TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE TOWN COUNCIL MEETING HELD ON APRIL 9, 2002

I. CALL TO ORDER AND ROLL CALL

The regularly scheduled Town Council Meeting of April 9, 2002, was called to order by President William Brooks at 9:30 a.m. in the Town Council Chambers. On roll call the following elected officials were found to be in attendance:

Mayor Lesly Smith
President William Brooks
President Pro-Tem Norman Goldblum
Councilman Jack McDonald
Councilman Samuel McLendon
Councilman Allen Wyett

Others in attendance for all or a portion of the meeting were:

Town Manager Peter Elwell
Assistant Town Manager Thomas Bradford
Assistant to the Town Manager David Jakubiak
Town Attorney John Randolph
Finance Director Jane Skittone
Fire-Rescue Chief Kent Koelz
Police Chief Michael Reiter
Public Works Director Al Dusey
Assistant Planning, Zoning & Building Director Veronica Close
Zoning Administrator Paul Castro
Assistant Building Official Harry Ackerman
Purchasing Agent Charles Boggs
Town Clerk Mary Pollitt

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II. INVOCATION AND PLEDGE OF ALLEGIANCE

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

III. PRESENTATIONS

A. Recognition of Rita Taca, Zoning Commission, From 1995 Through 2002.

Ms. Taca was not present at the meeting.

IV. COMMENTS OF MAYOR LESLY S. SMITH

Here we are in April, the month for daylight savings time and baseball, and for the annual exodus to the north for many of our residents. It's been a quiet season as we've recovered from economic downturn and national security crises, as we've demonstrated that Palm Beach is a real community, where friends and neighbors band together and, as the saying goes, get going when the going gets tough. This is the time of year that I remind all of you that all of us up here will continue to work through the summer, and that everyone at Town Hall is available year 'round. We're accelerating some infrastructure projects and tackling some important issues, so when you get back in the fall you'll see tangible evidence of our progress.

Before I make a few comments on today's agenda, I want to report on the Palm Beach County Board of Commissioners meeting regarding Peanut Island, which Tom Bradford, John McCracken of Jones, Foster and I attended April 2. You will recall that the Town has taken a firm stance against commercial development on Peanut Island, and although one Commissioner voiced her great displeasure at our stand, the majority of County Commissioners agrees with us. We just want to make sure they maintain that position.

Right now, the County has estimated the cost of a low-pressure sanitary sewer system for the island at about $800,000 - possibly closer to a million dollars when it is actually bid out. This will be considered as part of the fiscal year 2003 capital improvement program for Palm Beach County, so the Board of Commissioners will have to vote for approval. The proposal has been examined by our Town engineer, who tells us that the master pumping system envisioned is probably not sufficient to accommodate a major commercial use, such as a restaurant. The catch is, if a private firm were willing to put up additional money in the future, the master pump could be upgraded to support a commercial venture.

I recommend that we continue to monitor this situation closely, and that we insist firmly that the County Commission adopt the zoning category compatible with the adopted land use for Peanut Island - which excludes all commercial activities and specifically prohibits restaurants. The County Commission has set a tentative schedule this summer for considering re-zoning, and I am hoping that Palm Beach residents - especially those who will be affected in the north end - will join us in reminding Commissioners of their promise to us. Zoning Commission Review is set for July 8, the first formal hearing before the Board of Commissioners is July 25, and the second and final hearing will be August 22. I will continue to remind you of these dates, and I hope that residents who are interested in this issue will contact me or Tom Bradford directly.

Today we're going to be talking again about the seemingly endless process of repairing our streets and roads and bringing our infrastructure systems up to date. We also continue our discussion of town facility needs and the proposed drainage improvement projects; no one is arguing against the need, but we need to select the most cost-effective financing options.

Part of our discussion of future projects includes repair and upgrading of water delivery pipes, in preparation for the Council's joint meeting with the West Palm Beach Mayor and City Commission on April 19. We have a solid legal agreement with West Palm Beach regarding their responsibilities for our water system, and I can assure you that regardless of West Palm's financial woes, we will insist that they keep their word - and I have no evidence that they won't. I know the Council will have some additional items we might address with West Palm Beach, including traffic congestion caused by diversion of traffic to the island, and capital improvement projects on the waterfront which will have an impact upon our Town.

As we head toward our budget hearings and a new fiscal year, all of us are aware that we must be especially responsible handling what is really not our money, but residents' investment in the Town's future. We will have some recommendations today from Jane Skittone, our Director of Finance. The Council will also consider a resolution approving the creation of a three-member investment advisory committee for the purpose of reviewing the Town's investment policies for surplus funds, and to recommend an investment plan for consideration by the Council. I think this is a very good idea, but I would want to make sure that members of this advisory committee do not work in the Town of Palm Beach and do not have any business association whatsoever with the Town or financial associations in Palm Beach. As stewards of the treasury, we cannot be too careful in this regard.

I also want to add my two cents worth on the proposed resolution supporting restoration of the 1916 Palm Beach County Courthouse. I know there has been a lot of controversy about what proportion actually has historic value, and the cost of restoration. But knowing how much historic preservation has meant to our Town and our legacy, I think we must support this project - which would have no financial impact upon us.

I also have to comment on the escalating controversy surrounding our public school, and I want to be very clear about this. I believe we must reach a consensus for keeping the school in Palm Beach. There are a number of practical reasons: First, many residents and many who work in Town send their children there, and we owe them this convenience. Second, we pay the same amount of money in taxes to the School Board whether the schools stays or goes, so I can't imagine why we would want to pay the money and not take advantage of the opportunity to provide a quality educational opportunity to the children of Palm Beach County. Finally, education is the hallmark of a civilized society and a school is the heart of every community, including ours.

Finally, some great news: we have among us someone who, week after week, quietly does an impeccable job serving our needs - without fanfare, without applause. Last week, she was honored by the Palm Beach Chamber of Commerce with its Unsung Hero Award. So please join me in a round of well-deserved applause for our very own unsung hero, Mary Pollitt.

V. APPROVAL OF THE AGENDA

DEFER Variance No. 9-2002 - David W. Frisbie, Trustee, 1000 Indian Road (XII. Development Reviews B. 2. New Business)

Councilman Wyett moved approval of deferral of Variance No. 9-2002. The motion was seconded by President Pro-Tem Goldblum. On roll call the motion carried unanimously.

ADD Item VIII. B. New Business - Item 5 - Discussion of Adelphia Cable Contract.

Councilman Wyett moved approval of the addition to the agenda of Item VIII. B. New Business - 5. Discussion of Adelphia Cable Contract. The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

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

VI. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE **(Another Opportunity for Communications From Citizens Will Be Offered Immediately After the Lunch Break)**

The following citizens addressed the Town Council:

Dr. Sten Lilja, 1330 North Ocean Boulevard, spoke on issues related to the beaches.

Robert J. Doney, 170 South Ocean Boulevard, requested that the Town Council consider evaluation of his job review while serving as Town Manager for the Town.

William Cooley, 233 Tradewind, spoke on issues relating to the current and proposed budgets, the employment of Town employees, the ambulance service in Town, and the drainage problems in the north end.

Dr. Sanford Kuvin, 149 E. Inlet, requested a referendum on the beach bond issue and retirement of the current beach bonds.

Eric N. Gilbertson, 151 Chilian, spoke on school issues.

Charlotte Gilbertson, 151 Chilian, requested that the Palm Beach Public School be kept open.

Wendy Victor, 208 Via Tortuga, spoke on A1A widening issues and stated that the quality of life for South Palm Beach residents should be valued.

Jerry Frank, 2784 South Ocean Boulevard, said he would make his remarks concerning A1A after the presentation later in the meeting.

Joel Martino, 109 Ocean Terrace, requested that the Town Council reconsider the beach issues, provide a public referendum for the beach issue, and consider the possible burying of telephone and power lines.

Robert Grace, 126 Seagrape Circle, stated that he was against the widening of A1A and wanted stronger traffic control on South Ocean Boulevard.

VII. CONSENT AGENDA

A. APPROVAL OF SPECIAL TOWN COUNCIL MEETING MINUTES OF FEBRUARY 13, 2002.

B. APPROVAL OF TOWN COUNCIL MEETING MINUTES OF MARCH 12, 2002.

C. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL COMMISSION AT ITS MEETING ON MARCH 27, 2002.

D. APPROVAL OF CHECK REGISTERS FOR MARCH 2002.

E. OTHER

1. Designation of Voting Delegate and Alternate Voting Delegates Representing the Town at Meetings of the Palm Beach County League of Cities. [Peter B. Elwell, Town Manager]

2. Selection of Traffic/Parking Consultant.
[Albert P. Dusey, Director of Public Works]

The Consent Agenda was approved through motion of Councilman Wyett, seconded by Councilman McLendon. On roll call the motion carried unanimously.

VIII. REGULAR AGENDA

A. Old Business

1. Florida Department of Transportation Presentation of A1A Resurfacing Plans. [Will Suero, HDR Engineering, Inc.]

Mr. Will Suero, HDR Engineering, Inc. addressed the Town Council, stating that a meeting had been held last week with residents in a continuing effort to explain the purpose of the project, as well as the scope of the project. He noted that today's presentation would be followed up with a formal, public workshop, which was a requirement of any Florida Department of Transportation (FDOT) project. The workshop would take place one week from today in the Town Council Chambers, from 2:00 p.m. to 7:00 p.m.

Mr. Suero described the limits of the project: along A1A, 1400 ft. south of Lake Worth Road to Southern Blvd. The projects were broken down into three segments. He described the work that would take place in each segment, which would include five foot paved shoulders in certain segments in order to properly drain the roadway, to aid car drivers in maintaining control of vehicles, and to add safety for both vehicles, pedestrians, and bicyclists. He noted that the FDOT was very eager to work with residents and Town officials to resolve the safety concerns and the concerns of FDOT. Individual workshops, could also be scheduled with small groups of those with vested interests in the project in order to reach a compromise.

