TOWN OF PALM BEACH

Office of The Town Clerk

SPECIAL TOWN COUNCIL MEETING HELD ON MARCH 26, 2004

I. CALL TO ORDER AND ROLL CALL

The Special Town Council Meeting of Friday, March 26, 2004, was called to order 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, Town Council President Allen S. Wyett, Town Council President Pro-Tem Samuel C. McLendon, Town Councilman William J. Brooks, Town Councilman Norman P. Goldblum, and Town Councilman Jack McDonald. Also present were: Town Attorney John C. Randolph, Town Manager Peter B. Elwell, Assistant to the Town Manager Sarah Hannah, Finance Director Jane Skittone, Acting Fire-Rescue Chief John Deiorio, Human Resources Director William Crouse, Planning, Zoning & Building Director Robert Moore, Assistant Planning, Zoning & Building Director Veronica Close, Police Chief Michael Reiter, Public Works Director Al Dusey, Assistant Public Works Director Paul Brazil, Recreation Director Russ Bitzer, and Deputy Town Clerk Susan Eichhorn.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given and the Pledge of Allegiance was led by President Wyett.

III. APPROVAL OF AGENDA

The Agenda was amended to include the following:

Item IV: **DELETED** - Consideration of scheduling an Attorney/Client Session regarding Sherry Kimbel vs. Town of Palm Beach, Case No. 2003 CA 5533 AG, Fifteenth Judicial Circuit Court, Palm Beach County, Florida.

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RECYCLED PAPER

Under Item VI.:

ADD as item A. Florida Department of Transportation - Southern Blvd. circle concerns.

ADD as item B. Florida Department of Transportation - Southern Blvd. bridge concerns.

President Pro-Tem McLendon moved approval of the agenda as amended. The motion was seconded by Councilman Goldblum. On roll call the motion carried unanimously.

IV. Consideration of scheduling an Attorney/Client Session regarding Sherry Kimbel vs. Town of Palm Beach, Case No. 2003 CA 5533 AG, Fifteenth Judicial Circuit Court, Palm Beach County, Florida, to discuss this matter immediately following this Special Town Council meeting in the Town Council Chambers, 360 South County Road, Palm Beach, Florida. Attorney/Client Session Attendees: Mayor Lesly S. Smith, Town Council President Allen S. Wyett, Town Council President Pro Tem Samuel C. McLendon, Town Council Members, William J. Brooks, Norman P. Goldblum, and Jack McDonald, Town Attorney John C. Randolph, Town Manager Peter B. Elwell, and Ley and Marsaa Court Reporters.

This item was deleted from the Agenda.

V. Request by J.B. Painting and Waterproofing, Inc., for a Right-of-Way Permit at 235 Sunrise Avenue.

Public Works Director Al Dusey reported that a request had been made to paint Palm Beach Hotel front entrance for a ten day period, to include pressure cleaning, caulking and painting. He stated that it was learned after the Public Works denial that the purpose of doing the project now was for waterproofing, as there had been some infiltration of water into the hotel. He explained that it was a commercial area, and that type of activity was not allowed during the season, and it had been suggested that the contractor wait until May 1st, which was the normal time to start this type of work. If some relief was contemplated, the week after Easter would be a time that would have less impact, the week of April 19th.

The contractor was not present, although staff confirmed that they had been advised of the date and time of this hearing.

President Pro-Tem McLendon moved denial of the appeal regarding the denial of the Public Works Department to allow pressure cleaning, caulking and painting of the Palm Beach Hotel; the contractor could start work on May 1st, which was the normal start time for contractors. The motion was seconded by Councilman Goldblum. On roll call the motion carried unanimously.

VI. Strategic Plan Action Items

A. Florida Department of Transportation (FDOT) - Southern Blvd. circle concerns

President Wyett suggested that FDOT be petitioned to review the needs of the Town regarding the re-design of Southern Blvd. circle. He explained that it was a bottleneck, with a high incidence of traffic accidents. He requested that the Town Council authorize the Mayor to petition FDOT to study and act upon the problem.

Mayor Smith requested that members of the public write the Coast Guard to request that they uphold the limitations on the bridge openings during morning and evening rush hours.

Councilman Goldblum agreed that the bridge area of Southern Blvd. was a serious problem, and pointed out that the traffic lights on the other side were a problem as well, and should be coordinated.

