by Mr. McDonald. On roll call, the motion carried unanimously.

4. Consideration of Local Option Gas Tax Interlocal Agreement Including Amendment #1 Between Palm Beach County and the Town of Palm Beach

Marie Crozier, Finance Director, addressed the Town Council and referred to a memorandum dated April 5, 1995, from Mr. Dusey. Mrs. Crozier said her calculations indicated about a \$200,000 increase in the allocation to the Town is anticipated. Reviewing the interlocal agreement the Town has with the County and all other municipalities, she reported that no additional revenue is anticipated. Mrs. Crozier said the confusion resulted because there are two separate and distinct interlocal agreements, and both address local option gas tax. Mrs. Crozier continued that the agreement before the Town Council was dated in 1986 and was scheduled to sunset in June. That agreement called for a split of 1/3 of all sums collected to go to municipalities and 2/3 of all

sums collected would go to the County. Mrs. Crozier stated that was the agreement the Council was being asked to renew.

Mrs. Crozier stated a second interlocal agreement was signed in August of 1993. A distribution formula was provided for the additional five cent gas tax that was passed. That distribution formula was set at 21% to be distributed to the municipalities and 79% would go to the County. She continued that the assumption that the Town's share would increase from 21.79 to 33.67 was incorrect. There will be no increase.

Mrs. Crozier said the Palm Beach County Municipal League negotiated with the Board of County Commissioners to maintain the 33% that goes to municipalities whereas the County had wanted to reduce that amount.

Motion made by Mr. Wyatt to accept the interlocal agreement. The motion was seconded by Mr. Shaw. On roll call, the motion carried unanimously.

5. Consideration of Proposed Settlement Regarding Sylvia Weinsier vs. Town of Palm Beach, et al

Mr. Randolph referred to a letter dated April 7, 1995, that he had written to Town Manager Doney. The letter recommended the Town accept the terms of the settlement although it was subject to final approval by the City of West Palm Beach regarding their share of the settlement. He said the Town's part of the settlement was \$17,500.

Mrs. Smith asked Mr. Randolph why he thought the Town might be exposed to an additional \$50,000 or \$100,000 as stated in the letter?

Mr. Randolph replied the medical bills were approximately \$43,000. The individual tripped and fell on the bicycle path at 44 Coconut Row which had recently been re-asphalted. A depression in the paving ultimately developed because of the paving and a water main that existed in the bicycle path. The lady tripped and fell, resulting in hip surgery. In addition to the medical bills, the lady had nursing care and claimed she stayed in Palm Beach for an additional month which she had not anticipated. She is claiming damages for additional housing and complaining of pain and suffering. Mr. Randolph estimated an attorney at a jury trial would affix a figure of \$150,000 or more if the pain and suffering were included. Mr. Randolph said he thought the Town had some exposure in the case; however if the case went to a jury trial, he might be successful in showing no exposure resulting in a zero verdict. He continued that it was more likely that because of the extent of the damages, that the Town would share in a damage award between the City of West Palm Beach and possibly the contractor. The contractor could receive a directed verdict regarding this case.

Mr. Randolph said the \$17,500 is a practical settlement in this case.

Mrs. Smith added she would dislike subjecting the people of the Town of Palm Beach to the whims of a large jury resulting in a large settlement on the basis that Palm Beach has more money than anyone else.

Mr. McLendon made a motion to accept the \$17,500 settlement for the lawsuit, Sylvia Weinsier vs. Town of Palm Beach et al. The motion was seconded by Mr. Wyatt. On roll call, the motion carried unanimously.

6. Consideration of Method to Add Agenda Items

Mrs. Smith said that items presented for the agenda come to the Council prior to the meeting, and in an attempt to save staff time and money, items that the Council feels should either be sent to a committee or put on the agenda for discussion and be subsequently heard at the meeting the following month. If the Mayor and the Council wanted any research to be conducted by the staff or the Town Attorney prior to the consideration of the items, the particular need and interest for additional information should be explicitly directed at the prior meeting. She reiterated that this would save the staff time and the Town money.

Mayor Ilyinsky agreed with Mrs. Smith.

Motion made by Mr. Shaw to approve the procedure that items that are to be added to the agenda should be submitted to the Town Council prior to the meeting. The Council should determine which items should be sent to a committee or put on the agenda for discussion and subsequently heard at the meeting the following month. If the Mayor and the Town Council want research to be conducted by the Staff or the Town Attorney prior to the consideration of the items, the particular interest and need for additional information should be explicitly directed at the prior meeting. The motion was seconded by Mr. McLendon. On roll call, the motion carried unanimously.

7. Discussion of Valet Parking

Mr. Shaw requested the Council approve that the discussion regarding valet parking be added to the May 9, 1995, Town Council agenda allowing time for the staff and the appropriate department heads to provide the research necessary for the discussion. He stated the issue was a combination of safety and policy matters, and the Town needed to address the issue with the number of new restaurants who have opened in the Town recently.

Mr. Wyatt said he did not think that this Council would be ready and Staff would not have enough time to research the complex problems that are presented by valet parking. He added this is a public safety issue and suggested the matter be sent to the Public Safety Committee. He thought the Committee should work with the Police Department and Mr. Randolph to provide information that would protect the residents and be acceptable and at the same time eliminate the public safety problem that presently exists.

Mr. Wyett did not think the issue would be ready for the Town Council by the May meeting. Additionally, the issue would probably overlap with the Zoning Commission's shared parking proposals that will be studied in the fall.

Mayor Ilyinsky suggested the Public Safety Committee may be able to narrow some of the issues.

Mr. Shaw replied he would like to see the issue resolved regardless of who solves it. If the department heads needed to provide input before the Public Safety Committee reviewed the issue, that would be fine. He suggested that after the Public Safety Committee looked at it, Mr. Randolph could draft an ordinance and send it to the ORS Committee.

Mrs. Smith said the issue could then return to the Council. Mr. Shaw agreed.

Motion made by Mr. Shaw to send the issue of valet parking to the Public Safety Committee. The motion was seconded by Mr. McLendon. On roll call, the motion carried unanimously.

8. Discussion of Public Officials Attendance at May 4-5 Symposium, "Excellence in Government"

Mr. Doney said that Mr. McLendon, Mrs. Smith, and Mayor Ilyinsky had expressed interest in attending the Symposium of Excellence in Government to be held on May 4 & 5 which is sponsored by the Florida Institute of Government and the Palm Beach County Municipal League. Mr. Doney noted that if the Town Council authorizes any Town officials to attend the meeting, the registration is limited to the first 50 applications received. He added that as soon as any action is taken on the meeting, his office will immediately telephone in the requests for attendance.

Mrs. Smith said the fee for the symposium is \$35, and anyone who is interested should pay his own expenses if necessary. Mrs. Smith requested that anyone who would like to attend the meeting should respond at this time.

Mr. McLendon, Mr. Wyett, Mrs. Smith, and Mayor Ilyinsky expressed interest in attending the meeting.

Mrs. Smith said that no motion was required since the expenses were to be borne by each individual.

9. Consideration of Formation of a Shore Protection Committee

Mr. McDonald said he would like the Council to conceptually approve the formation of a Shore Protection Committee. He said he did not have all the details worked out, but he planned to do that and present a detailed outline at the May 9, 1995, Town Council meeting if the Council approves the action. He envisioned a committee comprised of residents, not limited to the Town of Palm Beach necessarily, and containing 10-15 individuals. The purpose would be to provide an intense and on-going action regarding the shore protection that he viewed as one of the most critical problems the Town faces. He continued that other commissions deal with recreation and other issues, and a commission is needed to deal with the shore line.

Mayor Ilyinsky responded that with all due respect to Mr. McDonald, the formation of yet another commission would be a mistake. Generally speaking, the formation of more and more committees, commissions, and boards does not help the Council govern the Town any better. These groups absorb enormous amounts of staff time and attorney costs to do the job that the Mayor and Town Council were elected to do themselves. He believed the best way to address the most significant issues facing the Town is for the Mayor and Town Council to tackle them directly, as a team, either at monthly meetings or only when necessary at work shops or special Town Council meetings, all of which can be called by the Town Council president.

Mayor Ilyinsky continued that Mr. Dusey's memorandum dated March 30, 1995, regarding the Town's Comprehensive Management Plan described the nearly continuous actions that this Mayor, the Town Council and other Town Councils have addressed this critically important matter over the past ten years. Certainly, there is additional work to be done. When the beaches are in better shape, the problems of beach erosion and the continuing need for coastal management projects will be never ending. He believed that this work should be done by the Mayor and Town Council, as a whole, with input from the Staff, the Town Attorney, and any residents or qualified professionals who wish to offer the Town their thoughts or expertise in a Town Council meeting setting. As a first step, the Mayor proposed that thorough consideration be given to Mr. Dusey's memorandum and the status of the Townwide beach management efforts at the May 9, 1995, Town Council meeting.

Mr. Shaw said he did not understand what the function of the commission would be in solving or finding the solutions to problems that other organizations that the Town is a part of or the Town on its own has not been able to do. He understood that the goal was to protect the shores and renourish the beaches, but he thought that may already be covered as the Mayor suggested by existing groups. He asked that perhaps Mr. McDonald could explain where it was not being covered.

Mr. McLendon said he was on record of hoping to take advantage of any Town expertise that is available so he would encourage the Council to consider this issue in an attempt to have additional people involved and hopefully take some of the work load off the the Council and transfer it to others.

Mr. Wyett responded that he understood Mr. McDonald's proposal, and it would allow a more sufficient coordination of the various positions that the Council would have to consider. He noted that the Inland Management Report was presented earlier at this meeting to maintain the little remaining beach; however, there are other issues on the beach that need to be coordinated. Either the Council has a Shoreline Protection Committee which could save work and time for the Council or a Work Shop Council meeting. He said they were really all the same thing, and he did not think that any member of the Council, including the Mayor, would not be in attendance at any meeting that had to do with beaches. He said the Council has to get going and a choice could be made between a committee or a work shop setting.

Mrs. Smith said she would like to read from a document with a Palm Beach letterhead:

"...since 1925 and the completion of the Palm Beach Inlet, the Town has faced a growing problem of beach erosion. We have lost much of Ocean Boulevard and the Town and ocean front property owners have been put to great expense in an effort to maintain our shore front. Seawalls have been built. Groins have been constructed, and private property owners have acted to save the ultimate beach starvation. The sand moves from north to south, and..."

Mrs. Smith stated this was a rather long letter signed by Claude Reese, Mayor of the Town of Palm Beach, on July 15, 1953. She read from another letter signed by Claude Reese to a citizen of the Town stated:

"All of our Town officials have for many years tried to get the best advice possible on our beach erosion problem. We are opening bids for a sand pumping station, and I'm hoping that this will solve the problem."

Mrs. Smith said this letter was dated July 29, 1953.

Mrs. Smith continued that the Town Councils of this Town have a history of looking at the beach problem. She said in 1948 the Town of Palm Beach did the largest single pumping operation in the State. Two million yards of sand was placed on the beach at a cost of \$400,000 in five different locations extending as far south as Banyan Road. She said the Council has not even begun to look at placing sand on the beach and the Council is working on the restoration of the Sand Transfer Plant. She said the Beach Erosion Committee should be the Town Council. The Town Council was elected to do the job. A work shop will be scheduled, and she would be happy to name herself as chairman.

Mrs. Smith continued that a work shop would be very helpful and suggested one should be scheduled during the summer months after the budget meetings. She added residents would be welcome at the work shop, and the Coastal Management Plan and the Lake Worth District Management Plan would be available for concerned citizens to read.

