

**MINUTES OF THE SPECIAL TOWN COUNCIL MEETING
HELD ON APRIL 5, 1999 AT 5:01 P.M.**

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I. CALL TO ORDER AND ROLL CALL

President Lesly Smith called the meeting to order at 5:03 P.M. in the Town Council Chambers. Deputy Town Clerk Susan Eichhorn called the roll, and the following elected officials were found to be in attendance: Mayor Paul Ilyinsky, President Lesly Smith, President Pro-Tem Allen Wyett, Councilmen Jack McDonald, Samuel McLendon, an Leslie Shaw. Those also in attendance were Town Manager Robert Doney, Town Attorney John Randolph, Director of Planning, Zoning & Building Robert Moore, Zoning Administrator Paul Castro, and Deputy Town Clerk Susan Eichhorn.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Deputy Town Clerk Susan Eichhorn gave the invocation, and President Lesly Smith led the Pledge of Allegiance.

III. PROOF OF PUBLICATION

Deputy Town Clerk Eichhorn affirmed the proof of publication.

IV. APPROVAL OF AGENDA

The Agenda was approved through motion of President Pro-Tem Wyett, seconded by Councilman McDonald, and carrying unanimously on roll call.

V. SECOND READING ON THE FINAL ADOPTION OF ORDINANCE NO. 1-99, ZONING AMENDMENTS, MODIFICATION S AND ADDITIONS

Town Attorney Randolph read Ordinance No. 1-99 by title (second reading):

AN ORDINANCE OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 134, ZONING, OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, BY AMENDING SECTION 134-2, DEFINITIONS AND RULES OF CONSTRUCTION, BY MODIFYING THE DEFINITION OF MODIFYING THE DEFINITIONS OF BUILDING ANGLE OF VISION AND BUILDING HEIGHT PLANE; MODIFYING THE DEFINITION OF CUBIC CONTENT RATIO (CCR); DELETING THE DEFINITION OF FLOOR AREA RATIO (FAR) AND CHANGING ALL REFERENCES TO FLOOR AREA TO REFER TO CUBIC CONTENT RATIO WHERE APPLICABLE; MODIFYING THE DEFINITION OF RESTAURANT; BY CREATING SEC. 134-66 TITLED TOWN COUNCIL, ARCHITECTURAL COMMISSION AND LANDMARK COMMISSION SUPPLEMENTARY APPLICATION REQUIREMENTS, TO PROVIDE A PROVISION FOR THE IDENTIFICATION OF HISTORIC/SPECIMEN TREES ON APPLICATION PLANS; AMEND SEC 134-87, APPLICATION, BY CLARIFYING THAT ALL BUILDING PERMIT APPLICATIONS SHALL HAVE PLANS IDENTIFYING HISTORIC/SPECIMEN TREES AND HOW THEY WILL BE PROTECTED; BY AMENDING SECTION 134-172, HEARING PROCEDURE, BY CLARIFYING THAT SPECIMEN/HISTORIC TREES MUST BE IDENTIFIED ON ALL PLANS FOR SPECIAL EXCEPTION AND VARIANCE APPLICATIONS AND HOW THEY WILL BE PROTECTED; BY AMENDING SECTION 134-229, REQUIREMENTS FOR GRANTING, BY CLARIFYING THAT SPECIMEN/HISTORIC TREES MUST BE IDENTIFIED AS PART OF ALL SPECIAL EXCEPTION APPLICATIONS; BY AMENDING SECTION 134-327, APPLICATION, BY CLARIFYING THAT SPECIMEN/HISTORIC TREES MUST BE IDENTIFIED AS PART OF ALL SITE PLAN APPLICATIONS; BY AMENDING SECTION 134-755, APPLICATION OF REGULATIONS, BY ADDING A NEW PROVISION LIMITING THE HEIGHT OF BUILDINGS IN RELATION TO FAA REQUIREMENTS; BY AMENDING SECTIONS