Councilman Wyett commented that residents had great concerns about the shoulders of the road – he maintained that the FDOT had been insensitive to the Town, and that when North County Road had been reconstructed it had not been improved, and had been made hazardous. He urged that the FDOT listen to the Town Council and Town residents to make suggested technical improvements.

In response to Councilman McDonald, Mr. Suero replied that there had been concern initially that adding the paved shoulders would require the FDOT to do work on the swale, beyond the paved shoulder, that would somehow impact the landscaped vegetation in place. He explained that the FDOT would not impact that type of vegetation in any way.

Councilman McDonald noted that removing ten feet of green space and replacing it with pavement would have an aesthetic impact.

Mr. Suero replied that the FDOT was attempting to minimize the aesthetic impact.

The FDOT representative indicated that there was statistical data relating to the rear-end accidents that occurred along A1A, which the FDOT hoped to minimize by the placement of the paved shoulders. He noted that the existing sidewalk along section one on the west side would be relocated; grass would be placed where the existing sidewalk currently existed.

In response to Mayor Smith, Mr. Suero replied that the FDOT was willing to work towards consensus, and that the project as designed was programmed at approximately $4 million. In response to her suggestion regarding burying power lines, he explained that they were owned by Florida Power & Light (FPL). He noted that the paved shoulders would not require the removal of any trees.

Councilman McDonald noted that he lived in the neighborhood and that most residents did not want the project to take place, as they did not see it as an improvement to the community or to the neighborhood.

Mr. Dick Clyde, 2660 South Ocean Blvd., commented that he was speaking both individually and as the President of Beach Point Condominium Association, and that the Board had unanimously approved his coming before the Town Council to voice objection to the projected shoulders. He noted that he had measured the area, and that once the paved shoulders were put in on the west side of the street they would be within five feet of the pedestrian path. He objected to the shoulders, as they would bring more bicyclists into the area, and possibly more traffic from Dixie and Federal Highways. He noted that he had not ever noticed any ponding occurring on A1A, other than in the grassy area at the golf course.

Ms. Hannah Roth, 2760 South Ocean Blvd., challenged the civil engineers to think differently, as more asphalt would create more run-off and more ponding; dips running along the road could cause ponding, and the middle of the road could be raised to alleviate that; she explained that everyone who lived on the west side of A1A crossed the road everyday to get to the beach, so adding a sidewalk would not help avoid road crossing by pedestrians.

Mr. Jerry Frank commented that there did not seem to be a problem with drainage in the area; if it was a problem, the condominiums would be willing to lift the sod to reduce the level of the soil and then replace the sod. He suggested that the paved shoulders would cause additional safety problems, and that the walking paths along A1A would then be closer to vehicular traffic. He suggested that the proposal was a monster project, which would tear up greenery, the driveways of the condominiums, and be a disaster for those living in the area. He agreed that the road did need to be re-surfaced.

Mr. Leslie Evans suggested that the Public Works Department check the condition of the water and sewer lines in the area of A1A where the project was proposed; he suggested that all road/bridge construction be coordinated.

2. Procedures for Controlling Traffic Impacts During Construction Projects on A1A.
[Robert L. Moore, Director of Planning, Zoning & Building]

The following is a verbatim transcript:

Elwell: There is a memorandum from Bob Moore. He, of course, is not here with us today, but Chief Reiter is in the audience, if you would like to hear from him on this matter. The recommendations here, I believe, are clearly stated as to additional controls that, if you approve this today, Town staff would be imposing upon every project.

Brooks: I believe this is one of the concerns that Mr. Grace voiced in his public comments.

Elwell: Indeed it is. The particular issue of how the trucks pull in and out is addressed here both as to the manner in which they pull in and out and also the timing of when they would be allowed to pull in and out. There are also a number of other recommendations. The bottom line here is that this is the staff's best effort at identifying how to better control this activity, and our recommendation is that it be extended, not only within the area that was being discussed, between Sloan's Curve and Southern Boulevard, but north along South Ocean Blvd. to its intersection with County Road. Upon some additional discussion I've had with staff since this memorandum was released, we would extend that recommendation to indicate that on all north/south roads, because of the additional traffic they bear, as compared to the side streets running east and west, that some of these same restrictions would apply even outside of the area there on South Ocean Blvd. I say some, because as you get further and further north in Town, it may be not as necessary to impose every one of these restrictions to protect the public interest, but we would work from this list of conditions, and apply those that are appropriate to each particular circumstance.

Brooks: Would accommodations be made for mid-Town east/west streets as well?

Elwell: Yes sir, we would do that. The intent here is that anywhere that it is a heavily traveled roadway, not just by local traffic, people who live there, or in the few isolated situations where there is a commercial street that has limited traffic.

Ackerman: My name is Harry Ackerman. I am the Assistant Building Official for the Town, and I was here really in Bob Moore's absence, to go over the items that we have come up with Chief Reiter in trying to alleviate some of the problems in the traffic, especially in the north/south arteries in the south end of Town, where we only have one north/south artery. Some of the other we have two north/south arteries, and some of these locations you do have side streets, which help alleviate some of the problems. But really, all the way from Sloan's Curve through the intersection there where County Road comes into South Ocean are primary problem areas. The items we've come up with:

(Mr. Ackerman related the procedures and conditions contained in the memorandum, as attached, from Robert L. Moore, dated April 2, 2002)

TOWN OF PALM BEACH
Information for Special Town Council Meeting on:
February 13, 2002

To: Peter B. Elwell, Town Manager

From: Albert P. Dusey, Director of Public Works

Re: DRAINAGE BASIN STUDIES

Date: February 11, 2002

Town Council hired Smith and Gillespie in March, 1973, to examine the entirety of the Town's infrastructure, including private utilities, and determine condition and improvement needs. In March, 1976, a good portion of the Smith and Gillespie study was completed, including the drainage element. In this Long Range Public Works Plan, Smith and Gillespie defined drainage basin limits, examined existing pipes and pumps, and developed a set of recommended improvements to provide a certain level of service.

The three-year frequency storm (1 in 3 chance of occurring in any given year) was selected for gravity storm sewers and the one-year frequency storm was selected for design of storm sewers that terminate at pumping facilities. These were selected as "practical and economical criteria." Further criteria was included as follows:

> The Pumps must be capable of handling the peak flow associated with a one-year frequency storm <u>and</u> the pumps must be able to remove, within one hour, the excess runoff produced during a five-year frequency storm. No flooding will occur during the one-year storm and the minor flooding from the five-year storm would be removed from the streets in one hour.

Additionally, the Plan suggested a runoff factor of 0.35 for low to medium density residential development, and 0.75 for commercial and high density residential. These factors were based on generalized standards rather than actual development in Town. Runoff factor is a measure of how much rainfall will leave a property based upon its pervious and impervious surfaces. The initial time of concentration for the first inlet (the time it takes for rainwater from a property to collect and flow to the inlet) was 10 minutes for commercial and high density residential, and 30 minutes for low and medium density residential. The Town accepted all of these drainage criteria as its level of service.

I am told that sometime in the late seventies, the Town experienced a very heavy rainstorm, perhaps something like we had around Thanksgiving, 2000, which caused substantial flooding in the north-end. A referendum was conducted to bond finance drainage improvements for almost all the basins north of Worth Avenue. The referendum passed and bonds in the amount of $12,900,000 were issued. Based on the Town's adopted level of service and design criteria, substantial improvements were made in the D-4 basin (Miraflores), D-6 and D-7 basins (Mid-Town area), D-10 basin (Via Marilla) and the D-9 basin (Mediterranean). In addition, some pipe work was done in the D-8 basin (Country Club Road). Since that time, the Town has completed substantial improvements in the D-14 basin (Society of the Four Arts), D-18 basin (El Brillo) and D-16 basin (Jungle Road). And, of course, we have replaced deteriorated corrugated metal pipe throughout the system.

Then came the storm on Thanksgiving weekend, 2000. The drainage system was overwhelmed, homes and garages were flooded, and street flooding was widespread. One particular area, the D-4 basin at Miraflores, was badly affected by this storm and to a lesser degree by other storms both before and after the Thanksgiving storm. Along with some other improvements, the Town Council agreed to investigate the D-4 basin more closely to try to determine why this area was having problems. This study, completed in April, 2001, found that the development that exists in this basin was more intense than envisioned in 1976, and the runoff coefficient was .63 not .35. In addition, the time of concentration was more likely to be 10 to 15 minutes rather than the 30 minutes assumed in the Smith and Gillespie study. Applying these revised runoff factors to the formulas confirmed that the existing system was undersized. Staff recommended, and Council authorized, more detailed analyses of the D-4 basin and the other four basins in the north-end to determine what needed to be done to potentially bring these basins to a higher level of service.

The first thing we asked our consultants to analyze is what needed to be done to the existing systems to meet the current Town level of service (1-year/1-hour storm). The second level of service we asked our consultants to investigate was the 3-year/1-hour storm which is the Florida DOT standard as well as Palm Beach County standard and others. And, the last level of service to be investigated was providing a drainage system capable of minimizing or eliminating house flooding from the 100-year storm. The consultants agreed that the 100-year/3-day storm is the industry standard and the storm which the South Florida Water Management District requires to be used for new development calculations. Properties are to be protected from flooding from this level storm as part of new subdivision drainage improvements.

Additionally, the three civil engineering consultants were directed to obtain survey information on the existing drainage system including confirmation of pipe sizes, inlet sizes, etc., as well as home and garage elevations for properties that appeared to have flooding potential from severe rainstorms. Our three civil engineering consultants proceeded with the analysis of the five drainage basins and we met periodically to review progress, answer questions, etc.