Mr. Wyett recalled that in 1972 when he first came to Palm Beach, he thought the beaches were wide and beautiful. Obviously, 19 years earlier, in 1953, Mayor Reese did not agree as noted in his letter read by Mrs. Smith. Mr. Wyett continued that in 1995, the Town still thinks it has a serious beach problem. He hoped that twenty years from today, his children do not think the beach was pretty good based on the 1995 conditions.

Mrs. Smith said the Town has to put sand back on the beach and not just south of the Inlet.

Mr. McLendon agreed but added the Town has to determine how to keep sand on the beaches before it is put there.

Louis Pryor, Palm Beach Civic Association, addressed the Town Council and said he took great comfort hearing that the Mayor and Town Council realized how important the problem with the beaches was. He recommended that if a meeting were held, it should be more than a workshop which is a one time meeting. Mr. Pryor said this problem will result in an on-going study that will take a year or two to complete and will undoubtedly end up with the Town needing to spend a lot of money, hopefully partially shared with others. He encouraged the participation of citizens in more than just a workshop because the price tag will be high and the citizens need to support and understand the situation through their participation. Mr. Pryor noted that 5 billion dollars of property are protected by the seawalls.

Mr. Pryor continued that some groups in Tallahassee may need "pressuring" by Palm Beach citizens regarding the permitting process. He continued that the figures for the sand that has been lost in the last twenty to fifty years indicate Palm Beach is facing a very serious situation. The recommendations put forth in the Lake Worth Inlet Management Plan regarding the amount of sand that will be placed on the beaches will maintain the status quo only. Citizens need to realize that money will have to be spent, they will have to pay for it and an organization, including Town residents, could be held accountable for reaching a decision in a timely fashion.

Eric Gilbertson, 151 Chilian Avenue, addressed the Town Council and stated the Town of Palm Beach has had no beach protection for nine years. He said many Palm Beach home owners bought homes close to the beach with the idea that they would enjoy a bathing beach. After living here, they found they do not have that beach to enjoy. He added the critical safety of their homes is at stake. Mr. Gilbertson contended the sand is gone from the beaches because the groins were torn out.

Mr. Doney said that Mr. Dusey (who had to leave the meeting unexpectedly) planned to address the Comprehensive Coastal Management Plan memorandum dated March 30, 1995:

"As a staff member who was here since 1986 when the Comprehensive Coastal Management Plan by Cubit Engineering was prepared, that plan and the implementation matrix was reviewed on an annual basis by Staff to formulate projects and issues to advance to the Town Council by way of the budget process. There has been and will continue to be ocean front roadway protective seawall projects that are going to come to the Town Council for funding requests on an annual basis. I know also of the Town's twelve miles of shoreline that approximately eleven miles is in private ownership. The financial, the legal, the permitting, the regulatory issues have become substantially more complicated than they were in 1986."

Mr. Doney said his recommendation would be, if the Town Council is so inclined, to have this item deferred until the May 9, 1995, Town Council meeting to have Mr. Dusey address the issue and the Staff can prepare a brief, high lighted report showing what actions have been taken by the previous Mayor and Town Council, what Staff has done and what actions are on-going and planned for the future. Mr. Doney pointed that there has not been a lack of attention or detail to the important issues. He said that from a budgetary, management and engineering perspective, the Staff takes this issue very seriously.

Mrs. Smith replied that since Mr. Dusey had to leave the meeting, due to a death in the family, she would suggest that he be allowed to make his presentation on the Coastal Management at the May meeting.

Mr. McDonald reminded the Council he made an earlier motion to conceptually approve the establishment of a Shore Protection Committee with details to be provided at the May 9, 1995, Town Council meeting. The motion had been seconded by Mr. McLendon. Mr. McDonald explained he had included 10-15 people in the formation of the committee.

Mrs. Smith said the Council needed a month to consider how items of this nature should be addressed. For that reason, she urged the Council to discuss the topic at this meeting but consider the topic at the May meeting. She added she would not be open to forming any committee in the Town that was not made up of registered voters in the Town.

Mr. McLendon asked Mr. McDonald if he were proposing a "committee" or a "commission"? Mr. McDonald responded a commission is an ongoing permanent group although he conceived it would be a committee until the problem is solved. He settled on the word "committee".

Mrs. Smith added she thought it was premature to discuss the make-up of a committee, and each member of the Council should decide who would make up this committee to address a problem that has been facing the Town since its establishment.

Mr. Wyett said he would support Mr. McDonald's proposal because he did not think there was enough expertise in the entire room to solve the beach erosion problem.

Mayor Ilyinsky responded only God could solve the beach problem; however other members of other Councils have been concerned about beach erosion for years.

Mrs. Smith said the disagreement between the Council members only points out the need for a period in which each member of the Council could present his/her ideas, and for that reason, she requested this item be put on the May agenda for a full discussion as to what the make-up of the committee/council/commission should be. Mr. Dusey's report should also be presented.

Mr. Wyett stated "conceptual approval" does not imply that the Council should make any appointments. It implies that the Council would like to form or not form a committee.

Mrs. Smith disagreed and stated conceptual approval is approval. She said conceptual approval leads to misunderstanding at a later time.

Mr. McLendon withdrew his second. He said he would prefer a deferral until the May meeting.

Mr. Wyett seconded Mr. McDonald's motion.

On roll call, the motion failed 2-3 with Mr. Shaw, Mr. McLendon, and Mrs. Smith voting negative.

Motion made by Mr. Shaw to add an agenda item to the May 9, 1995, Town Council meeting for discussion of shore protection. Mr. Wyett seconded the motion. On roll call, the motion carried unanimously.

10. Consideration of the operation of the Par 3 Golf Course During Early Morning Hours

William H. Spitalny, 2500 South Ocean, addressed the Town Council and requested to read some of the comments he made concerning the problem with noise from the Par 3 Golf Course. He noted that the only official reply he had to his complaint was from Mr. Russ Bitzer, and his letter did not address the problem.

Mr. Spitalny said that for over 25 years, the Town of Palm Beach protected citizens like himself by not allowing tractors and equipment to be used before 9:00 a.m. He said that equipment, with lights, is used on the Golf Course starting at 6:15 a.m. Mr. Spitalny continued that he does not sleep well.

Mr. Spitalny reported that Mr. Bitzer gave some reasons for starting early; however Mr. Spitalny pointed out that for 25 years, the machinery did not begin until 9:00 a.m. The Par 3 Golf Course did not suffer and the welfare of the citizens should be given primary consideration. He said this was affecting both his wife's and his health. He asked for help from the Town Council.

Russ Bitzer, Director of Recreation, reported that he received Mr. Spitalny's complaint verbally through Mr. Shulman in February, 1995. He called Mr. Spitalny on March 9, 1995, to try to resolve the issue as a good neighbor. After the phone conversation with Mr. Spitalny, he met with the Golf Course staff, Mr. Dytrych and Ms. Tannone, the Maintenance Superintendent. He said they spent about three hours over two meetings to try to resolve the situation. His goal was to be able to start the golf operation at 8:00 a.m. as was the case with all the other courses in town, yet to impact as little as possible on any of the adjacent residences. He offered what he thought was a reasonable compromise, although Mr. Spitalny did not agree with that as expressed in his response of April 4th.

Mr. Bitzer noted that the golf course maintenance has never started as late as 9:00 a.m., at least in the twenty years he has been employed by the Town. He added maintenance was started at approximately 7:00 a.m. depending on what operations are being performed, i.e. spraying chemicals, cutting of greens, etc. Mr. Bitzer continued that Mr. Spitalny lives close to the third green, and in that case, the maintenance crew would be close to his residence at approximately 7:30 a.m. Mr. Bitzer explained the crew has to allow enough time for the toxic chemicals to dry before the golfers reach the affected areas, and that time is approximately thirty minutes.

Mr. Bitzer recalled an earlier ordinance restricted noise until 9:00 a.m.; however, the golf courses in Town did not follow that restriction. He addressed the issue of doing maintenance at the same time the golfers are playing the course. Mr. Bitzer said maintenance such as this was done on all golf courses at the same time that the golfers are playing, however, greens are not cut at the same time. There had been a situation for about a ten month period where maintenance was done concurrently, starting at 8:00 A.M., at the same time the golfers were playing. There were a lot of problems--maintenance employees were hit by balls, and there were a lot of complaints from golfers that there was a conflict. What was then recommended was to move everything to a half-hour later, with the exception of the driving range, which was forty-five minutes later in the maintenance schedule. The driving range is maintained once a week, with fertilization taking place once a month.

Mr. Bitzer continued that he had suggested two things:

1. That the maintenance starting time be moved a half-hour. Golfers could still start at 8:00 a.m.

2. The use of a quieter electric greens mower that would eliminate any noise in Mr. Spitalny's area.

Those were the compromises that Mr. Bitzer thought would improve the situation.

Mrs. Smith asked what time maintenance was actually starting?

Mr. Bitzer replied that the driving range maintenance was started at 6:15 a.m. Now, maintenance would be started at 7:00 a.m. Basically, it took an hour to cut the driving range, and the driving range opened at 8:00 a.m. If maintenance took place later, then the driving range would have to be opened later, and there would be some loss of revenue. Mr. Bitzer said that the choices are to either go by the schedule so as not to conflict with the maintenance, or do the maintenance at the same time that the golfers were playing, or the course could simply be opened later. If the course was opened later it was estimated by Mr. Dytrych to be a revenue loss between \$30,000 - \$60,000 annually for every 15 minutes that the course would be opened later.

Mayor Ilyinsky asked Mr. Bitzer if all 18 greens were cut every day?

Mr. Bitzer replied that the course was cut every other day, starting at 7:00 a.m., not reaching Mr. Spitalny's condominium until 7:30 a.m.

Mr. Spitalny commented that the ordinance had stipulated restricted noise until 9:00 a.m. for many years, and during that time there had been the occasion that a machine would be started abnormally early and he would call the police to enforce the ordinance. Mr. Spitalny remarked that the idea of putting employees in jeopardy was a joke, because as he looks out his window he can see employees around the golf course working at 1:00 P.M., and golfers cannot control where they are hitting. To move the starting time up from 6:15 a.m. to 7:00 a.m. was terrible as there was no reason for it. Mr. Spitalny felt there was not enough justification to allow the current practices to go on.

Mr. Shaw asked what the last tee time of the day was?

Mr. Rick Dytrych, Golf Pro Manager of the Par III Golf Course, addressed the Town Council, stating that if people have their own equipment they could play at the Par III until dark. Rental carts would have to be in at 7:00 p.m. in the winter and 8:00 p.m. in the summer.

Mr. Shaw asked what time the maintenance crew went home?

Mr. Dytrych responded 3:00 p.m., and that it was accepted practice throughout the country that a golf course would be prepared for the first golfer, so that when a golfer got to the first green it would be cut, when the golfer got to the second green it would be cut, etc. The predicament was that Mr. Spitalny's apartment was above the third green and that his bedroom is the only bedroom in the complex that happens to be on the side of the golf course.

Mr. Shaw asked if it would be possible to start maintenance on the side of the golf course where no residences were?

Mr. Dytrych replied that there were residences on both sides.

Mr. Shaw asked if the greens were cut every day, starting one day at 7:30 a.m., getting through nine holes, and the next day starting at 9:00 a.m. to finish the remaining holes.

Mr. Dytrych replied that it would be difficult for a golfer to go to the first nine holes where greens would be fast, then get to the tenth hole and have them be slow. Usually the maintenance crews try to have the same conditions for the day on the greens and tees. Cutting of the greens is usually started in the middle of the golf course, which is the furthest point from residences. The last two greens that were cut at the golf course were numbers 2 and 3. That was where the problem existed. The first tee time on the golf course is 7:50 a.m. The first green was in the center of the course and was cut first, so greens at the second and third hole were done at 7:30 a.m., so if someone would tee off at 7:50 a.m., they would be on the second tee just before 8:00 a.m., so the green should be cut before that.