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134-790, 134-840, 134-890, 134-945, AND 134-1055, SPECIAL EXCEPTION USES, BY ADDING PEDESTRIAN BEACH ACCESS TUNNELS TO THE LIST OF SPECIAL EXCEPTION USES IN THE R-AA, R-A, R-B, R-C AND R-D(2) DISTRICTS; BY AMENDING SECTIONS 134-791, 134-841, 134-891, 134-946, 134-1001, 134-1056, 134-1110, 134-1160, 134-1210, 134-1260, 134-1305, 134-1400 AND 134-1478, ACCESSORY STRUCTURES, BY DELETING AND ADDING MODIFIED REGULATIONS PERTAINING TO DISH ANTENNAS IN THE R-AA, R-A, R-B, R-C, R-D(1), R-D(2), C-TS, C-WA, C-OPI, C-PC, C-B, PUD AND BEACH AREA ZONING DISTRICTS TO PROVIDE FOR THE NUMBER, SIZE AND SCREENING OF DISH ANTENNAS; BY ADDING SECTIONS 134-801, 134-851, 134-902, 134-957, 134-1013, 134-1068, 134-119, 134-1169, 134-1218, 134-1267, 134-1313, 134-1401 AND 134-1479 TITLED AIR CONDITIONING AND GENERATOR EQUIPMENT TO CROSS REFERENCE MODIFIED REGULATIONS PERTAINING TO SAID EQUIPMENT; BY AMENDING SECTION 134-893 LOT, YARD AND AREA REQUIREMENTS-GENERALLY; BY DELETING THE MAXIMUM ALLOWABLE FLOOR AREA RATIO IN THE R-B DISTRICT; BY CHANGING THE CURRENT CUBIC CONTENT RATIO TO A SLIDING SCALE BASED ON LOT SIZE, AND INSTITUTING A MAXIMUM ALLOWABLE CUBIC FOOTAGE IN THE R-B DISTRICT; BY MODIFYING THE REQUIRED FRONT YARD AND SIDE YARD SETBACKS IN THE R-B DISTRICT SO THAT SETBACK REQUIREMENTS APPLY INDIVIDUALLY TO THE FIRST AND SECOND STORIES; BY INCREASING THE MAXIMUM ALLOWABLE LOT COVERAGE FOR ONE-STORY STRUCTURES IN THE R-B DISTRICT; BY ELIMINATING SECTION; BY AMENDING OR CREATING SECTIONS 134-896, 134-952, 134-1013 AND 134-1068, SPECIAL EXCEPTIONS TO HEIGHT LIMITATIONS, BY INCREASING THE ALLOWABLE SIZE OF ARCHITECTURAL TOWERS IN THE R-B DISTRICT AND ALLOWING TOWERS FOR ONE-FAMILY AND TWO-FAMILY HOUSES IN THE R-C, R-D(1) AND R-D(2) ZONING DISTRICTS; BY AMENDING SECTION 134-948, LOT, YARD AND AREA REQUIREMENTS, BY MODIFYING THE MINIMUM FRONT YARD AND STREET YARD SETBACKS FOR TWO-FAMILY AND TOWNHOUSE STRUCTURES IN THE R-C DISTRICT TO REQUIRE 40% OF THE STRUCTURE FACING THE STREET HAVE AN ADDITIONAL 20 FOOT SETBACK WHEN A GARAGE DOOR FACES A STREET AND REQUIRING THAT AT LEAST 25% OF THE FRONTAGE OF A BUILDING ALONG ANY STREET BE SET BACK AT LEAST 10 FEET BEYOND THE MINIMUM SETBACK; REDUCING THE MINIMUM SIDE YARD SETBACK FOR ONE STORY TWO-FAMILY STRUCTURES AND INCREASING THE MINIMUM SIDE YARD SETBACK FOR THE SECOND STORY IN THE R-C DISTRICT FROM TWENTY-FIVE TO TWENTY-THREE AND ONE HALF FEET AND THE OVERALL BUILDING HEIGHT FROM 5 FEET FOR A PARAPET ON A FLAT ROOF AND 10 FEET FOR ALL OTHER TYPES OF ROOFS TO 3 FEET AND 8 FEET HEIGHT RESPECTIVELY; BY ELIMINATING THE EXISTING 134-952, SPECIAL EXCEPTION TO HEIGHT REGULATIONS; SPECIAL EXCEPTION STRUCTURE THAT ALLOWS FOR THREE STORY MULTI-FAMILY STRUCTURES IN THE R-C DISTRICT; BY AMENDING SECTION 134-1576, CORNER LOTS, BY REDUCING THE REQUIRED MINIMUM SIDE YARD SETBACK FOR A ONE-STORY GARAGE OF A STRUCTURE LOCATED ON A CORNER LOT AND INCREASING THE SIDE YARD SETBACK FOR THE SECOND STORY OF SUCH STRUCTURE IN THE R-B DISTRICT; BY AMENDING SECTION 134-1636, STREET LOT LINES BY PROHIBITING THE USE OF PUBLIC OR PRIVATE STREETS IN CALCULATING REQUIRED YARDS, BUILDING ANGLE OF VISION AND BUILDING HEIGHT PLANE; BY AMENDING SECTION 134-1699, STRUCTURES AND SIGNS ALONG LAKE TRAIL, BY MODIFYING THE HEIGHT OF ALLOWABLE WALLS AND FENCES TO ALLOW MEASUREMENT OF THE HEIGHT OF CERTAIN WALLS TO BE TAKEN FROM THE HIGHEST GRADE DIRECTLY ADJACENT TO THE WALL OR FENCE; BY AMENDING SECTION 134-1728, AIR CONDITIONING EQUIPMENT, BY ALLOWING ONLY ONE AIR CONDITIONER CONDENSING UNIT, PROVIDED CERTAIN CONDITIONS ARE MET, TO BE PLACED IN THE REQUIRED FRONT YARD, STREET SIDE YARD AND STREET REAR YARD SETBACKS; BY CREATING SECTION 134-1729, GENERATORS AND SWIMMING POOL EQUIPMENT, TO EXCLUDE SUCH EQUIPMENT FROM BEING PLACED IN THE REQUIRED FRONT YARD, STREET SIDE YARD AND STREET REAR YARD SETBACKS BY AMENDING SECTION 134-1965, BUILDING GROUPS, ACCESS, BY INCREASING THE REQUIRED MINIMUM SIDE YARD SETBACK OF THE SECOND STORY OF TOWNHOUSE STRUCTURES IN THE R-C DISTRICT; BY AMENDING SECTION 134-2176, NUMBER OF PARKING SPACES REQUIRED-SCHEDULE, BY REDUCING THE NUMBER OF REQUIRED OFF-STREET PARKING SPACES FOR MULTI-FAMILY DWELLINGS OF FIVE UNITS OR LESS; BY AMENDING SECTION 134-2177, LOCATION OF PARKING SPACES, BY MODIFYING THE ALLOWABLE LOCATION OF PARKING SPACES TO ALLOW BELOW GROUND LEVEL PARKING PERTAINING TO THIS CODE SECTION; PROVIDING FOR A PENALTY FOR A VIOLATION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREOF; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Mr. Lowry Bell addressed the Town Council, stating that he believed there was a problem with the sliding scale above 10,000 square feet. He gave the example of the home of Doyle Rogers at 220 Clarke Avenue, where there was 21,143 square feet of land, with a house being built of 8,441 square feet, and under the present sliding scale he would only be permitted to build 7,162 square feet. The height restriction of 22' in height would only permit him to build the 7,162 square feet, which would mean that the ground floor would have to be 10', with 2' of structural, and then 10' on the upper floor. Most people building that size house would want a 12' ceiling on the ground floor, and 10' for the upstairs. An 18' height would only permit an 8' ceiling downstairs, and an 8' ceiling upstairs. Mr. Bell stated that he believed the sliding scale should be modified above the 10,000 or 20,000 square foot height.