The basin studies are complete which brings us to the Special Town Council meeting. The studies resulted in similar conclusions in a number of areas as follows:

1. A runoff coefficient of from 0.6 to 0.65 is representative of development currently existing in these basins.

2. Because the runoff coefficient is higher than the coefficient used to size the system in the Long Range Public Works Plan, the systems do not meet the current 1-year/1-hour level of service.

3. In general, the difference in cost to meet the 3-year/1-hour level of service is not significantly higher than the 1-year/1-hour level of service.

4. Additional pump station capacity is needed to reduce flooding from the 100-

year storm as well as the 1-year and/or 3-year storm in most basins. (D-8, D-10, D-2, D-9).

5. Inlet capacity needs to be improved in all basins.

Attached is a Basin Study Summary which attempts to catalogue the findings of the studies on one sheet. The engineering consultants who prepared the basin studies were asked to be present at the Town Council meeting to give a short presentation and answer any questions about these analyses.

At your request, we have obtained from each consultant information regarding the prioritization of projects within the basin(s) they analyzed. Each consultant also has provided cost estimates for increasing specified pipe sizes by 6-inches throughout the entire project. This information will be helpful to staff in formulating the details of an implementation plan in accordance with whatever policy direction we receive from the Town Council.

If you wish to discuss, please call.

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(Continued verbatim)

McDonald: Mr. Ackerman, you're the messenger today, I guess. I won't comment on the additional parts of this that Mr. Elwell is going to apply it to, but I will say that I really was looking for something a little more comprehensive than this, and I think he probably should start off with what is the objective of this —

Ackerman: The objective is to reduce to a minimum the stoppages of traffic from construction sites. I'm not saying that you can stop it totally, because there will be times it will happen, but to reduce it to a minimum.

McDonald: Okay, so that's the right objective - to keep the traffic moving – that's the objective, and then from that you're going to start and set out a procedure that will enable that to happen as best it can, and I don't think this is it. I think it's okay, as far as it goes, but I think it leaves a lot unanswered. It doesn't get into the flagmen issues at all. It only seems to deal with projects where there are police officers, and as you know, there are lots of times when there are not police officers. So, I just don't think it went far enough, and I think there are aspects of it that haven't been commented on at all, and I would especially, where you only have one north/south artery, one road, no side streets, that you have to have a program that every time someone pulls a permit, you can say this is what our requirements are, regarding flagmen or whatever; this is the way it's going to be, it has to be etc., traffic in and out – you don't stop traffic to let one vehicle off the property – I think those are the kind of guidelines I was looking for, so I'm a little tepid toward this overall. Thank you.

Wyett: We just had the Department of Transportation tell us that they're going to re-surface the road in this area. I think we have to address can we afford to allow construction and road construction simultaneously on the very narrow, only road, between the north and south ends of the Town. And, I think we have to address that. I can't imagine how Mr. McDonald here is going to get home from the Town Council meetings if the road is being re-surfaced and all those homes and construction sites are active simultaneously.

McDonald: You don't want that on your conscience, Mr. Ackerman.

Brooks: But, Harry, we do understand that you're a messenger, not the target, and the only problem is you're such a big target, you may get a few hits coming at you okay?

Smith: Mr. Ackerman, when you were doing your report, did you have the conferences with the Police, and they determined this is the best way to do it?

Ackerman: It was with Chief Reiter, myself, and Mr. Moore.

Smith: Right. And did you take into consideration, and follow up what they said about the road construction – what would be done there. Is there any way that the road construction project could be stopped, since some of the building permits for these large projects, I know, have already been pulled. They could not be stopped.

Ackerman: Actually, it never came up to us about the construction of the road being re-done at these meetings. I didn't even think about that at the time. To stop construction takes a moratorium.

Smith: We're talking about the road.

Ackerman: If you're trying to stop construction totally while this road construction is going on would require a moratorium, which is a lot harder to do.

Smith: You cannot close it up completely. I'm thinking not of Mr. McDonald getting home, which of course, Mrs. McDonald would make road rage look like minor league stuff, but I'm talking about a public safety issue for the residents in that area that might have to be transported to the hospitals, and the roads are torn up, and the sites are closed, and I'm going from Southern Blvd. to Sloan's Curve, and that is a very small area, which I don't know how you would get the people out of there if the road were under construction, and there were big building things going on all at the same time. I think it could be a life and death issue, and something that should be looked into in more depth, going along with what Mr. McDonald said.

Ackerman: The construction of houses should not affect that much the road construction.

Smith: When you get the trucks on the road for the road construction, and they're pouring the tar, and you get the trucks on the road from the houses – I don't care whose trucks it is, it's impassable.

Ackerman: Our intent is to try to keep those construction vehicles from tying up this road.

Smith: Right, but I think that it has to be with more than a special duty policeman, and I'm thinking of an area with the little side streets between Widener's Curve and Sloan's Curve, where you can't get out of those streets anyway now. They're little streets like where Mr. Grace lives, and you pull up and there are construction trucks and you've got road trucks on there, you can't get out of those streets. I don't know what you're going to do, and I don't think a little flagman standing there trying to stop the traffic is going to be any help if it's a public safety issue. So, I think it's got to be a broader picture that we look at now because they're talking about the road construction.

McLendon: I've got some questions about the time of construction. Skip, is it legal or illegal to require the County appraiser to do interim appraisals on the long term projects? I have a feeling that if we could get that feature, and start putting taxes on it, it might have an influence in helping the owner to speed up construction. Is it illegal to do that?

Randolph: That's going to be up to the appraiser's office, and they have their own schedule in regard to the appraisals. We wouldn't have any influence on that.

McLendon: If this were possible, Harry, would it have any positive effect on pushing construction ahead?

Ackerman: I don't want to even try to answer that. I would imagine it would, but I don't think we have any control over that anyway. They have their standards as to when they consider a project done. They don't go by the same standards we do necessarily, but they still have their standards, and usually it's about 90-95% completion before they will consider it livable.

Elwell: Two things. I wanted to reassure the Mayor and everyone that we're sensitive too to the timing – certainly, also addressing what Mr. Evans' comment were a few minutes ago, where multiple roadways may be under construction in the coming years – we're being very careful to stagger those and make sure traffic can flow as best it can through the Town. There will be construction, of course, with both DOT projects and the Town projects that we're considering, and the City of West Palm Beach and we're trying to coordinate those in the best manner possible to limit that disruption. There is an additional layer to this coordination question that has arisen over the recent months and is being looked at as to how to make sure we do also control the private property construction that's occurring off these roads that may be occurring in the same area where major road construction is occurring. We will continue to look at that, and we'll have some recommendations about what controls we can enforce regarding private property construction in that regard. But the reassuring comment I wanted to offer was that the particular schedule that's proposed right now for the South Ocean Blvd. work, if it does proceed, provides for construction during the summers of 2004/2005, so while it is something that needs to be addressed certainly in terms of coordinating with future permits, most of the work that is ongoing at this time in that area should be completed by 2004.

There is one other thing, if I might – just in the overall prospective on this particular issue, we've heard some comments today about things that – elected officials would like to see additional specificity in this, and perhaps some of the issues addressed that have not been addressed yet in what's before you today, and I suggest that we bring this item back to you again next month.

Brooks: You're reading my mind, Mr. Elwell, and Harry, thank you for the report. I was going to suggest, listening to the comments of Mr. Wyett, McDonald, the Mayor and Mr. McLendon that indeed you fine tune this, tighten it, and you know, maybe it would help if – this will not be a one size fits all, but I think what would help, if you look at some major components, and eventually then we could place those for the northward expansion through construction areas. I don't have to tell you the narrow streets in the north end. I don't have to tell you the narrow streets, with the exception of Clarke, mid-Town, and when you have construction vehicles there, it is a mess, so I think that kind of –

Goldblum: Harry, I think your comment about having a resident inspector on the site will help speed up construction, because then you can coordinate your inspectors coming in quicker and getting a better response. Am I right or wrong?

Ackerman: I can't emphasize enough, we can't control it 100%. There could be things like – somebody could be having some landscaping done on their property – does not require a permit from the Town, because the project is being re-done, and these are things that can affect traffic, where we would have no control because we wouldn't even know that it was happening at the time. It comes up that they are bringing in some big trees, or something of that nature, on these flatbeds, and that's where they end up. This is something where regular police patrols would have to try to control this if they could, in any way that they can. There will be stoppages.

Brooks: Thank you Harry. Peter, I think you've got the message, and you can get back to us. We do have some time. I think you've heard from the Council what they'd like to see. Let's move to number three.

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End of verbatim transcript.

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3. Continued Consideration of Town Facility Needs.
[Peter B. Elwell, Town Manager]

Town Manager Elwell reported that he had provided an update to the Town Council via memorandum dated April 2, 2002. He noted that he had not had an opportunity to meet with Mr. Allen Ryan of Florida Crystals, and would be meeting with him within the next ten days regarding the possibility of a joint project with the Town.

Mayor Smith suggested that because of the lengthy agenda today, Town Manager Elwell return to the Town Council at the May 14, 2002, Town Council meeting to deliver a comprehensive report concerning the Town facility needs.

Councilman Wyett suggested that space could be rented in the building directly across from Town Hall, the Bustani Building, to be used during the construction of the fire station.

Councilman McDonald commented that when he had made the recommendation for the use of Poinciana Plaza last month the rental fee had been $15 per sq. ft., and now it was reported at $25 per sq. ft., and requested an explanation.

Town Manager Elwell replied that there were fees relating to overhead costs that were included in the $25 per sq. ft. – the $15 per sq. ft. had been straight rent only.