Mr. Spitalny commented that he did not mean to be the cause of any problem, although things were as serious as he had said. He offered a compromise in that during the season maintenance be done at 8:00 a.m.

Mr. McLendon asked if it were possible to renumber the holes so that maintenance crews would not be near Mr. Spitalny's apartment at the earlier time?

Mr. Dytrych replied that could be possible. He added that if mowing were done at night they would be the only golf course in the country that did that, and that he would check with the maintenance staff to see if the second and third holes could be cut in the afternoon.

Mr. Wyett commented that he appreciated the Par III Golf Course and hoped that it would be there for the next thousand years, however, 18% of residents play golf and 82% were from out of town. He did not believe that residents in the Town should be made to suffer because a way cannot be found to accomodate a reasonable starting hour for maintenance.

Mr. Spitalny commented that he would be content if the entire southeast quadrant of the golf course could be left until 8:00 a.m.

Mr. Shaw suggested that the matter go to the Golf Commission so that they could work things out with the residents concerned.

Mrs. Smith responded that this was brought to the Town Council and that a decision should be made.

Mr. Wyett made a motion that the golf course find a way to accomodate the situation by eliminating mowing prior to 8:00 a.m. in the southeast quadrant, including the driving range.

Mr. Dytrych commented that he had a lot of compassion for Mr. Spitalny's situation, but that he also had a lot of feeling for the Town of Palm Beach Par III Golf Course and the residents that played it who came to the golf course at 7:00 a.m. and sit on the first tee waiting for the greens to be cut so that they can play the golf course. He added that things could be pushed to 8:00 a.m., but that would affect the financial picture, and cause some animosity among the golfers.

Mr. Bitzer stated that it might be a good idea to go back and meet with the golf course superintendent, taking all of the ideas today into account.

Mr. Shaw second the motion of Mr. Wyett.

On roll call the motion carried unanimously.

Mr. Bitzer clarified that the matter would be looked at by staff to try and work out a compromise.

Mr. McLendon noted that if Mr. Spitalny was the only one affected, and there would be a huge revenue drop because of the potential change, it may be less expensive to buy his unit and not lose the revenue.

11. Review the Length of Season for the Zoning Commission, the Readings, the Residents and the Legal Notices

Mrs. Smith recalled that the Council earlier stated they were in favor of the Zoning Commission to be listed as an item on the May 9, 1995, Town Council agenda.

Mr. Moore said that would be his recommendation as well. He continued that the Zoning Study Items will be presented at the May meeting and additionally the items Mr. Wyett brought up: the requirement that the Zoning Commission have a second reading, the issue of language clarification, and requiring residents living within 1,000 feet to be notified of rezonings could be discussed.

Motion made by Mr. Shaw to defer the item until the May 9, 1995, Town Council meeting. The motion was seconded by Mr. McLendon. On roll call, the motion carried unanimously.

12. Consideration of a New Recreational Zoning Category

Mr. Shaw proposed the Council seriously consider the creation of a recreational zoning category in residential use. He was concerned about the possibilities of recreational property within the Town that would be rezoned and the effect it would have on the viability and financial stability of these clubs if their properties are being re-appraised. He added he did not know if it was a legal issue or if it should be considered by the Zoning Commission this year. He concluded he was very concerned about the potential effects of having this land reappraised under a guideline that would not be conducive to recreation use.

Mr. Moore said the Town staff, Administration and legal departments have been studying the results of the Sailfish Club case. He added two issues are apparent: one is the Town's Comprehensive Plan requirement that the Town provide open recreational space to be in compliance with the State's rules and regulations. He said that a portion of the required green and recreational space for recreational purposes is accomplished by having the clubs' recreational area count in that specific calculation. The second issue relates to the value of the property as appraised and whether it would be appropriate to rezone property without being requested by the Clubs or even discuss rezoning of the property without being requested by the Clubs. This would have the potential of reducing or affecting the future value of the property. Although the Town needs the recreational use for the Comprehensive Plan, the question arises of subsidy of the clubs by the rest of the tax payers, if in fact the taxes were raised. Mr. Moore said this is a very complicated issue, and he did not recommend discussion of this issue immediately. He requested the Council allow time for the staff to review this and present it to the Zoning Commission with multiple options to be considered.

Mrs. Smith asked if Mr. Moore thought this item should go to the Zoning Commission as a study item?

Mr. Moore agreed but noted multiple options should be included.

Motion made by Mr. Wyett to defer the matter of the creation of a recreation zoning category to the Zoning Commission. The motion was seconded by Mr. Shaw. On roll call, the motion carried unanimously.

XI. APPROVAL OF WARRANT REGISTERS AND FUNDS EXPENDITURES REPORT FOR MARCH 1995

Motion made by Mr. Shaw to approve the warrant registers and funds expenditures report for March, 1995. The motion was seconded by Mr. McLendon. On roll call, the motion carried unanimously.

XII. COMMUNICATIONS FROM CITIZENS - 3-MINUTE LIMIT PLEASE

Adrian Winterfield, 443 Brazilian, addressed the Town Council and stated the Council was faced with many significant problems at the meeting. He called attention to problems he thought the Council had immediate control over. He respectively submitted the Community Service Fee is unlawful as a disguised tax. He suggested that Mr. Randolph supply a written opinion on the subject. He said eleven years ago, a law suit was settled for \$60,000. Other conditions were involved, but primarily, as reimbursement of this tax, he found it unusual that it remains on the books today.

Mr. Winterfield reported that Sotheby's jewels were on display at the Flagler Museum recently for two days and auctioned after that. This display was seen by a select group of people. He

suggested that this was a commercial use because bids were being accepted. He requested that the matter should be investigated and, perhaps, submitted to the Code Enforcement Board.

Mr. Winterfield said his third issue concerned the amendment to the Occupational Licenses, instead of increasing the individual rates for different sizes of apartments, all apartments are currently taxed at \$25.00 each, not the building. In the past, a studio apartment was taxed at \$6.00, today that same apartment is ostensibly taxed at \$25.00 which is a direct violation of the State statute. The statute stated that \$25.00 shall be the minimum; however, individual apartments do not receive individual licenses--the buildings do.

Mr. Eric Nord Gilbertson, 151 Chilian Avenue, addressed the Council and noted the "Dream Team" was doing fine. He said the Council sparked and sparkled. The President of the Council gave an exceptionally high tone to the meetings. She is much like the Iron Lady of Great Britain. The Council looks and acts like high powered executives. He said the Council was doing a great job--probably the best governing body in the United States. He continued that during the last election, the subject of groins came up. He said that one reason the issue took so long was because the State and its environmentalists hung in tough against the groins. He noted that the State paid for the removal of the groins, and the Town was pushed into the reef project which is somewhat short of a complete disaster. He said since the State and the environmentalists have pushed the Town in the wrong direction, they should pay for the groin replacements. His solution was to replace at least three or four groins and repair groins from Gulfstream to Jungle Road. He continued that the reef had some benefit; however, the last two groins protected the beach in the Hammon Avenue area. He said if the State will not pay for the groins to be replaced, the reef may have to be replaced. Mr. Gilbertson concluded the Town would be in great peril until the groins are replaced and the existing groins are repaired. This should be treated as an emergency project.

Francine Bernard, Park Avenue, addressed the Town Council and said she represented 25 residents who signed a notice regarding the 240 Park Avenue decision.

Mr. Randolph advised that the residents could speak to the issue when it came up on the agenda. His advice in the past has been that the Council's decision regarding the appeal of the case is a legal issue and one that is based upon what residents might feel regarding the property.

Mrs. Smith advised Mrs. Bernard that she would be able to address the issue later in the meeting.

XIII. DEVELOPMENT REVIEWS

A. Major Matters Previously Considered by the Architectural Commission at Its Meeting of March 22, 1995

The major matters were::

- B10-95 - New Residence for Ms. Janina Radtke, 254 Atlantic Avenue - deferred.
- B16-95 - Demolition and new duplex for Zack Ciomek, 250 Everglades Avenue - approved demolition.
- B11-95 - New facades for Mrs. Arthur DeMoss, 185 Woodbridge Road - approved.
- B12-95 - New residence for Mr. and Mrs. Lewis Schott, 450 North County Road (Lot #1, Phipps Estate) - approved.
- B13-95 - New two story residence for Dilow Estates, Inc. and Rori, Inc. at 200 Banyan Road - deferred.
- B14-95 - New two story residence for Dilow Estates, Inc. and Rori, Inc. at 220 Banyan Road - approved.
- B4-95 - Remodel for Ms. Jani Whitney at 127 Oceanview Road - deferred.
- B5-95 - New structure for the Everglades Club at 500 South County Road - approved conditionally.
- B6-95 - Renovation for A. R. Rubinat 309 Garden Road - approved conditionally.
- B9-95 - New residence for Dr. and Mrs. DePaola at 124 Onondaga Avenue - deferred.
- B74-94 - Modification for Jeffrey Raynor, P.A. (trustee) at 496 North Lake Way - deferred.
- B17-95 - Remodeling for Mr. Scott Worley at 171 El Pueblo Way - no action. The project will be on the April agenda.

Mr. Moore noted that item B7-95, 301 Plantation Road, was excluded from the Major Matters because it was appealed and would be considered by the Council separately.

Motion made by Mr. Wyett to approve the major matters from the Architectural Commission. The motion was seconded by Mr. McLendon. On roll call, the motion carried unanimously.

B. Appeals

1. Appeal of Architectural Commission Decision of granting approval for a second story addition over the garage at 301 Plantation Road - Request by Mr. Howard C. Story, Jr., 620 North Lake Way

Mr. Moore reported that the Architectural Commission, after reviewing the project several times, approved the project at the March meeting. He said the second story room addition did not require a zoning variance. The addition overlooks Mr. Story's pool area on the east side of his property. He said the area overlooking the pool area contains a bathroom. Mr. Story's appeal is based on his request not to allow the applicant to build a second story. Mr. Moore said the applicant meets the zoning requirements for building a second story.

Mr. Randolph noted that this appeal was a quasi-judicial matter, much the same as the variances and special exceptions. He suggested that if the Council were to continue with the appeal in the absence of Mr. Story who filed the appeal, anyone who wishes to address the issue should be sworn in.

Mr. Randolph asked Mr. Moore if Mr. Story had planned to attend the meeting. Mr. Moore replied, to his knowledge, Mr. Story had planned to attend the meeting.

Mr. Randolph stated that the appeal is holding up the permitting process on this process and the appellant apparently knew of the meeting, and the Council can go forward with a determination on the issue.

Mr. McDonald made a motion to deny the appeal. Mr. Shaw seconded the motion for discussion purposes.

Mr. Shaw asked Mr. Moore if a compromise had been reached and did it satisfy both parties?

Mr. Moore replied the compromise did not satisfy both parties. In an effort to avoid this appeal, Mr. Moore talked with Mr. Nichols, the architect, and reached an agreement that the bathroom window overlooking the pool area would be a fixed, opaque window--one that could not be seen through. Mr. Nichols indicated that would be acceptable to his client, and Mr. Story indicated to Mr. Moore that he liked that proposition; however, he still wanted to proceed with the appeal.

Mr. Wyatt asked if Mr. McDonald and Mr. Shaw would accept an amendment to the motion--that the fixed window would be opaque and not provide visibility inside or out? Mr. McDonald and Mr. Shaw agreed to that amendment.

Mrs. Smith asked to see what the Architectural Commission had approved.