Mr. Dick Kleid, 2660 South Ocean Blvd., commented that there was not a policeman in the intersection during rush hours, and that he had e-mailed the Town on several occasions asking the question, and always heard that it was under study.

Mr. David Barton suggested that the study should incorporate taking the A-1-A designation out, and put calming devices in, particularly where the condominiums were located so that people could get in and out of their driveways.

Town Manager Elwell pointed out that parking and traffic issues would be forthcoming in the discussion concerning the Strategic Plan, and that would be a good time to address the matters that would be included in a study. He clarified that the widening issue involved only a three foot shoulder widening, not a widening sufficient to add lanes, so the intent was a safety factor as opposed to an increase of the number of trips that would be made on the roadway.

Police Chief Reiter explained that the intersection was monitored continuously, however, the one lane leaving Town was a bottleneck. When a police officer was posted there it often created more confusion because of the three different merging areas involved. Police officers were frequently posted in the area to direct traffic.

Councilman Goldblum moved approval of authorizing the Mayor to request that FDOT review Southern Blvd. circle and the signalization of traffic lights on the West Palm Beach side of the bridge. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

B. Florida Department of Transportation (FDOT) - Southern Blvd. Bridge Concerns

President Wyett suggested that the Town petition FDOT to study whether a new Southern Blvd. bridge was needed, or at least made four lanes instead of two lanes.

Councilman Brooks moved that the Mayor be authorized to contact FDOT to request that the Southern Blvd. bridge be studied for renovations/improvements. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

Amy Shaugnessy, 44 Cocoanut Row, Chairman of the Civic Association Transportation Committee, addressed the Town Council, stating that the Bridges Task Force of that Committee had been reviewing the bridge problems. She explained that the proposed rule of the Coast Guard to have no restrictions during rush hour was something that was of concern. The civic associations, the business associations and the Chamber of Commerce want to get together to have a study that would count traffic on the bridges during the rush hours. She explained that the level of service studies completed by the Town each year did not take into account the traffic congestion during rush hours. She considered that it was believed that funding could be raised for the study from business associations and other sources, and that the cooperation of the Town would be requested. She stated that it was believed that the study should be completed before the middle of April, so that the highest levels of traffic could be included.

Mayor Smith commented that the 2200 residential units currently being built would impact the traffic in the Town, and that she had written a letter to Mayor Frankel requesting the steps that would be taken by the City of West Palm Beach to alleviate the traffic concerns on Okeechobee going both east and west. She noted that she had received support from some of the other Mayors regarding the bridge openings by the Coast Guard. She suggested that anyone wishing to write to the Coast Guard could do so before May 10, 2004, at the following address:
Greg Shapley
Chief, Bridge Branch
Seventh Coast Guard District
909 S.E. First Avenue
Miami, FL 33131

In response to President Pro-Tem McLendon, Ms. Shaugnessy replied that the same firm that had been doing the level of service studies for the Town of Palm Beach was available to do the study during the first full week in April. She estimated that it appeared to be in the realm of \$3-\$4,000 for the study, or at least not more than \$10,000.

Town Manager Elwell commented that if the Town Council wished to move forward with such a study, funding could be authorized from the General Fund Contingency in a not-to-exceed amount.

Mayor Smith commented that she would prefer to see a cooperative effort from all of the organizations in the Town that were affected by the traffic. She suggested that Ms. Shaugnessy come back at an upcoming Town Council meeting, with an exact figure and the contributions from the various organizations.

Ms. Shaugnessy replied that it was very much the hope that the effort would be cooperative, and that resources would be coming from as many sources as possible.

Councilman Goldblum moved approval of the Town providing matching funds in a cooperative effort with the civic organizations regarding a traffic study. The motion was seconded by Councilman Brooks.

After discussion, the Town Council came to consensus that Ms. Shaugnessy will provide firm cost figures for the traffic study for consideration at the Special Town Council meeting to be held on April 1, 2004.

Councilman Goldblum withdrew his motion. Councilman Brooks withdrew the second.

Mr. Eric Gilbertson, 151 Chilean, addressed the Town Council regarding the Southern Blvd. bridge, and thanked the late Mayor Paul Ilyinsky for spearheading the efforts to build the new bridge.

C. Review of the Missions, Qualifications for Service, and Training Requirements of the Town's Advisory Boards and Commissions

Director of Planning, Zoning & Building Robert Moore reported that the Strategic Planning Board had requested a review of the missions of each Town commission. Each commission had been asked to review their mission statement, and to participate in a process that would address continuing education requirements and qualifications to serve on the commissions. Information from the process was included in his memorandum of March 10, 2004, to the Mayor and Town Council, which was summarized in seven recommendations:

1. Continue to conduct mandatory orientation sessions annually for all new board members, and invite all existing board members whose attendance would be optional.