4. Continued Consideration of Proposed Drainage Improvement Projects.

    a. Level of Service and Intensity of Construction Schedule.
    [Peter B. Elwell, Town Manager]

Town Manager Elwell recommended that a Special Town Council meeting regarding drainage be held to review the proposed drainage improvements, as well as the financing alternatives. *(At a later point in the meeting a Special Town Council Meeting regarding drainage was scheduled for April 29, 2002, at 1:00 p.m. in the Town Council Chambers).*

    b. Financing Alternatives. [Jane Skittone, Director of Finance]

This item was deferred to be discussed at the Special Town Council meeting scheduled for April 29, 2002, at 1:00 p.m. in the Town Council Chambers.

    c. Coordination with City of West Palm Beach Water Projects.
    [Albert P. Dusey, Director of Public Works
    and Ken Reardon, Director of Public Utilities, City of West Palm Beach]

Town Manager Elwell explained that the staff was recommending the acceleration of the Northlake Way project, at least for tentative approval today, so that staff could create a specific plan.

Councilman Goldblum commented that when pump stations were installed on Northlake Way, properties would be impacted regarding the loss of sidewalks, places to park cars, etc. These impacts would also increase the dollars spent.

Town Manager Elwell replied that there would be such impacts everyplace that a pump station was installed; he noted that this was something that would warrant additional consideration from the Town Council as it reviewed the entire drainage issue.

Councilman McLendon moved approval in principle, of the recommendation of Town

Manager Elwell to accelerate the Northlake Way project. The motion was seconded by President Pro-Tem Goldblum.

Town Manager Elwell noted that there would be coordination with residents for each segment of the project; the schedule was yet to be determined, and would be coordinated depending on what was approved by the Town Council.

Councilman Wyett commented that he believed that the plan was a good plan, however, should be implemented at a slower pace, and that the Town refrain from in-season construction.

Town Manager Elwell noted that the Town Council was indicating that it was willing to consider accelerating the Northlake Way work, so that staff knew it would be worthwhile to come back with a specific plan; staff was sympathetic to the impacts of the project.

Mr. Ken Reardon, Director of Public Utilities, City of West Palm Beach, addressed the Town Council, stating that the Northlake Way project was essential for the water main improvements; there were low pressure problems at the north end of the Island, and there was no crossing anywhere at the north end, except at the City crossing at 45th St. He agreed that the project could be delayed until coordination could be made with the drainage project, however, it must be done expeditiously.

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

Town Manager Elwell advised that staff would come back with a specific plan regarding how the segment would be coordinated in coordination with the City of West Palm Beach, and would be considered at the Special Town Council meeting scheduled for April 29, 2002, at 1:00 p.m. The entire scope, schedule, and financing for the drainage plan would also be considered at that meeting.

Mr. Reardon commented that the City of West Palm Beach had already done all the surveying, and underground utility work for the project, and noted that he had offered it to Mr. Dusey to utilize.

Town Manager Elwell commented that coordination would take place on every project involving both drainage and water construction.

d. Reconsideration of Schedule for Connecting Coral/Crescent/Emerald to D-4 Pump Station.
[Peter B. Elwell, Town Manager]

Town Manager Elwell recalled that an appeal had been made to the Town Council to accelerate the work on the D-4 pump station, and a decision had been made to allow the work to proceed during the season. At the Special Town Council meeting of March 25, 2002, the Town Council had directed that the project would be reconsidered at this meeting: whether to proceed with seasonal construction or to revert to a design this summer/construction next summer process. He explained that there would be tremendous disruption on Northlake Way if the project proceeded as fast as possible; the alternative was to proceed without seasonal construction with design this summer, and construction next summer. He noted that there had been input from affected citizens on both sides of the issue.

Mayor Smith suggested that the residents in the area be notified at an early stage of any construction plans, as the roads would be under heavily disrupted.

Councilman McDonald commented that a group of homeowners had specifically requested the schedule that had previously been agreed to, and suggested that they should be advised if the schedule was going to be changed, so that they could comment.

In response to President Brooks, Mr. Dusey replied that the difficulty with Mr. McCluskey's property was that his garage was only 6" higher than the road, so it would not take much flooding to get water in the garage. If the approved one in three year storm collection system was built, there would be anticipated flooding of once in every three years, no matter what was done. There were 50-60 other similar problems in the Town.

Mr. William Watchman, 269 Miraflores, addressed the Town Council, stating that priorities needed to be set in those areas where the first floors were being flooded. He observed that engineering studies should have been able to determine the problem sooner, that some progress must begin on the drainage problem, and there seemed to be no way to get away from tearing up Northlake Way. He urged that a firm decision be made, and that citizens be advised of it in order to prepare.

In response to Mayor Smith regarding the Phipps property pumping/draining water onto Miraflores, Town Manager Elwell replied that it was a code enforcement issue, and the Building Department had been on site, and there was enforcement action occurring on several of the properties where the retaining wall was not constructed as the permit required. There were some corrections going on, and an additional meeting would be held on site to explore the issue.

In response to President Pro-Tem Goldblum, Mr. Dusey explained that there was one home that was part of the Phipps Estate that was actually on Miraflores, and it was situated identical to all of the other homes on Miraflores, and that home was allowed to pump to the street after a storm. Everyone else with a similar situation was allowed to do that.

Town Manager Elwell commented that there were quite a number of homes that had their own private systems that pumped out as the water was receding.

Mr. David Barton commented that houses were continuing to be built, which increased lot coverage, which increased the drainage. He suggested that the building regulations be changed, or a moritorium be declared; he stated that the drainage requirements listed in Ordinance No. 15-01 would not work, could not be monitored, and could be changed by the homeowner at any subsequent date; if there was successive rain on successive days, it was useless. He maintained that the building regulations must be changed, and questioned why it had been talked about for three years and still had not been addressed. He noted that Mayor Smith had indicated two years ago that there was going to be a great effort to preserve the quality of the north end, and nothing had happened yet.

Mayor Smith explained that her comments two years ago had been referring to the design guidelines for the north end, and commented that perhaps Mr. Barton could speak with the property owner on his street about raising the house, and not the land, which would help with the water problem. She noted that she was still in favor of retaining the character of the north end, was still in favor of blanket zoning in different areas of the Town, and maintained that she would do everything she could to protect the quality of life in the north end.

Town Manager Elwell commented that it had been stated for the record before that the design of the level of service assumed retention of the first one inch of water, so that the system was over-designed for the new regulations that now required the retention of two inches of water on private properties. He stated that the engineers had been consulted, and the system was soundly designed.

President Pro-Tem Goldblum moved approval of design of the Coral/Crescent/Emerald connection to the D-4 pump station now, with construction taking place in the summer of 2003. The motion was seconded by Councilman Wyett. On roll call the motion carried 4/0, as Councilman McDonald had temporarily left the room.

5. Appointment of an Alternate Member of the Architectural Commission.
[Robert L. Moore, Director of Planning, Zoning & Building]

After casting ballots, the Town Council appointed Leslie Diver as the Alternate Member of the Architectural Commission, with the term expiring in March 2003.

B. New Business

1. Palm Beach Chamber of Commerce Offer to Sponsor the Town's Employee of the Year Program. [Pamela Hoffpauer]

Palm Beach Chamber of Commerce President Pamela Hoffpauer commended the Town Council and the Mayor for sponsoring the Employee of the Year award last year, and extended the offer of the Palm Beach Chamber of Commerce to sponsor the annual $3,500 award.

Councilman Wyett moved approval of the offer of the Palm Beach Chamber of Commerce to sponsor the annual $3,500 Employee of the Year award. The motion was seconded by President Pro-Tem Goldblum, and carried unanimously.

2. Royal Park Bridge Contractor Request for Permission to Park Vehicles on Town Property. [Kelly Crick, Ballast Nedam]

Public Works Director Dusey advised that as part of the bridge improvement there would be a reconfiguration of the parking area at the S-2 pump station, and that the contractor had been parking in the area, and staff had taken exception to that. The contractor had now provided a request in writing to utilize a portion of Lakeside Park for material storage, lay down and construction parking; there were a number of conditions of approval, enumerated in the memorandum dated March 28, 2002, from Town Engineer Bowser via Public Works Director Albert Dusey, to Town Manager Peter Elwell.

President Pro-Tem Goldlbum moved approval of the utilization of a portion of Lakeside Park for material storage, lay down and construction parking, subject to the conditions as enumerated in the referred to memorandum:

1. **Placement of materials (gravel, asphalt, etc.) To prevent tracking of dirt into the road right-of-way. Vehicles utilizing the area cannot damage tree limbs and no tree trimming is permitted.**

2. **Ingress and egress shall be at location of proposed driveway.**

3. The Bicycle Trail is to remain open.

4. Use is limited until November 1, 2002.

5. Immediately after November 1, 2002, parking lot construction shall commence and be completed no later than January 1, 2003. Use of the area shall revert to Town use only.

6. Insurance coverages and indemnification provisions shall be provided by Ballast Nedam in limits required by and subject to the approval of the Town's Risk Administrator.

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

3. Identification of Items for Discussion During Joint Meeting with West Palm Beach Mayor and City Commission on April 19, 2002.
[Peter B. Elwell, Town Manager]

Town Manager Elwell referred to his memorandum dated April 1, 2002, to the Mayor and Town Council identifying three topics for consideration for discussion at the joint meeting with West Palm Beach on April 19, 2002:

1. Protection of the City's potable water supply and treatment plant, including not only security measures, but also planning for the future (e.g. ensuring that the City's and the Town's interests are protected during implementation of the Northern Palm Beach County Comprehensive Water Management Plan).

2. Regional impact of traffic flow modifications in downtown West Palm Beach.

3. Continued coordination with Good Samaritan Medical Center and St. Mary's Medical Center to ensure protection of the public interest in the continued evolution of the private operation of those facilities.

Mr. Elwell noted that the Director of Public Utilities for the City of West Palm Beach, Ken Reardon, had advised that he was preparing something in writing regarding item one, to provide reassurance to the Town regarding its interest in the issue.

Councilman Wyett suggested two additional items for discussion: the possible narrowing of Flagler Drive, and better coordination of traffic lights going west off of the Island.