Mr. Robert Nichols addressed the Town Council and presented a colored rendering for the project. He stated he appeared before the Architectural Commission more than once and had modified the design by reducing the bulk of the addition after comments were received from the neighbors. Additionally, the addition was lowered, and three windows were reduced to one window on the side facing the Storys. The approval allowed one clear, operable window on the Storys side.

Mr. Randolph stated he understood the motion was to deny the appeal but subject to the changing of the bathroom window to fixed and opaque.

Mrs. Smith said she understood the drawings presented to the Council had been approved by the Architectural Commission with the bathroom window being operable and clear. If the appellant is not present at this meeting, and he worked out a deal on the opaque window, that is not the issue before the Town Council at this meeting. Mrs. Smith asked Mr. McDonald if that were his intent when he made the motion?

Mr. McDonald replied his motion was to deny the appeal.

Mrs. Smith asked Mr. Shaw if he understood that. Mr. Shaw replied he did.

On roll call, the motion carried unanimously.

C. Variances, Special Exceptions, and Site Plan Reviews

Mr. Randolph reminded everyone that variances, special exceptions and site plan reviews are quasi-judicial items and the Council is sitting as judges to apply certain criteria that exists in the Code to variances, special exceptions and site plan reviews. Persons who testify regarding any matters should be sworn in and in a quasi-judicial setting, an opportunity for cross examination exists. That means questions may be asked of anyone who speaks. He continued that when the Town Council makes a decision, findings supporting decisions should be given. In the event an appeal is sought, the Court can review the reasons that were used for the justification of any decisions. Mr. Randolph cited the example of the Code relating to variances, the provision of the Code that deals with that subject states:

"In order to authorize any variance from the terms of this ordinance, the Town Council must and shall find..." items A through G.

Mr. Randolph noted that all of the Town Council members were familiar with items A through G but he read them: "(a) that certain circumstances exist which are peculiar to the land or structure and are not applicable to other lands or structures in the same zoning district. (b) that special conditions and circumstances do not result from the actions of the applicant. (c) that granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings, etc. in the same zoning district. (d) that literal interpretation of the provisions of the ordinance deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work unnecessary and undo hardship on the applicant. (e) that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure. (g) the granting of the variance be in harmony with the general intent and purpose of the ordinance."

Mr. Randolph noted that special criteria apply to special exceptions and site plan reviews. He used variances as an example to indicate to the Town Council that they are required to come up with findings. In addition, the ordinance requires that they must and shall find those conditions exist in order to grant a variance.

Old Business

1. Variance No. 5-95 - James Dunworth, 226 and 234 Seminole Avenue; to allow construction of a multi-family (3 unit) structure on a 17,700 sq. ft. lot in lieu of 20,000 sq. ft. minimum required. R-C District (Deferred from March 14, 1995, for Full Site Plan Review)

All individuals who would provide testimony for the items under Development Review Matters were sworn in by the Town Clerk.

Mr. Moore reported that Kent Huffman replaced Robert Deziel as the attorney for the applicant, James Dunworth.

Mr. Moore said the item was deferred, requesting a variance of 2,300 square feet to allow the construction of a triplex on the parcel of property in question. He said a site plan review was required since it was a multi-family dwelling. The staff's comments have not changed, and the result of granting a variance would allow the property to be, in effect, rezoned from R-C to R-D(1). Mr. Moore stated the applicant did not have a hardship.

Mrs. Smith added the Council required a full site plan review for the reasons Mr. Moore stated. Mrs. Smith asked Mr. Huffman if he had the site plan with him? Mr. Huffman replied negatively. Mrs. Smith asked if he was requesting a deferral?

Mr. Huffman replied he was not asking for a deferral. He stated his client was in a position, both contractually and economically, where they were unable to produce and submit a site plan in the time frame that would allow them to close on their contract. He requested the Council rule on a request for the variance with the information at hand. He understood that Mr. Deziel had presented the ground work for the site plan at the last meeting. Mr. Huffman had nothing new to present to the Council. He requested either an affirmative or negative ruling.

Mrs. Smith replied that it was her feeling that the Council was swinging toward a denial at the last meeting; however, a site plan review was in order before the project was heard.

Motion made by Mr. Shaw to deny the request for a variance on the basis of non compliance, not having the proper documentation for the site plan review, the Council has nothing to review nor anything to approve. The motion was seconded by Mr. Wyett.

Mr. Randolph asked if that motion included the fact the Council did not think the applicant had shown a hardship under the criteria set forth in the Code?

Mrs. Smith concluded the Council did not believe the applicant had shown proof of hardship.

On roll call, the motion carried unanimously.

2. Special Exception No. 4-95 - Je Me Souviens, Inc., 336 Royal Poinciana Plaza; to allow a continuation of a special exception use, restaurant and lounge, under new management. C-PC District (Deferred from March 14, 1995, to determine ownership) (See Item VII B.1.)

Mr. James Wearn, Attorney for the applicant, addressed the Town Council and stated the request presented was for a special exception use for a restaurant and lounge under new management. The requirement for the application exists per a letter dated February 18, 1991, from David C. Zimmerman, indicating approval of a prior special exception Number 1-91 which stated: "The approval of this special exception was granted with the stipulation that the approval is granted to this applicant only and that any new owner of this restaurant will be required to obtain an approval from the Town Council." Based upon that letter, an application was submitted by Je Me Souviens which is before the Council regarding the change in ownership.

Mr. Wearn recalled that during the course of the last Town Council meeting, representation was made regarding the possibility of two owners being involved. He stated he had secured a certificate from Brian House, Chief Code Compliance Officer for the Town of Palm Beach, which stated the contents of the application for the beverage license. Mr. Wearn read the information contained in the certificate and filed same with the Clerk.

Mr. Wearn said the Police Department has had time since the last meeting to investigate the implications and representations that were made at the last meeting concerning the ownership. He asked that Police Chief Terlizzese address the issue.

Chief Terlizzese recalled that at the March Town Council meeting, the Police Department had received information regarding this application on Monday prior to the Tuesday Town Council meeting. The information in that application was checked against the original application and it was found that it did not contain the name "Robert Vincent" as Chief Terlizzese had indicated at the last meeting. The Police Department did find that Vincent Scognamiglio, Sr., who is the licensed agent's father, did in fact purport himself to be the owner of the Club. That is what led to the investigator's assumption that Mr. Scognamiglio, Sr. was the owner and not the Mr. Scognamiglio, Jr. Since the time of the March meeting, the Police Department checked out the entire contents and the information presented by Mr. Wearn at the March meeting was correct. Chief Terlizzese recommended that the license be approved.

Mr. Moore said that at the last meeting, he made the statement that the establishment was town-serving due to the fact that occupational licenses had been applied for and renewals had taken place in the month of September of 1994. After researching the matter, Mr. Moore found that was not the case.

Mr. Moore elaborated on the history of the establishment in the Poinciana Plaza. The space was occupied by Stouffer's Restaurant, later Capuccio's, then the space was converted from a restaurant to a club, called Harold's Club. To his knowledge, Harold's Club never opened. A subsequent club, Palm Beach Club, received permission to open with the same condition that Harold's Club had, and that was if the space were to be returned to restaurant use, and the space was in use prior to the Town's enactment of the town-serving ordinance in 1980, that the owners would be required to return to the Town Council for a reinstatement as a restaurant.

Mr. Moore noted that in 1991, a zoning change was made to the ordinance that addressed the necessity for occupational licenses that had received special exceptions, subsequent to 1980, would have to return to the Town Council for review of the town-serving portion of the license only, item (1)--footnote 3 found in the Lot, Yard, and Bulk Regulations and Use Regulations. Mr. Moore quoted the ordinance, "If an owner of a property within the C-TS, C-WA, C-PC which has received a special

exception subsequent to 1980, upon application of approval, under the provisions of the section, if they are being asked for a new occupational license, they must come back. This provision shall not apply to renewal of existing occupational licenses." Mr. Moore said he understood that this was a new occupational license since it will have new operators. Mr. Moore said it was his opinion that Mr. Wearn's client is subject at this application for compliance with that section found under footnote 3 and would have to demonstrate the town-serving requirement. Mr. Moore stated he had no objection to the granting of the special exception with the proviso that the original condition that was placed on the operation, no outside dining, would be adhered to in addition to showing proof of the town-serving requirement.

Mrs. Smith asked Mr. Wearn if those two provisions would be acceptable to him? Mr. Wearn responded affirmatively.

Motion made by Mr. Shaw to approve Special Exception Number 4-95 with the understanding that proper documentation will be provided for the town-serving requirement, annual basis, and no outdoor dining will be allowed. The motion was seconded by Mr. McLendon.

Mr. Wyett asked the Council to consider shortening the one year period as was done with Amici's Restaurant to either 3 or 6 months, as the one year requirement to prove that this is town-serving was much too long.

Mr. Shaw objected to that condition because Amici's was asked to provide that information in the fall when they hit their prime business time, and they had six months of business to prove it. Mr. Shaw said at this time of the year, it will be one year before they have a season.

Mr. Wyett did not agree because that particular club has year round activity. He stated the club draws from a wide area and appeals to a younger crowd that likes to attend night clubs all year.

Mr. Shaw said many of the Town's establishments are not town-serving during the summer months, and the summer should not be used as part of the criteria.

Mrs. Smith suggested a compromise date of January 1 would allow business over the holiday season. She suggested that Mr. Wearn have the town-serving document for the January, 1996, Town Council meeting.

Mr. Randolph asked if the applicant had already presented evidence of the town-serving nature from the inception? He thought the Town Council was talking about the annual requirement to prove town-serving status. Mr. Randolph referred to Section (1) of the Code that required that evidence be given satisfactory to the Town Council that the business will, in fact, be town-serving. Mr. Randolph cautioned that a new precedent should not be established and in the past, evidence has to be shown that the operation will be town-serving in order to first grant the application. The affidavit is required in addition to that on an annual basis to prove that each year the operation continues to be town-serving.

Responding to a question from Mr. McLendon regarding the town-serving affidavit, Mr. Moore responded that the affidavit has to be supplied by an auditor or an attorney and cannot be just a statement by a shop owner.

Mr. Wyett asked if any criteria existed to explain how the certificate should be issued?

Mr. Moore responded no specific criteria exists, but it normally is assembled by the recording of clients who come to the establishment on the basis of charge slips, percentages in cash and charges, or any method the owner may devise.

Mrs. Smith asked Mr. Randolph to explain how a business can prove its town-serving status before they have opened.

Mr. Randolph replied that new applications have been handled in the past which included market surveys, information where the majority of their clients would come from, a bank proved that the majority of their customers resided in Palm Beach and 50% or more of their deposits would be from Palm Beach. Mr. Randolph recalled an application for a clothing store on Worth Avenue was denied because an applicant was unable to show before the business opened that they were going to be town-serving. He cautioned that a precedent should not be set where the requirement for a town-serving document was not required at the inception of the business. He suggested that some evidence should be given or some statement be made that indicated the business would be town-serving.

Mrs. Smith noted this was not a new requirement, and it had been required for every new business that came before the Town Council.

Mr. Randolph asked Mr. Moore if the applicant had provided a statement that they would be town-serving?

Mr. Moore replied that the applicant indicated that they intended to be town-serving, and their methodology was going to be such that they would attempt to attract town residents. Mr. Moore said some people think that the very nature of bars and restaurants make them town-serving. He said that Mr. Wearn should have the opportunity to address the matter.

Mr. Moore asked that Mr. Wearn address the town-serving nature of the business.

Mr. Shaw said until Mr. Wearn had spoken and clarified the issue he would like to withdraw his motion to approve the special exception.