Mr. Eric Adams agreed with the statements of Mr. Bell.

Director of Planning, Zoning & Building Robert Moore stated that the remarks made by Mr. Bell had been made by others as well, and the ordinance would not be in effect for one year, and would be reviewed next year. He pointed out that there were many large houses on Clarke Avenue, and Mr. Rogers built one that was almost the largest, and there

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was a method of not having 2' between floors, with the use of concrete precast slabs.

Zoning Administrator Castro pointed out that an exemption for 5% cubic footage had been adopted on the first floor for awning, trellis, pergolas, etc., as well as exempting the tower feature from the cubic footage, so even though the CCRs were slightly lower with the volume that was added on the first floor that was exempted, staff believed that was adequate enough to make up for some of the lost cubic volume.

President Pro-Tem Wyett commented that regarding the new method of reducing the 2', it was already more expensive to build in Palm Beach than anywhere else in the United States, and to pretend that would be another way of getting another ½' into the house would be a poor zoning decision. At the last Zoning Meeting, Jeff Smith and Frank Chopin appealed that the limitations on 20,000 square foot lots be raised, and were told that it would have to be addressed next Zoning Season. He commented that hopefully the zoning regulations would be made more in line with what was needed in Palm Beach in the future. He noted that the house of Mr. Rogers was also on the largest lot on the street, and most of the homes were of the same size.

Mr. Bell commented that the 2' between the floors was necessary because of the air conditioning and plumbing equipment that would need to go into the ceiling of the first floor; if the slab was built, the ceiling would have to be dropped in order to put in the air conditioning ducts.

President Smith pointed that anyone could come to the Town Council to request a variance.

In response to President Pro-Tem Wyett, Mr. Moore explained that the ordinance restricted generators in that there was a prohibition of pool equipment and generators in the front yard.

Councilman McDonald moved approval of Ordinance No. 1-99. The motion was seconded by Councilman Shaw. On roll call the motion carried unanimously.

VI. ANY OTHER ITEMS

Councilman McDonald moved that the portion of the meeting scheduled for April 16, 1999 concerning Long Range Planning be deferred and rescheduled for the September Town Council Meeting, explaining that he would not be prepared to discuss the subject as a result of all of the meetings scheduled in that time period. He clarified that the matter of Performance Appraisal, as well as the Boynton Landscape Property, would still be discussed at the April 16, 1999, Town Council Meeting at 9:30 A.M. The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

VII. ADJOURNMENT

The meeting was adjourned at 5:25 P.M.

Mary A. Pollitt
Town Clerk

Prepared by:
Susan Eichhorn
Deputy Town Clerk