Town Manager Elwell replied that, at times, when complaints were made in the past, the traffic lights had been modified and traffic flowed better for a period of time, but for some reason the lights always seemed to revert to being non-sequenced. He noted that he would specifically mention Flagler Drive, and the synchronization of the traffic lights going west at the meeting.

Mayor Smith suggested that discussion also take place regarding coordination of roadway projects, and their construction projects in general, so that several of the main arteries into the Town were not closed during the season for construction. She stated that the detours were impassible, and all motorists were not aware of them. She also suggested that the issue of coordination of bridge openings be discussed, so that there was an adhered to schedule.

Town Manager Elwell advised that he would keep the Town Council advised of any other matters in this regard.

4. Code Enforcement Board Appointments.
   [Robert L. Moore, Director of Planning, Zoning & Building]

After casting ballots, the Town Council appointed Richard Raffo and Joel Koeppel as Regular Members, and Timothy Hoffman as an Alternate Member.

5. Discussion of Adelphia Cable Contract

Assistant to the Town Manager David Jakubiak assured the Town Council that the franchise with Comcast had included language for assignment and transfer, and that he had drafted two memorandums explaining the Town's agreement with the cable company in response to the recent articles in the newspapers concerning Adelphia Cable. He noted that the Town was protected in the agreement; that before Adelphia could sell or transfer the system, Town Council consent was required; there was a $2,000 per day fine if the transfer occurred without the consent of the Town. He explained that if Adelphia declared bankruptcy, it was highly likely that they would go to bankruptcy court to get the approval of the transfer from Comcast without the consent of the Town; if bankruptcy was declared, legal counsel could be authorized to join with other municipalities to ensure the rights of municipalities.

Councilman Wyett suggested that the Town consider taking over the cable system, if the franchise became available.

In response to Mayor Smith, Mr. Jakubiak replied that, if Adelphia was unable to continue to provide cable service, he believed that there would be another cable company available to take over the system through the transfer process. Staff would carefully monitor the intentions of Adelphia.

President Brooks requested that the Town Council be kept informed.

IX. RESOLUTIONS

A. Resolution No. 26-02 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Establishment of a Parking Placard Program for the Phipps Ocean Park Metered Parking Areas, and Establishing a Fee of $70 per Month with a Minimum of Four Months Purchased at a Time, and Increasing the Parking Placard Fees for the Programs at South Ocean Boulevard and South Lake Drive from $60 per Month to $70 per Month with a Minimum of Four Months.
[Jane Skittone, Director of Finance]

Town Attorney Randolph read Resolution No. 26-02 by title: (as above)

In response to Councilman McDonald, Finance Director Skittone replied that the estimated revenue for the new parking placard program at Phipps Park was approximately $20,000; the increase in the fees for the programs at South Ocean Boulevard and South Lake Drive was approximately $13,200.

Town Manager Elwell advised that the placards at Phipps Park were aimed at beach goers, tennis players, visitors, and staff for the nearby condominiums.

President Pro-Tem Goldblum moved approval of Resolution No. 26-02. The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

B. Resolution No. 27-02 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Creation of a Three Member Investment Advisory Committee for the Purpose of Reviewing the Town's Investment Policy for Surplus Funds and to Develop and Recommend an Investment Plan for Consideration by the Town Council and Implementation by the Finance Director. [Jane Skittone, Director of Finance]

Town Attorney Randolph read Resolution No. 27-02 by title: (as above)

Councilman McDonald suggested that the requirements for the members of the Investment Advisory Committee were too narrow, with summer meetings and the prohibition of a member not being currently involved in providing banking, insurance, cash management or brokerage services.

Mayor Smith commented that there could be a conflict of interest involved; she noted that several people who had no investment/banking relationships had expressed interest. She also noted that all residents were not in Town during the summer, and suggested that the committee be sunsetted from now until January 1, 2003; after the committee members were selected the decision of when to hold meetings could be made.

Councilman Wyett expressed concern with the restrictions of the requirements, noting that they may discourage people from applying.

Town Manager Elwell commented that the resolution was written as it was because of the action of the Town Council when the concept was initially considered; the summer meeting had been considered as a result of the sense of urgency to increase revenues; the Town Council could re-visit the requirements at any time if so desired.

Mayor Smith suggested that the summer month meeting schedule may dissuade people from applying, and that perhaps the dissolve date should be left open-ended.

Town Manager Elwell suggested that Section 4. of Resolution No. 27-02 be changed to read "for consideration on or before the December 10, 2002, Town Council meeting," rather than the previous language – "for consideration at the September 10, 2002, Town Council meeting."

Resolution No. 27-02, as amended, was approved through motion of Councilman Wyett, seconded by President Pro-Tem Goldblum. On roll call the motion carried unanimously.

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The meeting was adjourned for the luncheon recess at 12:30 p.m.

The Town Council Meeting of April 9, 2002, was reconvened at 2:00 p.m.

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C. Resolution No. 28-02 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to Club Car, Inc. for the Lease of Golf Carts and a Utility Vehicle. [Jane Skittone, Director of Finance]

Town Attorney Randolph read Resolution No. 28-02 by title: (as above)

Councilman McLendon moved approval of Resolution No. 28-02. The motion was seconded by President Pro-Tem Goldblum. On roll call the motion carried unanimously.

D. Resolution No. 29-02 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Expressing its Support for the Restoration of the 1916 Palm Beach County Courthouse.
[Thomas G. Bradford, Assistant Town Manager]

Town Attorney Randolph read Resolution No. 29-02 by title: (as above)

Discussion took place regarding the funding for the project, which was already in place.

Councilman Wyett moved withdrawal of Resolution No. 29-02 from the agenda. The motion was seconded by President Pro-Tem Goldblum. On roll call the motion carried 4/1, with Councilman McLendon casting a dissenting vote.

X. ORDINANCES

A. Second Reading

1. None.

B. First Reading

1. None.

XI. COMMENTS OF THE TOWN COUNCIL MEMBERS AND TOWN MANAGER

Mr. Jerry Frank commented regarding the A1A widening project, noting that there was only the one street to handle all traffic; in addition, he maintained that 2.5 acres of green space would be removed, and implored the Town Council to contact State representatives to protest the project as it was currently being presented; he noted that some people had suggested removing A1A from the Island altogether.

Councilman Wyett commented that the re-districting plan divided Palm Beach into two segments as to representation in Tallahassee for the House of Representatives; he noted that the Town Council had expressed its opinion, via letter to elected officials in Tallahassee, to keep Palm Beach in one district, and he suggested that another letter be sent requesting that the Town be kept as one district.

Councilman Wyett moved that the letter to elected officials in Tallahassee be re-sent from the Town Council urging that the Town be kept as one district. The motion

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

Mayor Smith commented that the Board of County Commissioners had requested support for Resolution No. 29-02, and questioned why it had been withdrawn from the agenda.

Town Attorney Randolph explained that it had been considered a fait accompli.

President Pro-Tem Goldblum moved reconsideration of Resolution No. 29-02. President Brooks passed the gavel to second the motion. On roll call the motion failed 3/2, with President Pro-Tem Goldblum, and President Brooks casting affirmative votes; Councilmen McDonald, McLendon, and Wyett casting dissenting votes.

Councilman McDonald commented that he was dismayed that the Better Place program had not been promoted more, and that there had been no feedback as to whether it had been used, etc. He also commented that there had not been any communication to date from Councilman Wyett, as the liaison to the hospitals.

Councilman Wyett commented that he had met with two doctors to gather information, and that he would continue to investigate the issue, and would report to the Town Council when all information was complete.

Councilman McLendon moved that the request of former Town Manager Robert Doney regarding reconsideration of his compensation be added to the agenda for the May 14, 2002, Town Council meeting. Councilman McDonald seconded the motion. On roll call the motion carried 3/2, with Councilman McLendon, Councilman McDonald, and President Brooks casting affirmative votes; President Pro-Tem Goldblum and Councilman Wyett casting dissenting votes.

XII. DEVELOPMENT REVIEWS

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

A. Time Extensions

1. VARIANCE NO. 15-2001 Request For One (1) Year Time Extension to Undertake the Town Council Approval of Variance #15-2001 Pertaining To Walls Associated With The Basement Of The Property Located At 153 Kings Road.

Attorney James Brindell, on behalf of Mr. and Mrs. Maschmeyer, addressed the Town Council, stating that two variances had been granted last year to construct a two car garage underneath a two-story house. The Maschmeyers had not yet finalized the project, and would like another year to implement the project.

Councilman Wyett moved approval of the request for a one year time extension to undertake the Town Council approval of Variance No. 15-2001, pertaining to walls associated with the basement of the property located at 153 Kings Road. The motion was seconded by Councilman McLendon.

In response to Councilman McDonald, Jacquie Albarren, SKA Architects, advised that some cosmetic remodeling had been done a few years ago, but not a single thing had been done regarding the garage.

On roll call the motion carried unanimously.

B. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

a. SPECIAL EXCEPTION NO. 2-2001 Consideration of Whether the Applicant has Met all Conditions of Approval to Operate the Restaurant at the Subject Location. *(Verbal Report)*

Attorney James Brindell, on behalf of the Goodman Company, and the owners/operators of Trevini, addressed the Town Council. He recalled that the approval previously granted had been essentially to step into the shoes of a prior special exception. The restaurant owners had begun work on the restaurant, and then suffered a very bad fire, which temporarily closed the operation. The applicant had not had an opportunity to go through a full season. The applicant had now been through a full season, and had not received any complaints about the operation of the restaurant.

Councilman McDonald moved approval of the applicant having met all

conditions of approval of Special Exception No. 2-2001, Trevini Restaurant. The motion was seconded by President Pro-Tem Goldblum. On roll call the motion carried unanimously.

b. SPECIAL EXCEPTION NO. 24-2001 Consideration of Whether the Applicant has Met all Conditions of Approval to Operate the Restaurant at the Subject Location. *(Verbal Report)*

Attorney Peter Broberg, on behalf of the applicant, Franco's Restaurant, addressed the Town Council, stating that the applicant was returning after six months of obtaining approval, seeking confirmation that all conditions of approval had been met.