Mr. Wearn stated the application said the business was a continuation with a change only of management. He said that means a continuation under the special exception that had previously been granted both in 1991 and 1992 where the town-serving requirement was demonstrated. He maintained this application was a continuation of that approval. He added the question about the continuation of the business was not raised until this meeting. Mr. Wearn referred to the sheet of staff comments which did not reflect any question of the continuation of the business.

Mr. Shaw asked Mr. Wearn if proof of the town-serving requirement could be proven at this time based on the fact that a change of ownership has occurred and not a change of operation?

Mr. Wearn replied he could not demonstrate that requirement without knowing how it could be handled differently from what had occurred in the past.

Mr. Shaw asked if the client could return to the Council with proof from the credit card charges? Mr. Shaw said if that could be a condition, then the issue could be solved at this meeting, and suggested granting the special exception with the condition that information could be provided prior to the transfer with a confirmation of town-serving.

Mr. Wearn replied his client could deal with that.

Mr. Shaw made a new motion to approve the special exception number 4-95 based on the fact the applicant will provide the Town with town-serving under the name of Au Bar and that they will continue to utilize the facilities and they agree to provide the town-serving affidavit on an annual basis, and no outside dining will be allowed. The motion was seconded by Mr. McLendon.

Mrs. Smith said she had suggested earlier that the town-serving affidavit could be submitted on January 1. Mrs. Smith said she understood the information had to be provided now.

Mr. Wearn suggested that the information be provided when the occupational licenses were renewed which is the usual time. That would occur during the month of October.

Mr. Moore said Mr. Wearn did not have to return to the Council to provide that information but needed to submit that information before the license could be renewed, and that date would be October, 1995.

Mr. Wearn said he misunderstood the question and thought the compliance date would be January 1, 1996 and on a renewal basis starting October, 1996.

Mr. Shaw said his interpretation was that it should be provided now and annually with the renewal of the occupational license or each October starting October, 1995. Mr. Shaw said as long as Mr. Wearn's client could provide that information now, then the next affidavit could be submitted January 1, 1996.

Mr. Moore concurred with that and said he would make a special note to that effect.

Mr. Shaw asked Mr. Wearn if his client did not comply with the request to supply town-serving documentation now, did he understand the occupational license would be pulled January 1, 1996.

Mr. Wearn said he understood that.

Mr. Moore clarified that Je Me Souviens, Inc. has to provide immediate information to prove that they are town-serving and by next January, the same verification must be received or the occupational license will be withdrawn.

Mr. Wyett said it would be more appropriate to operate for the next 60 days and submit town-serving information to the Town after that time, before it is approved.

On roll call, the motion carried 4-1 with Mr. Wyett casting a negative vote.

B. Alcoholic Beverage Licenses

1. Je Me Souviens, Inc., 336 Royal Poinciana Plaza - Application for Transfer of Ownership of 4COP Alcoholic Beverage License

Motion made by Mr. Shaw to accept the application for transfer subject to and prior to the issuance of the Special Exception Number 4-95. The motion was seconded by Mr. McLendon. On roll call, the motion carried 4-1 with Mr. Wyett casting a negative vote.

3. Special Exception No. 7-95 - Worth Avenue Associates, Ltd., 150 Worth Avenue; to allow a new restaurant to occupy 5,200 sq.ft., in lieu of 2,000 maximum permitted, or in lieu of the previously permitted 3,700 sq.ft. occupancy approved by Special Exception 8-83. Further, to allow restaurant to meet parking requirements by reserving land area across the street to meet the need as demanded, a matter also addressed by the previous Special Exception approval. C-WA District (Deferred from March 14, 1995) - Letter Dated March 31, 1995, from James R. Brindell Requesting Deferral Until May 9, 1995

Motion made by Mr. Shaw to defer Special Exception Number 7-95 to the May 9, 1995, Town Council meeting. The motion was seconded by Mr. McLendon. On roll call, the motion carried unanimously.

4. Amendment to Special Exception No. 13-86 with Variance - The Colony Hotel, 155 Hammon Avenue; consideration of traffic study. R-C and R-D2 Districts

Paul Prosperi, Attorney for The Colony Hotel, addressed the Town Council and stated the consideration of the traffic study was a follow-up taken by the Town Council at its November, 1994, meeting. He said at that meeting, the Council agreed to modify Special Exception Number 13-86, previously granted to The Colony Hotel. That approval gave The Colony permission to build the pavilion, convert the Maisonette from a 23 unit hotel function to 10 apartment unit building, build a 23 room addition to the hotel, and build a parking garage to bring the parking for The Colony up to 112 spaces. The special exception was modified at the November meeting as follows: the Maisonette, 23 unit building on the south side of Hammon Avenue was demolished; a new parking lot was built on the south side of Hammon Avenue including the former site of the Maisonette; the use of the 8 apartment units previously approved as 10 units for the Maisonette Building were relocated to a new site just east of the Waller House; the use of the Waller House and the 8 units will not be a hotel use. As a condition to this modification, The Colony agreed not to construct any new building previously approved by the Council as part of Special Exception 13-86 until the proposed permanent parking garage was completed and a traffic study was presented to the Council. In November, the

Council deferred The Colony's other request, which was to extend its time limit to complete the hotel extension and build the permanent parking facility until May 13, 1998. That time request would expire on May 18, 1995, and that deferment was to take place until the Council had time to review a traffic study. The Town authorized Frederic R. Harris to conduct a traffic study which has been completed and presented at this meeting. The Colony requests that the date be extended to complete the improvements contemplated by Special Exception 13-86 until May 13, 1998. This is a three year extension.

Mr. Prosperi said Special Exception 13-86 enables The Colony to undertake a phased improvement plan. Part of that plan has already been completed. The Waller House was converted to seven apartments. The pavilion was built and provides an alternative for functions which has been used by many town-serving charities and civic organizations. The eyesore Maisonette Building was demolished and temporary parking totaling 110 spaces has been provided in an attractively landscaped on the south side of Hammon Avenue.

Mr. Prosperi requested that the improvement plan be continued for the next three years. Mr. Prosperi reiterated that no new rooms will be added until the permanent parking facility is constructed.

Mr. Prosperi noted that in the Frederic R. Harris Traffic Study that the total inventory on Hammon Avenue is 118 cars provided by The Colony, 56 curbside parking spaces, and 5 spaces at the Ocean Echo Building. Of the 56 curbside parking spaces, 13 are permit spaces. He submitted that the traffic study showed that there was adequate parking on Hammon Avenue. He noted that the traffic study had the results from two detailed analyses--one was with a worst case scenario for The Colony with a full dining room, a full hotel and a pavilion function that had 150 guests. Maximum utilization of that parking inventory was 146 cars out of 179 spaces or 82% utilization with 33 spaces open. The average utilization during that period was 113 cars out of 179 spaces or 63% utilization with 63 spaces open. He reported that of the 13 permit spaces, only 4 were utilized during that time period. On an average day with 75% occupancy in the hotel, an average lunch, and a small luncheon function at the pavilion, 97 spaces were used out of the 179 spaces available or 54% utilization, leaving 82 spaces open. Mr. Prosperi continued to report the findings of the Harris report.

Mr. Prosperi said he checked with the Finance Department and found out that 18 permits were issued for those 13 spaces, but some of the people have apparently moved or been out of Town. The Harris report demonstrated that certain traffic flow issues and not parking issues exist. These are limited to crunch times during major events at the hotel and are related to valet parking. The Colony proposes to hire additional valet parkers for major events and hire an off-duty police officer to direct traffic at the times of major events in order to alleviate the condition.

Mr. Prosperi said his client maintains that through the program which has been pursued under Special Exception No. 15-86, the Colony has increased parking along Hammon Avenue and is almost at the point it would be if the parking facility would be built. The project has decreased density on Hammon Avenue and improved the character of Hammon Avenue by landscaping, adding attractive construction and demolishing some eyesores. Mr. Prosperi pointed out that the hotel has existed more than fifty years. Some of the parking problems may be caused by valet parking from Charley's Crab and patrons of the public beach.

Mr. Prosperi noted that The Colony has made parking available to residents of Hammon Avenue if they request it. He concluded that the traffic study showed adequate parking exists on Hammon Avenue. Certain traffic issues need to be addressed, and The Colony is willing to address these. He said that the program The Colony has taken in a very deliberate method under Special Exception 13-86 has improved the character of Hammon Avenue and decreased some of the existing problems because of the decrease in density. Mr. Prosperi said the plan had been a slow growth plan with steady improvement.

Mr. Moore reported that Mr. Prosperi had accurately recounted the results of the Harris Traffic Survey. He introduced Phil Tokish from Frederic R. Harris Company, and stated Mr. Tokish would answer any of the questions the Council would have pertaining to the traffic study. Mr. Moore noted that the Town will be reimbursed for the cost of the traffic study by the applicant.

Mr. Moore said the Staff recommendation is still the same--recommendation of approval with the conditions that the Waller House in addition to the new Maisonette reconstructed would not have hotel services and that no new additional construction be undertaken until such time as the parking facility is in place or is being put in place. Mr. Moore offered that the Council may want to consider the length of time requested; however, the Staff had no objection.

Mrs. Smith asked if Mr. Moore were referring to the underground parking place? He responded in the affirmative.

Mrs. Smith noted that in the traffic study, under the conduct of parking survey, the dates used were May 10, 1995, and she assumed that was a typographical error, on page 7. Mr. Prosperi replied the corrected date was March 10, 1995.

Mr. Phil Tokish addressed the Council and apologized for the errors.

Mr. Prosperi, replying to questions from Mrs. Smith, stated his client was asking for a three year extension to begin the final phases of the project. He said his client would continue to agree to the stipulation that no new units would be added until the underground parking facility is constructed on the south side of Hammon Avenue.

Mr. Wyett suggested the time period should be one or two years, and he found that three years was too long a time period.

Mr. Shaw said he would not be comfortable having the parking garage and any construction be concurrent. His feelings were that the parking facility has to be completed and open prior to any other construction, and if construction is begun, parking places would be lost.

Mr. Prosperi replied that 23 hotel rooms and 8 multi-family units would be added, and the multi-family units will actually be sitting on top of the underground garage facilities. These two projects would be constructed simultaneously, and the 23 units across the street should be built at the same time to allow for all the construction traffic to occur at one time.

Mr. Shaw said that if construction were going on at the same time on both sides of the street, that would be too confusing, and one project at a time needs to proceed. He added that the expansion should be contingent upon the order of construction.

Mrs. Smith said she would not want to impose a construction schedule upon this project and attempt to micromanage it to that degree.

Mr. Prosperi, responding to questions from Mr. Wyett, said this project was conceived of and has turned out to be a long range plan; however, it is a sensible plan. He noted that the 23 new hotel rooms are scheduled to be built behind the existing pool which backs up to the wall of the Esplanade. The three story structure is encompassed in the "campus" of the The Colony with the hotel on one side and the pavilion on the other side.

Mr. Prosperi said the parking garage located on the south side of Hammon Avenue with the eight apartments located next to the existing Waller House is part of a slowly evolving deliberate and financially sound plan. He noted that The Colony is very conservatively managed and the results have been good for Hammon Avenue, although traffic problems do exist, these will be handled as time progresses.

Mr. Wyett expressed concern that the existing parking lot would be destroyed to build the underground garage and asked what other arrangements would be made to provide for the parking during the construction period?

Mr. Prosperi replied he was not aware of any plans at the moment.

Mr. Wyett responded that the parking was a major concern, and that was one reason to extend the approval for a shorter period.

Mr. McLendon asked if the construction would be completed during a single construction season?

Mr. Prosperi replied he anticipated the construction would be completed during a single season, but he was not sure that had been decided. The work on the south side of Hammon Avenue--the underground parking garage with the eight units above it would have to be constructed as a whole.