Councilman McLendon moved approval of Special Exception No. 24-2001 that the applicant had met all conditions of approval to operate a restaurant at the subject location. The motion was seconded by President Pro-Tem Goldblum. On roll call the motion carried unanimously.

2. New Business

a. VARIANCE NO. 9-2002 The application of David W. Frisbie, Trustee relative to property described as Lot A and Southwesterly 10 feet of Lot 46, Revised Plat of Lake Front Addition to Boca Ratone Company's Inlet Subdivision; commonly known as 1000 Indian Road; located in the R-B Zoning District. To allow installation of five (5) mooring piles appurtenant to an existing dock that will be fifty-five (55) feet from the bulkhead in lieu of the six (6) foot maximum allowed. *(Request for Deferral to May 14, 2002, Town Council Meeting per Letter Dated April 2, 2002, From Gregory E. Young, Esq.)*

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

b. VARIANCE NO. 10-2002 The application of Adrianne Newman relative to property described as the North 104.89 feet of Lots 19 and 19A (as measured at right angles to the North Line of said Lots 19 and 19A), of Eden Properties; commonly known as 1020 North Lake Way; located in the R-B Zoning District. To allow construction of dock appurtenances (pilings) 172 feet from the bulkhead in lieu of the requirement that no dock or appurtenance be more than 150 feet west of the bulkhead, a variance of 22 feet.

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

Attorney James Brindell, on behalf the applicant, addressed the Town Council, stating that the lot in question was 105' wide; there were two docks going out to 150', adjacent to the property. The variance request for 22' was for two outboard pilings for a boat. The adjacent docks were both out of the 150', with their pilings beyond that point; to have the dock in question inset inside of the other ones would create a navigation difficulty; having it out at the same 150' mark, and then having two pilings beyond that was a much better operational scheme.

Zoning Administrator Paul Castro commented that it appeared from the location of the two existing docks that the dock in question would need to be in the location as proposed. Staff comments included that the applicant would need to demonstrate the hardship to the satisfaction of the Town Council, and they would be required to provide a fire suppression system with stand pipes, since the dock was more than 150' from the bulkhead.

President Pro-Tem Goldblum moved approval of Variance No. 10-2002. The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

c. VARIANCE NO. 11-2002 The application of Ronald Schram relative to property described as Lot 6-A North Shore Addition; commonly known as 1420 North Ocean Boulevard; located in the R-B Zoning District. To allow placement of four air conditioning units in a rear setback in lieu of the three that exist and the maximum of two allowed. The variance is for one additional unit.

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

Assistant Director of Planning, Zoning & Building Veronica Close provided the staff comments as submitted on the Application Review Sheet: Comprehensive Plan: the units can be located in a manner which conforms to the Code; Building Department: unit should be moved to the north side of the addition.

Mr. Ronald Schram addressed the Town Council, stating that the reason the architect and air conditioning consultant placed the unit in is current location was because it would be visible from the road if it was put on the north side of the building; it would also be exposed to the salt breeze, which would not be advantageous; the property owner to the west had no objection to the unit.

Discussion took place regarding the four air conditioning units, and why the existing units were not shown on the plans. Mr. Schram explained that the architect had shown only the addition for review, and many things with the existing house were not shown. He stated that he did not believe that the architect knew that there was a limitation of four air conditioning units, nor did he or the air conditioning contractor. He explained that the pad for the unit had been poured last August, however, the unit had not been placed on it until it was needed in February. He maintained that the four air conditioners were quiet, state of the art, and did not bother anyone.

President Brooks commented that ignorance of the law was not an excuse.

In response to Councilman Wyett, Mr. Schram replied that the variance should be approved because the unit had been shown in its current location to the Architectural Commission; the north side of the property was not suitable for the neighbors; he maintained that if a new 5,000 sf house was erected the air conditioning needs could most likely be accommodated with two air conditioners, however, the house had been built over a period of 50 years. He maintained that the hardship was the configuration of the lot, with a very wide side lot that should not be ruined by putting the air conditioning unit in that location.

Zoning Administrator Paul Castro commented that Mr. Schram had contacted him before he filed for the variance to explain his dilemma. He explained that perhaps the plan reviewer should have asked for a survey showing the entire property so that all existing conditions could be seen; by the time the applicant had come in for the final inspections the unit had been placed in the current location. He explained that it was certainly incumbent upon the architect to provide the Building Department will all information necessary to review the plans for zoning and building, however, that had not happened in this case.

After further discussion, Councilman McDonald moved approval of Variance No. 11-2002, based on the hardship related to the configuration of the lot. President Pro-Tem Goldblum seconded the motion. On roll call the motion carried 4/1, with Councilman Wyett casting a dissenting vote.

d. VARIANCE NO. 12-2002 The application of F. Gregory Barnhart and Susan L. G. Barnhart relative to property described as Parcel 1: Lot 5, Drake Park as described in lengthy legal description on file and Parcel 2: A portion of Parcel H, Phipps Estates as described in lengthy legal description on file; commonly known as 236 Miraflores Drive; located in the R-B Zoning District. To allow construction of a one story, two car garage and attached pergola requesting the following variances: front yard setback of 23 feet in lieu of the 25 feet minimum requirement; angle of vision of 102 degrees in lieu of the 100 degree maximum requirement; an extenuation of the 9.52 ft. side yard setback on the west side in lieu of the 12.5 ft. minimum requirement; and maximum lot coverage of 32.7% in lieu of the 30% allowed.

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

Mrs. Susan Barnhart addressed the Town Council, stating that her family had lived in the house for 15 years. She enumerated the improvements that had been made over the years. She presented photographs of the house, requesting permission to tear down the single car carport, and substitute it with a two-car garage. She explained that because of changes to the Code over the years since the house was built, the garage could not be built without requesting several variances. She maintained that each variance request was minor when viewed in relation to the Code requirements, and went over specific details of each. She produced a letter of support from the neighbors to the west. She explained that two car garages were required for new homes in the district; therefore, the granting of the variance would be advancing an interest promoted by the Code, including the interest of off-street parking; the east side setback would change from .5' to 10.5', and would come more into compliance with the Code; the percentage of landscaped open space would increase. She maintained that denial of the application would continue a hardship that she and her husband had endured for years – exiting and unloading a car in all types of weather; the drainage problem on Miraflores had resulted in two of the family cars flooded in heavy rains, two cars of employees had flooded as well; the home would continue to lack an element recognized as essential for other properties in the neighborhood. She stressed that the minimum variances were being requested, and that most residents living on the street had signed a letter of support for the application. She placed the eight letters of support into the record.

Jacquie Albarran, SKA Architects, commented that the garage was the minimal size to allow two cars, and the location of the garage was appropriate.

Assistant Director of Planning, Zoning & Building Veronica Close submitted the comments of staff, as provided on the Application Review Sheet: Comprehensive Plan: does not appear to meet the criteria for granting a variance; Building Department: hardship should be addressed in detail; Town Manager: no hardship, bad precedent.

Discussion took place regarding comparison of the variance in question with the previously submitted variance request of Dr. Rosenberg, which had been denied. Mr. Castro also cited another similar variance that had been denied last year.

In response to President Pro-Tem Goldblum, Architect Albarran explained that the green space on the lot had been increased, as the existing landscape currently was 45%, and the new plan included 47%; the lot coverage had been 32.5% and it would be increased to 32.7%.

Mayor Smith commented that she had known the house in question for over 30 years, and this was a very interesting problem for the Town Council, as renovations were encouraged, and the house had been renovated over the years, rather than torn down. She commented that the applicant had come up with a garage that worked for them, rather than tearing the house down and building a much larger house on the property.

In response to Councilman Wyett, Architect Albarran replied that the garage would have to be moved 5' in order to avoid the angle of vision problem.

Councilman Wyett responded that moving back the garage 5' would negate the request for a variance for the angle of vision; he suggested that the garage also have drains, gutters, and dry wells to absorb the additional water from the additional roof area.

In response to Councilman McLendon, Mrs. Barnhart advised that the flooding on the street came from the end of the street.

Zoning Administrator Paul Castro commented that, based on the plans that were submitted, the applicant would only have to move the house back 1 ½’ to get it out of the angle vision in the front; a front setback variance of approximately 6" would still be needed; also, if a new house was built on the property today, the CCR would be 3.97, and the house currently, with the addition, was 4.00.

Mrs. Barnhart stated that she would rather have the application accepted or denied, as she believed that the garage plans were as minimal as possible.

Councilman Wyett moved approval, with the provision that the garage be moved back 1 ½', be narrowed by 1', that the addition have gutters, down spouts and dry well, and approval of the other variances. The motion died for lack of a second.

Mrs. Barnhart advised that the compromise was not acceptable.

Councilman McDonald moved denial of Variance No. 12-2002. The motion was seconded by President Pro-Tem Goldblum. On roll call the motion carried 4/1, with Councilman McLendon casting a dissenting vote.

e. VARIANCE NO. 13-2002 The application of Robert and Elaine Postal relative to property described as Residences at Sloan's Curve, Home Site Parcel 6; commonly known as 20 Sloan's Curve Drive; located in the R-B Zoning District. To allow construction of a second floor addition at a distance of 25 feet from the front property line in lieu of 30 foot minimum front yard setback required; to allow a second floor addition at a distance of 10 feet from the side property line in lieu of the 15 foot minimum side yard setback required; and, to allow a first floor addition increasing lot coverage from 30% to 31.5%, in lieu of the 30% maximum allowed.

Councilman Wyett moved approval of hearing Variance No. 13-2002 as the first Development Review item. The motion was seconded by Councilman McDonald. On roll call the motion carried unanimously.

Ex-parte communication was declared by President Pro-Tem Goldblum with Mr. Postal.