Mr. Moore said the recommendation of the Staff was that the parking structure with the eight units would be completed prior to the addition to the hotel. He added the Staff suggested the possibility of a two year extension since this project has been on-going since 1985. Mr. Moore said if all the construction were to be conducted simultaneously, Hammon Avenue would be adversely affected.

Mrs. Smith reminded Mr. Prosperi that The Colony had requested the construction be carried out in phases when the project was heard before the Council in November, 1994.

Mr. Prosperi agreed that the work would be completed in phases. Mr. Moore clarified that the parking garage and the eight units on the south side of Hammon Avenue would be constructed first as phase 1. Phase 2 would be the 23 additional hotel rooms.

Mr. Wyett asked how many parking spaces would be in the newly constructed underground parking garage?

Mr. Eugene Lawrence, Architect for the project, addressed the Town Council and stated the final configuration for the parking area has not yet been designed. He said two double rows of parking are planned--one down the south side and one down the north. He continued that the parking in the interim period would be handled by submitting a plan with the application for the building permit.

Mr. Wyett asked if the number of spaces would be increased if the garage extended under the entire eight unit apartment complex? Mr. Lawrence responded affirmatively. Mr. Wyett said his concern was, if the three year extension was granted, the Town Council would not have a second chance to review the number of parking places as they related to the increase of rooms and apartments.

Mr. Lawrence responded that space exists for an additional 30 cars in the underground parking facility.

Mr. Wyett asked if the underground parking facility could be constructed first and completed before the apartments were constructed?

Mr. Lawrence replied he thought the project could be handled in phases and suggested doing a portion of the garage, arranging for a split certificate of occupancy, to allow for parking.

Mr. Wyett said that method would go a long way to solve some of the parking problems in the area.

Mrs. Smith recalled that Mr. Prosperi had stated at the November meeting that the parking facility would be built on land that currently contains 70 spaces and those would be replaced with approximately 120 spaces. She stated that a configuration must have existed at that time.

Mr. Prosperi explained the 120 spaces were the on-grade parking after the Maisonette building was demolished. He said the current count is 119 after the demolition.

Mr. Shaw recalled that he understood the underground parking would not be built under the new structure but would be built on the two lots to the east with nothing above the underground parking but surface parking.

Mr. Prosperi replied that the majority of the underground parking will have surface parking above it.

Mr. Lawrence, responding to questions from Mr. Shaw, affirmed that the underground parking garage will cover the equivalent of the three existing parking lots. He explained the plan is to have more than one level with one ramp system. Mr. Lawrence said no plans exist to have a tunnel from the parking garage under Hammon Avenue to The Colony. He added that the Esplanade has a parking garage under the entire structure that was under 4 feet of water, and at the time that was

built, a study was done in an attempt to go down another level. Water is logarithmically projective and the hydrostatic pressures at that level were enormous. Any project would have to have a safety valve, and that could flood too many different areas if that were used. He did not think a tunnel was a realistic project.

Mr. Moore asked Mr. Prosperi if there were any conditions or proposals in the Frederic R. Harris traffic study that The Colony could not comply with? Mr. Prosperi replied negatively.

Mr. Seymour Fox, 129 Hammon Avenue, addressed the Town Council. Mr. Fox referred to the traffic study and questioned the time of day the study was conducted. He suggested that when returning from work during the 5:00 - 6:00 p.m. residents in his 10 unit apartment building have difficulty finding a parking space. He noted that the study was conducted between 11:00 a.m. and 2:00 p.m. which Mr. Fox thought was unusual to address the reasonableness of a study for the residents of the area. He suggested that irreparable harm from the traffic in the area occurs when the valet parkers are attempting to find spaces during the evening hours.

Mr. Fox differed with Mr. Prosperi's interpretation of the operation of The Colony Hotel. He said, in his opinion, The Colony does not have adequate parking presently regardless of the increased needs of new construction. Mr. Fox said the car parkers fight diligently to find every available space in the parking lot for their cars. This includes the sidewalk areas and the roadside areas before they attempt to enter the parking lot. Mr. Fox said he and the neighbors have shot video tapes of the parking during the evening hours.

Mr. Fox complimented The Colony on the appearance of the hotel, but noted their literature commented on the fact they can accommodate all their guests from their 78 rooms. He quoted from a brochure that advertised: "...for a glorious reception for 450 people at one time...". Mr. Fox noted that the study that was done indicated that only 200 or so people would be at The Colony at any one time. He said the hotel is encouraging over 400 people to attend a function at any one time, and the parking for the hotel is not adequate at this time. He questioned the number of parking spaces may actually be less after the construction is completed for the different phases.

Mr. Fox said the street is taking on the appearance of a hotel area or convention area. He noted that other residents in the area have no right to find a parking place short of trying to park on the beach. Mr. Fox added that Charley's Crab employees also park in the area in addition to The Colony people. The condition is compounded because, after 6:00 p.m., the permits expire and no one can park any place after returning from work. This includes Sundays and holidays.

Mr. Fox said The Colony is boxed into an area that is too small for the operation, although they do want to expand from a business point of view. He asked who is worried about the residents of the area?

Mr. Fox also objected to the long period of the construction phase and the parking during that time. He said that residents can park in The Colony's lot; however, there is a catch to that arrangement. Permission is oral for a period of time, and he questioned if the residents will be able to park in the underground garage.

Mrs. Smith asked Mr. Fox if he had any suggestions for the situation and did he wish that all the projects be denied? She noted that there will be construction on the site, and the Council cannot stop construction if it is legal. She asked Mr. Fox what his ideal scenario would be for this area, and if The Colony had been a bad neighbor?

Mr. Fox replied this is an unusual area, and he applauded the improvements. He said what is missing is the off-street parking for individuals who have no parking and suggested that off-street parking be provided for the number of apartments, which included ten he owned. He requested ten permitted parking spaces on the street that were not cut off at 6:00 p.m.

Mr. Shaw responded that he thought the three year extension was fine, but he would like to see the garage completed before any work started on the north side of the street. Additionally, the work could be done in phases.

Motion made by Mr. Shaw to approve the three year extension with the condition the garage is completed before any work begins on the north side of the street.

Mr. Fox requested that the Council consider the parking requirements of the residents during the construction.

Mr. Shaw said The Colony has facilities and will do their best to build the garage and most of the work will be done during the summer months. He did not think there would be a problem, but with a little work and coordination along with the cooperation The Colony has shown the Town, parking should not be a problem.

Mr. Fox replied his request was to make some of the parking places permanent for the residents who live there.

Mr. Wyett suggested that The Colony Hotel should consider providing parking spaces on their existing space between now and the construction time. He agreed with Mr. Fox that the street spaces were always taken and the valet parkers use the closest and easiest spaces first. He also suggested that dedicated spaces should be made for the residents after the parking garage is built. Mr. Wyett said one of his main reasons to be on the Council was to protect ALL of the residents of the Town.

Mrs. Smith said the issue of shared parking will be discussed during the next Zoning Season.

Mr. Wyett replied that this situation was different and the construction of the convention center substantially increased the parking pressures in that area. He thought The Colony had the responsibility to their neighbors to correct that situation.

Mr. Shaw said he was sure that Mr. Brown, the manager of The Colony, understood his relationship within the Town and he was sure that Mr. Brown could work with his valets and have them not park cars in the spaces in front of Mr. Fox's property. Mr. Shaw said he did not know if it is an inherent right that everyone in Palm Beach has to have a parking space. He mentioned he had to rent parking spaces where he worked as do others in the Town. He suggested that perhaps an arrangement could be worked out with The Colony other than had been suggested previously.

Mr. Fox said the problem exists with the thirteen spaces on the south side of Hammon Avenue that are permitted parking until 6:00 p.m.

Mr. Moore reported that he was checking to see if those permitted spaces could have a later time on them.

Mr. Shaw asked Mr. Brown, the manager of The Colony Hotel to address the Council.

Michael Brown, Manager of The Colony Hotel, addressed the Council, and mentioned that Mr. Fox and his tenants were good neighbors, and he wished to avoid any problems. Mr. Brown said The Colony has offered parking facilities some of the time; however, space is not always available. He thought that 95-99% of the time when they return from work, parking spaces in the lot would be available.

Mr. Brown said he could not, on behalf of the ownership, commit spaces in the garage to other residents of Palm Beach based on the fact that Mr. Fox has no parking and The Colony does have parking. Mr. Brown responded he would consider leasing parking spaces.

Mrs. Smith reminded Mr. Wyett and Mr. Brown that cannot be done at this time, and this was the issue that will be discussed during the Zoning Season.

Mr. Brown, responding to questions from Mr. Wyett, said he would be willing to listen to the leased parking after the Zoning Season, and it was a good suggestion. Mr. Brown agreed that the valets work hard for the curbside parking spots; however, during busy times, parking can be congested. He said The Colony has purchased parking in the Esplanade parking lot when a large crowd was using the pavilion. Mr. Brown said he can only seat 210 people technically in the building.

Mrs. Smith reminded Mr. Brown that he is not permitted to lease space from the Esplanade at this time either for his customers or his employees.

Chief Terlizzese addressed the Town Council and said under the Towns Ordinances, the Gainesville and the Arlington Parking Ordinances which has been upheld by the U. S. Supreme Court, the Town Manager and the Police Chief, after conducting a survey, can designate an area such as Mr. Fox's area as an impacted area or a designated parking area. Chief Terlizzese noted that permit parking is allowed presently as a result of a survey. He said the permit hours could be extended past 5:30 p.m. and some of the permitted spaces would be 24 per day resident permits.

Mrs. Smith asked Chief Terlizzese to explore that possibility and let the Council know at the May meeting if that can be done.

Chief Terlizzese said the "down" side of the situation is that his report said that after 4:30 p.m. that area by The Colony Hotel is inundated by employees from Charley's Crab. He said if some of their parking is taken away, that establishment will have an adverse reaction. He suggested that Charley's Crab may have to find another place for their employees to park.

Mrs. Smith suggested that those employees may have to be shuttled like other businesses do and not take the parking spaces away from the residents.

Mr. Prosperi reported his client would be happy to lease spaces if and when it became legal to do so. They would also support any change in the parking rules on Hammon Avenue which would allow permit parking on a 24 hour basis.

Mr. Wyett asked Mr. Moore to comment on Mr. Fox's comment on the time of day during which the traffic study was undertaken?

Mr. Moore replied, that unless Mr. Bowser had any problem with the survey, that he had no problem with the time the survey was conducted, and that was one of the busiest times in the Town--during the lunch hours. He concurred that the permitted parking times should be extended for the residents of Hammon Avenue. Mr. Moore said that Mr. Fox provided no parking for the tenants of his building and The Colony has deficient but some parking spaces.

Mr. Wyett said he would imagine a worse parking situation exists in the evening when the pavilion is fully occupied.

Mr. Moore said if Charley's Crab employees were removed from stealing parking places on Hammon Avenue, the situation would be eased. Mr. Moore said the worst case is when Mr. Brown's valet parkers take the curbside parking spaces on the street before they use the spaces in the lot, and they must agree that that practice will not continue. Mr. Moore requested that Mr. Brown address that situation.

Mr. Fox reported that he and Mr. Brown had discussed that situation at this meeting, and both are in agreement that if it is possible to create these 24 hour permitted spaces for the residents, the problem would be eliminated.

Mr. McLendon asked Mr. Fox what was the length of his frontage on Hammon Avenue? Mr. Fox responded it was approximately 50 feet, but it was a very deep lot. Mr. McLendon asked why Mr. Fox did not provide any off street parking for his tenants?