Mr. Robert Postal addressed the Town Council, stating that the request today was to build a room over the garage; all of the neighbors had given their consent. He explained that the reason for adding the room was that, because of illness, he and his wife would like to use it for a nurse or a maid in the future.

Attorney Jim Paine, on behalf of Mr. and Mrs. Postal, addressed the Town Council, stating that the living quarters were needed for a nurse; the neighborhood was in the Sloan's Curve Residences, and all of the structures in the neighborhood were two-story structures. The Postal home was one-story, and the present placement of the garage was slightly out of conformity with second floor setbacks; the variance concerning the dining room request had been withdrawn. He explained that the hardship was that the garage had been in existence previous to the current zoning requirements; the walls would now be aligned vertically so that there was not an awkward architectural condition that would result in an awkward appearance and waterproofing problems. He noted that there were letters of support from The Sloan's Curve Residences Condominium Association, both neighbors on each side, and from the other condominium within the 300' radius. At one point, there had been an objection from the neighbor to the south, however agreement had been reached through a reduction of the roof peak.

Assistant Director Planning, Zoning & Building Veronica Close related the staff comments as provided on the Application Review Sheet: Comprehensive Plan: does not appear to meet the criteria for granting a variance; design may be modified to minimize effect of two-story addition; Building Department: hardship should be addressed in detail; Town Manager: no hardship.

Councilman McDonald commented that the hardship for a variance must run with the land.

Attorney Paine agreed, and added that it was his understanding that the hardship could also run with the structure, which was the condition in this case.

Councilman Wyett commented that the hardship must run with the land.

Attorney Paine commented that he was aware of many situations in which variances had been granted in order to provide proper architectural alignment with existing structures. He suggested that a nurse would need close proximity, but would also need privacy, as did the family, which was why the addition above the garage worked so well. The current square footage was 4,600 sf.

President Pro-Tem Goldblum moved acceptance of Variance No. 13-2002 due to compassion hardship. The motion was seconded by Councilman McLendon.

President Brooks advised that compassion was not a valid reason for approval.

Town Attorney Randolph advised that the motion must include acceptance that the variance met the criteria set forth in the Code.

President Pro-Tem Goldblum agreed that the motion would include acceptance that the variance met the criteria set forth in the Code.

On roll call the motion failed 2/3, with President Pro-Tem Goldblum and Councilman McLendon casting affirmative votes; Councilmen McDonald, Wyett, and President Brooks casting dissenting votes.

Councilman McDonald move denial of Variance No. 13-2002. The motion was seconded by Councilman Wyett. On roll call the motion carried 3/2, with Councilman McDonald, Councilmen Wyett, and President Brooks casting affirmative votes;

Councilman McLendon and President Pro-Tem Goldblum casting dissenting votes.

f. SPECIAL EXCEPTION NO. 3-2002 WITH SITE PLAN REVIEW
The application of The Mar-a-Lago Club, LLC relative to property described as lengthy Metes and Bounds legal description on file; commonly known as 1100 South Ocean Boulevard; located in the R-AA Zoning District. To allow an amendment to condition 4 (a) of Special Exception with Site Plan Review #24-99and an amendment to condition 4 (a) of the Declaration of Use Agreement to enable pavilion construction to commence prior to completion of the new Royal Park Bridge.

Ex-parte communication was declared by Councilman McLendon via telephone with Mr. Trump; by President Pro-Tem Goldblum via telephone with Mr. Trump and with Attorney Royce; by Councilman Wyett via telephone with Mr. Trump; by President Brooks via telephone with Attorney Royce; Councilman McDonald reported that he had a telephone call from Attorney Royce, but had not been able to speak with him.

Attorney Ray Royce, on behalf of The Mar-a-Lago Club, addressed the Town Council, recalling that the Town Council had approved the construction of a pavilion ballroom building at Mar-a-Lago in 1999. One of the conditions was that the construction would not start until the new Royal Park Bridge was completed, which was estimated for completion in 2002; now the bridge had been delayed and was projected for completion in 2004 or later. The temporary bridge was working well, the large construction project of Neiman Marcus on Worth Avenue was now completed, and the members of The Mar-a-Lago Club wanted and deserved something better than a tent, and would like to be able to start construction in 2002.

Assistant Director of Planning, Zoning & Building Veronica Close provided the staff comments as submitted on the Application Review Sheet: Town Engineer: if approved, condition should be that construction traffic to and from the Island should be from Southern Blvd. only; Police Department: concur with comments of Town Engineer, and added that consideration should also be given to large cranes, and a special detail police officer should be in place to control traffic; Building Department: concur with Town Engineer. She commented that the pavilion was currently being considered by the Landmarks Preservation Commission; staff had some other conditions that it would add if the request was approved today:

- The tower will not be habitable

- The second floor will not be a sun deck
- Guard House should be moved a little further north, in order to allow stacking when ingress was made to the site.
- All ingress and egress to the site should be from Southern Blvd.
- Special Duty Police Officer to conduct traffic, at the discretion of the Police Chief

The same conditions as the previous agenda item relating to controlling traffic impacts during construction projects would also apply

Attorney Royce responded that he would prefer not to get into the design of the building, as it was currently being considered by he Landmarks Preservation Commission. He stated that he was not prepared today to discuss those issues, and if discussion was necessary, a postponement would need to be made to allow Mr. Trump to address those issues.

Zoning Administrator Paul Castro noted that if a sun deck or habitable space was ever considered in the tower, the applicant would have to come back to the Town Council to revise their site plan.

Ms. Close advised that Director of Planning, Building, & Zoning Moore had indicated that the Bath & Tennis Club had no objection at this time.

President Pro-Tem Goldblum moved approval of Special Exception 3-2002, with all of the provisions stated, and that any request for a sun deck, etc., would have to come back to the Town Council.

Attorney Royce commented that the applicant was trying to do what had been approved, and if design issues were going to be discussed, he would prefer to postpone the request.

In response to Councilman McLendon, Wes Blackman, Director of Projects, The Mar-a-Lago Club, commented that some work would begin right away.

Councilman McLendon commented that he would like to see an effort to make the club legal, by having it owned by more than one individual; he suggested that Mr. Trump sell the club to the members.

Mr. Blackman replied that, to his knowledge, Mar-a-Lago was a bonafide private club.

In response to Councilman Wyett, Public Works Director Al Dusey reported that Royal Palm Way would be reconstructed between the bridge and Cocoanut Row this summer; next summer Royal Palm Way would be reconstructed between Cocoanut Row and County Road. The following year Royal Poinciana would be reconstructed between the bridge to County Road.

Councilman Wyett expressed concern about the ongoing construction, with the additional traffic that would be going to Southern Blvd., as well as the re-paving of Southern Blvd./A1A. He suggested that the request today was premature, and that when the pavilion had been suggested, the representation had been made that residents would almost not see the building because of the height, setback, etc., and now a tower had been presented. He maintained that the tower was not acceptable, nor was any use of the rooftop acceptable.

In response to Mayor Smith, Mr. Blackman estimated that the construction of the pavilion would entail approximately 18 months, with construction beginning approximately November 1, 2002.

Mr. Dusey explained that the re-paving of A1A would begin in the summer of 2004, at the very south end, with the second phase beginning in the summer of 2005; therefore the area near Mar-a-Lago would not be affected.

Mr. Castro explained that the main concern of staff was the sundeck, and the ability to use the sundeck, which had not been contemplated by the Town Council when the original pavilion had been proposed; staff had determined that an ancillary tower would not be inconsistent, since it was in keeping with what the Landmarks Preservation Commission had recommended as an architectural feature, with possibly an observation deck, since it was so far away from any residential properties.

President Brooks commented that these matters were separate and apart from what was before the Town Council today; he suggested that only the request before the Town Council today be considered.

President Pro-Tem Goldblum clarified the motion of approval of Special Exception No. 3-2002 with site plan review, finding that it was not adverse to the public interest and otherwise met the criteria of the Code relating to special exceptions and site plan review, with the provisions that: all ingress and egress of construction traffic will be from Southern Blvd., a special duty police officer would be retained on an as needed basis, and the guard gate would be moved further north; there would also be a modification in the Declaration of Use Agreement to conform with the approval being granted today. The motion was seconded by Councilman McLendon.

Mr. Castro clarified that the construction of the pavilion would now begin with the conditions attached; the Code already required that any enlargement, expansion or intensification of a special exception must come back to the Town Council, such as the sundeck, so that would not be a condition of approval today.

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

g. <u>SPECIAL EXCEPTION NO. 5-2002 WITH SITE PLAN REVIEW</u>
The application of The Everglades Club Inc. relative to property described as lengthy Metes and Bounds legal description on file; commonly known as 500 South County Road, located in the R-A Zoning District. To allow construction of a 500 square foot pump station addition which is being added to the existing 2100 square foot reverse osmosis water treatment building in order to enclose irrigation pumps and fertigation tanks.

Attorney David Shaw, on behalf of The Everglades Club, addressed the Town Council, also introducing Everglades Golf Club Superintendent Peter Brooks, Executive Director Donald Gilman, Project Engineer Tom McCarthy, and Mike Purdy, Contractor for the Pumping Station. He explained that the subject of the request today was a pumping station that would enclose irrigation pumps and fertigation tanks; the pumping station was 480 sf and would be an addition to a reverse osmosis building, being of the same design and materials. The existing irrigation pumping station was being demolished as part of a golf course renovation project that was necessary in order to solve an ongoing drainage problem.

Zoning Administrator Paul Castro commented that the project would improve the drainage of the golf course, and increase on site water retention; the applicant currently provided the Town with outfall into their system for several roadways; staff recommended approval.

In response to Mayor Smith, Golf Club Superintendent Brooks replied that all of the ponds would not be pumped at one time in order to retain the bird sanctuary status.