Mrs. Smith replied that the building Mr. Fox owns has been in existence for a very long time, and he did not have a requirement to provide parking when it was constructed.

Mrs. Pollitt restated the motion made by Mr. Shaw: Mr. Shaw made a motion to approve a three year extension with the condition the garage is to be completed before any construction is started on the north side of Hammon Avenue. Mrs. Pollitt noted that a discussion followed concerning the parking but that was not part of the motion.

Mr. McLendon seconded the motion.

Mr. Moore asked if the motion included the conditions that were in the traffic study. Mr. Shaw and Mr. McLendon replied affirmatively.

Mr. McDonald said he could not support this motion without some arrangement that would be worked out with the residents of Hammon Avenue. He suggested the issue may be delayed until Chief Terlizzese could decide if the permitted spaces could be extended to 24 hours.

Chief Terlizzese reported that if adverse impact exists from transient traffic on the Town residents, the pressure can be relieved by granting permit parking for those residents.

Mr. Randolph said he would have to investigate the Ordinances after the meeting.

Mr. McDonald asked how long it would take to verify this situation? Chief Terlizzese replied it would take approximately two weeks. Mr. McDonald asked Mr. Fox if that time period would be satisfactory to him, and if the spaces were impacted, the spaces would be available to the residents of the street? Mr. Fox replied affirmatively.

Mr. Wyett said he would like to defer the matter to allow the Council to visit all the ramifications that have been presented at this meeting. He said he could not support this issue at this meeting.

Mrs. Smith asked what the ramifications were? She stated her concern was that five or six items were left on the agenda for this meeting, and she would not like to think that the Council could not give its full consideration to those items because of the late hour of the meeting.

Mr. Wyett responded that the three year extension is too long in light of the issues brought up at the meeting, and he would like a more comprehensive, well thought out motion.

Mr. Bowser asked if the conditions that were part of the original approval would remain as part of this approval? Mr. Bowser noted that one of the conditions related to drainage improvements.

Mr. Moore responded that any conditions that existed prior to this meeting still would be in effect.

Mr. Wyett added that the time of the traffic survey did not indicate the amount of traffic problems that exist on that street. He said that although the extended permitted time would help the residents, it will not solve the problem.

Mr. Moore said the reason the applicant came to the Council was that the approval runs out in May, and they need to act upon that.

On roll call, the motion carried 4-1 with Mr. Wyett casting a negative vote. Mr. McDonald voted affirmatively with the understanding that the study would be done and the overnight parking would be granted. Mrs. Smith said it was stipulated that the 24 hour parking would be done with the assurances of Chief Terlizzese.

New Business

5. Variance No. 14-95 - Mr. & Mrs. Gil Kapelman, 1511 North Ocean Boulevard; to allow construction of a swimming pool providing a street side yard setback of 5'7", in lieu of 25' required. R-B District.

Motion was made by Mr. Shaw to hear Variance Number 15-95 before Variance Number 14-95. The motion was seconded by Mr. Wyett. On roll call, the motion carried unanimously.

Mr. John Mitchell, Contractor for Mr. and Mrs. Gil Kapelman, addressed the Town Council. Mr. Mitchell requested a variance for the side yard setback to allow the construction of a swimming pool. The house is located on an irregular corner lot and is approximately 30 years old. Mr. Mitchell said the side yard is the only place on the lot where a pool could be constructed, and if the pool were built, the lot would still have a 44% green space coverage.

Mr. Moore said the Staff believed the hardship is the sub-standard corner lot. He said there is actually no room for a pool. Mr. Moore pointed out that the Ordinance does provide for a principal use of the property as a single family residence and no assurances or guarantees are given that accessory structures can be added to properties. Mr. Moore said a variance for a swimming pool was applied for in 1977 and was turned down by the same owner of the property. Mr. Mitchell represents a contract buyer for the property.

Mr. Wyett said he saw a hardship but suggested a compromise. He said the 14'x32' pool is not large, but it does not provide enough area for proper screening along Mediterranean Avenue. He suggested narrowing the pool to allow for the screening.

Mr. Mitchell replied his client was open to suggestions and said his client could live with a 10' wide pool.

Mr. Moore said the pool could be moved within 3 feet of the house, and shoring of the foundation would have to be addressed. Mr. Moore added that 3 feet would be minimum on the other side of the pool, and Mr. Bowser pointed out that no walls, hedges, or trees would be allowed in the right-of-way and recommended a 5 foot minimum setback from the edge of the pool deck. Mr. Moore noted some room had to exist for the planting of a hedge, and, in the past, the Council has required that these swimming pools on corner lots had to be site screened. Recorded agreements were required to assure that the hedges would stay in perpetuity.

Mr. Wyett asked if 3 feet would not be sufficient to plant a hedge?

Responding to questions from Mrs. Smith, Mr. Mitchell said the hardship was that no location existed for the pool to be built.

Mr. Moore replied that the hardship is a sub-standard corner lot, and the applicant would have to provide a minimum of 10 feet if this were not a corner lot. He noted that the applicant would not provide even 10 feet where 25 feet is required.

Mrs. Smith said she did not see a hardship in this case.

Mr. Wyett noted that not having a swimming pool in Palm Beach is somewhat unfair.

Mr. Shaw said the underlying issue is that a request for a variance for a swimming pool came before the Council previously and was denied.

Mr. Mitchell said he was aware that a variance had been applied for previously; however, he understood one of the neighbors had objected to that variance in 1977.

Responding to a question from Mr. Shaw, Mr. Randolph replied that it made no difference to this Council what the decision of the Council was in 1977.

Motion made by Mr. Wyett to approve Variance Number 16-95 with the condition the pool be 10 feet wide. The motion was seconded by Mr. McLendon.

Mr. Moore verified that 3 feet on the patio width would allow room for a hedge. He asked that if the variance were granted that the hedge be installed at a minimum of six feet high with the required four foot fence and that it be recorded with the County that it is required to remain.

Mr. Wyett said he accepted Mr. Moore's recommendation as part of the motion. Mr. McLendon agreed.

On roll call, the motion failed 2-3. Mr. McDonald was absent from the room. Negative votes were cast by Mr. Shaw, Mrs. Smith, and Mayor Ilyinsky who voted in Mr. McDonald's absence.

6. Variance No. 15-95 with Special Exception - Oleda Casscells, 756 North Lake Way; to allow construction of a guest house beginning at elevation 26.6' in lieu of 7.5' permitted by Section 2.10 (11.3) of the Town Zoning Ordinance. Said guest house elevation would then be 35.1' at the tie beam (or top of the plate). Additionally, Applicant proposes to build the guest house providing a 5.4' rear yard setback, in lieu of 10' required. A Special Exception is requested to construct a kitchen within said guest house, thereby allowing a second kitchen pursuant to Section 5.51(b)(5) of the Town Zoning Code. R-B District.

This item was heard before Variance Number 14-95.

Mr. Ron Kolins, Attorney for Dr. and Mrs. Casscells, addressed the Town Council and explained that the variances were being sought because a hardship exists with the slope of the land. Mr. Kolins said the Casscells would like to construct a single story, self-sufficient residence for a nurse, professional person or assistant for the purpose of assisting Mrs. Casscells in helping with the care of her husband, Dr. Ward Casscells who suffers from a variety of infirmities including a stroke and various orthopedic problems.

Mr. Kolins presented a design for a building that encloses the existing carport and extends the building southward. The building would contain a total of 800 - 900 square feet and would consist of a bedroom, sitting room, kitchen, and bathroom. Two variances are required to accomplish that addition. One variance would be a rear setback of 5'4" to match the existing part of the building. The second variance is related to the point of measurement from which the height of the building is measured. Normally, the height of the building is measured from the crown of the road; however, certain roads in the Town are low-lying, and the Code assumes a point of measurement beginning at 7.5 feet. He said that description fits North Lake Way which this property fronts on. Mr. Kolins continued that 14 feet from the first floor of the structure to the ceiling of the structure would measure 21.5 feet, starting at sea level. Mr. Kolins requested that instead of measuring from 7.5 feet, due to the lay of the land, the point of measurement be at a point where the floor of the existing carport is. This measurement would be 26.5 feet, and this would allow 14 feet from floor to ceiling.

After explaining the diagram of the requested height differentials, Mr. Kolins said the request is for 13.5 feet and 10.5 feet. He added a request for a kitchen is needed to provide a separate self contained unit for the help that is needed to care for Dr. Casscells.

Mr. McLendon said the plan showed 23 feet as the elevation for the carport instead of 26 feet as alluded to by Mr. Kolins.

Mr. Kolins said the figure, as he recalled it, was 26.5 feet.

Noe Guerra, Architect for the project, said the actual elevation for the existing carport is 24 feet. The 26 feet is an average of the grade and the surrounding area, and the carport varies from 23 feet in the front to 27.5 feet in the rear.

Mr. Moore reported that the plan calls for a building to be constructed no more than 14 feet in height, in the same place and in the position that it exists. The Staff discussed this project with all of the neighbors, and this project has been modified significantly from the previous presentation to the Council that requested a two story addition. He said the rear variance lines up with the existing carport. Staff has no objections to the variance or the special exception with the proviso that it be recorded in the agreement that the building would not be rented and each subsequent owner would return to the Council to acknowledge that in future years.

Mr. Kolins responded his client would agree to those terms.

Mrs. Smith complimented Mr. Kolins and Mr. Guerra and said they have worked hard on this project.

Motion made by Mr. Wyett to approve the project with the condition a recorded agreement be executed not to rent the building by this or future owners. The motion was seconded by Mr. Shaw. On roll call, the motion carried unanimously.

7. Variance No. 16-95 - 250 Everglades, Inc., 253 Seminole Avenue; to allow construction of a two-family residence on a 11,900 sq.ft. lot in lieu of 13,333 sq.ft. minimum required. R-C District

Mr. Robert Deziel, Attorney for the applicant, addressed the Town Council and noted that in addition to the land described as on the application, the area involved land on Everglades Avenue. He explained that in the last month, 250 Everglades Avenue, Inc. acquired a block of property consisting of five lots located on Everglades Avenue and two lots located on Seminole Avenue. The property consists in excess of 41,000 square feet. Under the Zoning Code in the R-C Zoning District with 41,000 square feet, six dwelling units are permitted.

Mr. Deziel explained that two dwelling units would be located on two lots on Seminole Avenue without realigning the property lines. Mr. Deziel presented a drawing showing the outline of the lots. He summarized that without any approvals, the applicant would be allowed to construct two units on Seminole Avenue and four units on Everglades; however, a small piece of property, shown outlined in pink on the diagram, would have to be transferred from the Everglades property to the Seminole Avenue property. This could be accomplished with surveys and deed revisions.

Mr. Deziel continued that if the variance were denied, the Seminole Avenue would have two small pieces of "phantom" property that are actually Everglades property. With that additional property, the Seminole Avenue property would have a larger lot coverage potential. In either case, the applicant will have six units built; however, this request is to avoid the necessity of surveying and creating an odd legal description and to avoid creating additional mass and bulk on Seminole that would normally be permitted if the variance were granted.

Mr. Moore reported that this is really a six unit project; however, the variance was sought on only one of the parcels. He said the Staff attempted to work out a plan without the necessity of granting a variance out right. He said the problem of granting a variance would exist if the other two proposed duplexes were not built. Mr. Moore requested that a developers' agreement be executed to insure that the six units would be built.

Mr. Deziel replied his client would agree to a developers' agreement as part of the approval. He noted that the Everglades property plans were submitted to the Architectural Commission at the March meeting so the project has already begun.

Mr. Deziel added that this is not a density variance because sufficient land exists for the six units.