Councilman Wyett moved approval of Special Exception No. 5-2002 with Site Plan Review, finding that approval was not adverse to the public interest, and that the project met the requirements of the Code. The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

h. SPECIAL EXCEPTION NO. 6-2002 The application of 251 Jungle Road Inc., William D. Elias, President, relative to property described as Lot 24, Jungle Point and Metes and Bounds legal description; commonly known as 251 Jungle Road; located in the R-A Zoning District. To allow construction of a single family residence on a non-conforming lot which is 107 feet wide at measuring point for frontage in lieu of the 125 foot minimum required in the R-A Zoning District.

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

Attorney Wade Byrd, on behalf of the applicant, addressed the Town Council, stating that the property previously had a residence on it, and when purchased by Mr. Elias, the construction was stopped and removed; the proposed new structure met all criteria for a residential unit with the amenities proposed.

Architect Harold Smith, Smith & Moore Architects, addressed the Town Council, stating that the proposed lot coverage was 23.6%; landscaped open space was over 46%; the house was two-story, French Normandy, with a parking court off of the front house for guest parking; the west side of the property had been kept open for private use; the owner's drive was off of the alley into the garages; condenser units had been located inside of the setbacks.

Assistant Director of Planning, Zoning & Building Veronica Close commented that the project had been before the Architectural Commission, where it was discovered that it needed to come before the Town Council because it was a non-conforming, unplatted lot. Staff apologized, and had instituted review procedures to ensure that projects would be handled appropriately in the future. She provided the staff comments: Town Engineer: move existing hedge back at the corners, to maintain a 15 x 30 site triangle; drainage plan subject to final Town review; Building Department: concurs with comments of Town Engineer.

In response to Mayor Smith, Attorney Byrd explained that part of the lot was platted, and years ago a metes and bounds description was added, which increased the size of the lot.

Attorney Ron Kolins addressed the Town Council, representing Mr. and Mrs. Alfred Slifka, residents immediately to the east of the subject lot. He explained that they had no objection to a house on the lot in question, subject to certain considerations: that the proposed house be moved back approximately 10' to mitigate the diminished view; removal of the multi-trunked palm tree, which impeded the view of the water; a deed restriction that would prohibit planting tall landscaping that would block the view of Mr. and Mrs. Slifka, as well as some reasonable restriction on the height of the existing Ficus hedge. Attorney Kolins provided renderings exhibiting the home of Mr. and Mrs. Slifka and pointing out the particular areas he had mentioned.

Mr. Bill Elias, President, 251 Jungle Road, Inc., addressed the Town Council, stating that he had been in the design/approval process since January, and had no indications of concerns of the neighbors until a few days ago. He presented photographs of the Slifka house both currently, and from several months ago when the project in question had begun. He noted that the hedge and landscaping had been lowered, and that he had personally looked out of the windows of the neighbors and determined that the proposed house did not impact the view. He noted that he had offered screening and privacy to the neighbors, while still offering some privacy to his own master bedroom suite.

Attorney Kolins responded that the very irregularity of the lot that limited a builder's options on how to develop the lot, created a greater likelihood of impact to the neighbors. He noted that the hedge mentioned by Mr. Elias belonged to a neighbor, not the Slifkas. He maintained that in order to grant a special exception, the Town Council must find that all of the special exception criteria were met; he suggested that the application failed criterion numbers three, four, and seven. He requested that Mr. Elias remove the palm tree, and that a deed restriction be included on certain small areas of the property to preclude tall trees from being planted which would block the view of the lake.

In response to Councilman McDonald, Town Attorney Randolph advised that a property owner did not have a legal right to maintain a view across someone else's property.

In response to Councilman McDonald, Attorney Kolins maintained that the lack of view would diminish the value of the property. He suggested that the condition for deed restrictions had been granted in the past to protect privacy or views. He stated that criterion number four addressed the compatibility of adjoining development, and suggested that if all of the other development in the area had setbacks of 60-65', and the house in question did not, it would be incompatible.

In response to President Pro-Tem Goldblum, Zoning Administrator Paul Castro explained that the setback code requirement for the proposed house was 35' or two feet for every one foot of building height, and the applicant met the criteria.

President Pro-Tem Goldblum moved approval of Special Exception No. 6-2002, finding that it met all criteria set forth in the special exception provisions of the Town Code, and that the project was not adverse to the public interest. The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

*****Mayor Smith left the meeting at 4:15 p.m.*****

i. SITE PLAN REVIEW NO. 4-2002 MODIFYING SPECIAL EXCEPTION #8-2001 The application of Boston Homes Inc. relative to property described as Lot 10 and part of Lot 11, Cherry Lane; commonly known as 312 Cherry Lane; located in the R-B Zoning District. Site Plan Review to allow applicant to modify a condition to previously approved Site Plan Review (SE #8-2001). The proposed modification is to eliminate the condition that requires the overload power lines at the rear of the property to be buried.

Ex-parte communication was declared by Councilman McLendon via visiting the site, President Brooks noted he had visited the site last July.

Attorney Peter Broberg, on behalf of the applicant, addressed the Town Council, stating that site plan review had been presented in July at the Town Council, which had been granted with one condition, that the power lines between the neighboring property be buried. He presented photographs of the house in question, explaining that burial of the power lines could not be accomplished, because a new pole and transformer would have to be placed on the neighboring property to the west, which was not acceptable to that neighbor. In addition, a ten foot easement would be required between the two properties, which would require the removal of hedges, which neighbors on both sides would not approve. He requested that the Town Council waive the condition that required the power lines to be buried; the neighbor had been contacted and promised extra landscaping; he had agreed to waive the provision.

Assistant Director of Planning, Zoning & Building Veronica Close provided the staff comments as submitted on the Application Review Sheet: Comprehensive Plan: should make an effort to bury the power lines; Town Engineer: need to contact Florida Power & Light (FPL) to discuss particulars of job; Building Department: condition should be observed if possible. She noted that the Building Department had contacted FPL who had corroborated the statements of Attorney Broberg.

Councilman McLendon moved approval of Site Plan Review No. 4-2002, Modifying Special Exception No. 8-2001. The motion was seconded by President Pro-Tem Goldblum. On roll call the motion carried unanimously.

4. Other

a. Request From Maura Ziska, Esq. for a Waiver From Section 42-199, "Hours For Construction Work," of the Town's Code of Ordinances to Complete a Planned Construction Project Commencing May 1, 2002. (1341 South Ocean Boulevard). [Maura Ziska, Esq.]

Attorney Greg Young, on behalf of the applicant, addressed the Town Council, requesting an extension of construction hours at 1341 South Ocean Boulevard, to run 8:00 a.m. to 8:00 p.m., May 1st through October 31, 2002, Monday through Saturday. He noted that a tri-party agreement had been signed November 13th, providing that there will be no construction in the event that it was the last ten days of the month and Mr. and Mrs. Picower were in residence from October 1st through April 30th; also that there be no construction on Friday and Saturday, under the same circumstances from October 1st through May 31st. He explained that the request today would not circumvent the agreement, and the applicant was attempting to expedite construction on the project.

Ms. Julie Sellers, on behalf of Mr. an Mrs. Picower, addressed the Town Council, stating that as long as the construction did not take place when they were in residence, the applicant had full support of extended hours; they wished to have the construction move along as quickly as possible, as they had been faced with construction on both sides of their residence for quite some time.

President Pro-Tem Goldblum moved approval of the request for a waiver from Section 42-199 of the Town Code of Ordinances, for extension of construction hours at 1341 South Ocean Boulevard, from 8:00 a.m. to 8:00 p.m., May 1st through October 31, 2002. The motion was seconded by Councilman McLendon.

Councilman McDonald requested that Mr. Goldblum revise the motion of approval to incorporate the conditions discussed earlier today regarding construction projects on South Ocean Boulevard.

President Pro-Tem Goldblum included the conditions discussed earlier today regarding construction projects on South Ocean Boulevard into the motion for approval, as did the seconder of the motion. ***(Please see discussion under Item VIII. Regular Agenda A. Old Business, No. 2.)***

On roll call the motion carried unanimously.

b. Request From Maura Ziska, Esq. for a Waiver From Section 42-199, "Hours For Construction Work," of the Town's Code of Ordinances to Complete a Planned Construction Project Commencing May 1, 2002. (181 Clarendon Avenue). [Maura Ziska, Esq.]

Attorney Maura Ziska, on behalf of the property owner at 181 Clarendon Avenue, addressed the Town Council, distributing a photograph of the construction in progress, recalling that the project had turned out to be a complicated process, with some unforeseen construction delays. She explained that the house was landmarked, and sat below the flood elevation; it had taken approximately one year to raise the house, and the neighbors had expressed concern about the length of time it was taking to complete the project. She requested extended construction hours for the project.

Assistant Director of Planning, Zoning & Building Veronica Close, referred to the memorandum from Robert L. Moore, Director of Planning, Zoning & Building, dated March 29, 2002, recommending the following four conditions of approval of extended construction hours of 8:00 a.m. to 8:00 p.m.:

1. Work shall not begin until May 1, 2002.
2. Work shall cease if noise ordinance is violated.
3. Inside work only after 6:00 p.m.
4. Obtain written approval from all immediate neighbors.

Councilman Wyett moved approval of the request for a waiver from Section 42-199 of the Town Code of Ordinances for extended construction hours from 8:00 a.m. to 8:00 p.m. for the project located at 181 Clarendon Avenue. The motion was seconded by Councilman McDonald. On roll call the motion carried unanimously.

XIII. ANY OTHER MATTERS

Town Manager Elwell stated that the date for the Special Town Council Meeting regarding drainage was set for Monday, April 29, 2002, at 1:00 p.m. in the Town Council Chambers.

XIV. ADJOURNMENT

There being no further business, the Town Council Meeting of April 9, 2002, was adjourned at 4:29 p.m.

William J. Brooks
Town Council President

Mary A. Pollitt
Town Clerk

PREPARED BY:
SUSAN EICHHORN
DEPUTY TOWN CLERK
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