Motion made by Mr. Shaw to approve Variance Number 16-95 subject to a unity of title on the entire property which would sunset on the issuance of the certificate of occupancy on the three duplexes.

Mrs. Smith requested that Mr. Shaw clarify his motion and repeat it.

Mr. Shaw said it would be a unity of title on the entire property that would sunset upon the completion or granting of a certificate of occupancy on the third of three structures.

Mr. Moore suggested the approval be tied to the variance request with a developers' agreement which would give the exact results and be less complicated for everyone with the eventual sales.

Mr. Randolph added he would prefer to see this in the form of a developers' agreement.

Mr. Shaw agreed to accept Mr. Moore's suggestion for a developers' agreement in lieu of a unity of title as part of his motion for approval. The motion was seconded by Mr. Wyett.

Mr. McLendon said he was under the impression that if this is approved as discussed, the one structure will end up on a non conforming lot.

Mr. Moore replied that it would not be a non conforming lot because all of the structures will be parceled together as one, and the lot lines will be worked out in the developers' agreement.

Mr. McLendon asked Mr. Deziel if it were not practical to simply take some of the excess square footage from the adjoining property and make the non conforming lots conforming.

Mr. Deziel replied that the lots were not very deep and the back yards on Everglades would have a negative impact from that. Mr. Deziel offered that his diagram showed the most conducive way to proceed if the variance were not granted.

Mr. McLendon said he understood that the developers' agreement would require an arrangement that if any of the units were sold that the lots would be conforming anyway.

Mr. Deziel said he understood the developers' agreement would affect the entire property, three buildings containing six units would be built on the entire property, and the legal description (as indicated on the diagram) would be where the existing line is. In that way, a very irregular legal description would be avoided for the lot configuration. Mr. Deziel agreed with Mr. Moore and Mr. McLendon that the lot would be non conforming.

Mr. Randolph asked if the other four units would be conforming?

Mr. Moore and Mr. Deziel replied affirmatively.

Mr. Deziel asked Mr. Randolph if he agreed if the developers' agreement were executed with the required amount of square footage that the properties would then become conforming?

Mr. Randolph replied, with the variance, the client is protected.

On roll call, the motion carried unanimously.

8. Special Exception No. 8-95 - Carlton Gallerie, 313 1/2 Worth Avenue, Via Bice; to allow a retail occupancy of 2,292 sq.ft. thereby exceeding the 2,000 maximum permitted. C-WA District

Mr. Gustav Broberg, Attorney for the applicant, addressed the Town Council and requested the approval of a special exception to move its operation from its present location at 240 Worth Avenue to the vacant first floor location in the Villa Bice, the former location of Petite Marmite.

Mr. Broberg requested that 2,292 square feet be allowed for conducting the business in lieu of the required 2,000 square feet. He said that each and every one of the criteria attached to the special exception ordinance have been satisfied. Additionally, a confirmation from David Sammy, Certified Public Accountant, that the town-serving aspect is in excess of 50% up to 58.5%.

Mr. Broberg introduced Gene Lawrence, Architect for the project, and mentioned that the project had been approved by the Architectural Commission. The request was for the additional 292 square feet.

Mr. Moore reported that this special exception request was on the Council agenda for the March meeting under the name of Spencer Galleries when, in fact, the applicant is Carlton Galleries. The project has been advertised again. He noted the town-serving documentation was submitted regarding their sales records that indicate they are over 50%. The staff has no objections.

Motion made by Mr. Wyett to approve Special Exception Number 8-95. The motion was seconded by Mr. McDonald. On roll call, the motion carried unanimously.

D. Other

1. Consideration of Appeal Regarding Lichterman vs. Town of Palm Beach (240 Park Avenue)

Mr. Randolph reported that the court entered a judgement that was adverse to the Town after the trial, and he filed a petition for rehearing which attempted to point out to the court the error in the final judgement. After having filed the petition in January, on March 30, Mr. Randolph received a short order that denied the petition for rehearing.

Mr. Randolph said the issue before the Town Council is the question to appeal the denial. The appeal would be based, in large part, on those issues that were raised in the petition for rehearing. He reported that this was a very fact intensive trial. He felt that the facts that were presented to the court supported the position of the Town that this property at 240 Park Avenue had always been used as an annex and as an accessory use to the Palm Beach Hotel. He did not believe that the facts supported the decision that was finally made by the court. The problem that exists in any appeal is that the trial court is the arbiter of the fact and the appellate court cannot substitute its opinion for the opinion of the trial court; however, if the Town can show that the court erred as a matter of law regarding the application of the facts, then the appellate court may be convinced to overturn the decision of the trial court.

Mr. Randolph advised the Town Council that he believed the fees would be in the neighborhood of \$10,000 - \$15,000 to appeal the decision and the amount already expended is approximately \$77,000. He said that a copy of the transcript for the four day trial would have to be obtained.

Mrs. Smith asked Mr. Randolph if he believed that this money had been spent to avoid the destruction of the neighborhood and for the protection of the residents of the Town?

Mr. Randolph replied, "Absolutely!"

Mrs. Smith agreed and said she felt very strongly about the issue.

Mrs. Francine Bernard, a resident of Park Avenue, addressed the Town Council. Mrs. Bernard stated this issue was not a popularity contest nor a political issue but it is about the rewriting of the history of the entire neighborhood. She said the judge took the prerogative of the zoning away from the Town and she questioned if that issue could be addressed in the appeal. She held up a petition, signed by 25 residents of the street urging the appeal of the decision. Mrs. Bernard stated the issue of the zoning is a very important Town issue, and the issues at stake are very clear to the people involved. The parking is already a problem and the deterioration of the neighborhood has already begun with the residents of 240 Park Avenue who are now staying there legally.

Mrs. Bernard said the decision, as it stands, would set a very bad precedent and would allow purchasers to buy property on speculation that the zoning can be legally changed on parcels. She said the owner of 240 Park Avenue does not live in the Town of Palm Beach and is doing this strictly as a business venture, challenging a Town that has prided itself on being residential. The premises have been turned into a commercial venture with no consideration given to the rest of the neighborhood. The issues are the physical realities of the density and of the parking in addition to the property values of the other property owners on the street who have spent many dollars improving this neighborhood every year. The intangible reality of the neighborhood is that ten children, under the age of 15, live in the neighborhood, skate boarding, etc. and having a good time. The 22 parking spaces are already over subscribed by residents.

Mr. McDonald asked Mr. Randolph if the Town lost the appeal, would the Town be responsible for the plaintiff's legal costs or fees?

Mr. Randolph replied the Town would be responsible for costs, not fees. He estimated costs would be nominal regarding the appeal.

Mr. McDonald asked if Mr. Randolph thought the chances would be 50-50 on an appeal? Mr. Randolph said it was difficult to come up with a projection.

Mr. McDonald asked what Mr. Randolph thought was the main misapplication of the law?

Mr. Randolph replied that it was the failure to recognize the use that existed for this property when the property was rezoned and the fact that the evidence presented to the court showed that this property, not only had been previously used as an accessory to the Palm Beach Hotel but at the time the zoning was changed and it became non conforming, the property had been abandoned and was in use.

Mr. McDonald asked if the records were clear on these points and supported Mr. Randolph's position. Mr. Randolph replied affirmatively.

Mr. Moore commented that the hidden cost in not appealing this decision would be to extend an open invitation to those individuals who sue the Town to form the opinion that the Town would not go forward to appeal if legal and moral issues were apparent to the Town. The staff recommendation from the Building Department is to expend the funds to prevent further attack and the erosion of the Town's Zoning Ordinance.

Motion made by Mr. Wyett to support an appeal of the court's decision. Motion seconded by Mr. McDonald. On roll call, the motion carried unanimously.

XIV. ANY OTHER MATTERS

There were none.

XV. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:40 p.m.

Mary A. Pollitt
Town Clerk

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

LAST NAME—FIRST NAME—MIDDLE NAME <i>McDonald, Jack</i>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Palm Beach Town Council</i>	
MAILING ADDRESS <i>2170 Ibis Isle</i>		THE BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY	
CITY <i>Palm Beach</i>	COUNTY <i>Palm Beach</i>	NAME OF POLITICAL SUBDIVISION: <i>Palm Beach</i>	
DATE ON WHICH VOTE OCCURRED <i>4-11-95</i>		MY POSITION IS: ☒ ELECTIVE ☐ APPOINTEE	

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. The requirements of this law are mandatory; although the use of this particular form is not required by law, you are encouraged to use it in making the disclosure required by law.

Your responsibilities under the law when faced with 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

ELECTED OFFICERS:

A person holding elective county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his special private gain. Each local officer also is prohibited from knowingly voting on a measure which inures to the special gain of a principal (other than a government agency) by whom he is retained.

In either case, you should 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:

A person holding appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his special private gain. Each local officer also is prohibited from knowingly voting on a measure which inures to the special gain of a principal (other than a government agency) by whom he is retained.

A person holding an appointive local office otherwise may participate in a matter in which he has a conflict of interest, but must disclose the nature of the conflict before making any attempt to influence the decision by oral or written communication, whether made by the officer or at his direction.

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

- You should 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 should be provided immediately to the other members of the agency.
- The form should be read publicly at the meeting prior to consideration of the matter in which you have a conflict of interest.

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

You should disclose orally the nature of your conflict in the measure before participating.

You should 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 should incorporate the form in the minutes.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

TACK member, hereby disclose that on 4-11, 1995:

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

☒ inured to my special private gain; or

☐ inured to the special gain of _____, by whom I am retained.

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

quarrying or Beverage license

Member or Club Applicant

4-11-95

Date Filed

[Signature]
Signature

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

LAST NAME—FIRST NAME—MIDDLE NAME <i>Shaw, Leslie A.</i>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Town Council</i>	
MAILING ADDRESS <i>318 Seaspray Ave.</i>		THE BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY <i>Palm Beach</i>	COUNTY <i>Palm Beach</i>	☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY	
DATE ON WHICH VOTE OCCURRED <i>April 11, 1995</i>		NAME OF POLITICAL SUBDIVISION: <i>Town of Palm Beach</i>	
		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. The requirements of this law are mandatory; although the use of this particular form is not required by law, you are encouraged to use it in making the disclosure required by law.

Your responsibilities under the law when faced with 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

ELECTED OFFICERS:

A person holding elective county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his special private gain. Each local officer also is prohibited from knowingly voting on a measure which inures to the special gain of a principal (other than a government agency) by whom he is retained.

In either case, you should 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:

A person holding appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his special private gain. Each local officer also is prohibited from knowingly voting on a measure which inures to the special gain of a principal (other than a government agency) by whom he is retained.

A person holding an appointive local office otherwise may participate in a matter in which he has a conflict of interest, but must disclose the nature of the conflict before making any attempt to influence the decision by oral or written communication, whether made by the officer or at his direction.

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

- You should 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 should be provided immediately to the other members of the agency.
- The form should be read publicly at the meeting prior to consideration of the matter in which you have a conflict of interest.

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

- You should disclose orally the nature of your conflict in the measure before participating.
- You should 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 should incorporate the form in the minutes.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

Leslie A. Shan, hereby disclose that on April 11, 1995, 19 :

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

☐ inured to my special private gain; or

☐ inured to the special gain of _____, by whom I am retained.

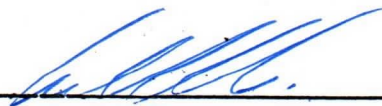
b) The measure before my agency and the nature of my interest in the measure is as follows:

As a member of Mor-a-Lago Club,
The granting or refusal of the Alcoholic Beverage
License could effect the success of the club
& therefore my interest is some

Date Filed

4/11/95

Signature



NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317 (1985), 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 \$5,000.