2. Allocate sufficient funds in the budget for the Chairperson of each board to attend an in-state conference at the expense of the Town, and for payment of registrations for two additional board members to attend a local conference when and if the subject matter is relevant to their board activities.

3. If the Town Council determines that it would like to consider formal or informal input from Boards on prospective applicants, convey that desire to the boards accordingly, along with guidelines for the receipt of such information.

4. Direct the staff to meet with the Code Enforcement Board, the Landmarks Preservation Commission, and the Planning and Zoning Commission to develop modified mission statements based on suggestions made at the workshops, for presentation to the Town Council for their consideration at a future date.

5. Encourage the Planning and Zoning Commission to conduct an annual workshop with the Architectural Commission (ARCOM) and the Landmarks Preservation Commission (LPC) to solicit feedback on planning and zoning issues.

6. Provide ARCOM with the ability to fill required architectural positions with a non-resident, as has been utilized successfully by the LPC.

7. Direct staff to work with Commission Chairpersons to pursue guest speakers when possible and where appropriate.

Mr. Moore commented that all of the chairpersons of the commissions/board were present to address the Town Council.

President Wyett thanked all of the members of commissions and boards for all of the hard work they put in each month.

Item No. 1:

Continue to conduct mandatory orientation sessions annually for all new board members, and invite all existing board members whose attendance would be optional.

Mr. Floyd Wideman, Chairman of the Architectural Commission (ARCOM) stated that the commission applauded what the staff had recommended. He stated that the mission of ARCOM was not simply to judge purity of architecture – it was far more than that – to protect the character of the Town by concerning itself with things like how the project fit into the neighborhood, its intrusion on any neighbors, maintenance of greenspace – all of which were not necessarily technical, but more of a question of aesthetic taste. He stated that it was therefore important to him that the commission members were residents, and that the commission not be overloaded with professionals. He suggested that having two architects on the commission was certainly ample, as well as someone who had a good knowledge of horticulture, not necessarily a landscape professional, and four layman commission members who were residents. He suggested that actively practicing architects, realtors, or developers should not sit on the commission.

Mr. Eric Adams, member of ARCOM, addressed the Town Council, stating that he was a realtor and had sat on ARCOM for a number of years. He stated that he disagreed with the comment that actively practicing members should not sit on the commission, and that he believed members could certainly rise above certain very elemental and basic instincts when considering the kinds of problems that the commission considers. He stated that he did agree with many other comments of Mr. Wideman, especially the residency requirement. He stated that he believed the proposed changes in the composition of the commission should be considered very carefully, so as not to interfere with the continued success of the commission.

Councilman McDonald commented that he disagreed with the comments concerning requiring all commission members to be residents.

Mr. Adams responded that his position was that generally off-island residents did not make the best commissioners on ARCOM. – a general requirement that non-residents could be members just as easily as residents would not serve the commission well.

Mr. Bill Guttman, 216 W. Indies Drive, commented that he did not believe aesthetics should be driven by democratic values, and that people who understand the world of aesthetics were the type of people that should sit on ARCOM. He stated that he was opposed to letting the mission of ARCOM become so broad and elastic that it could trump the zoning code, that is democratically decided.

Councilman McDonald moved approval of item #1 of the staff recommendations - Continue to conduct mandatory orientation sessions annually for all new board members, and invite all existing board members whose attendance would be optional. The motion was seconded by President Pro-Tem McLendon.

Mayor Smith commented that a concern of the Strategic Planning Board had been that some of the appointments to commissions/boards over the past years had been friendship appointments – lovely people who were very well spoken and lived in the Town, but were not qualified to sit on a commission. As far as ARCOM was concerned, it was believed that people should be qualified, have some background of relevant experience, and be Palm Beach residents who had a feel for the Town and wanted to maintain the quality of life.

In the ensuing discussion regarding the Landmarks Preservation Commission, Mr. Moore explained that the first appointee as a non-resident on the Landmarks Preservation Commission was Judge Knott, and the next non-resident to serve was Professor of History at Florida Atlantic University, Donald Curl. At one time the ability to have a non-resident architectural seat was eliminated, and then reinstated approximately 6-7 years ago, for a one year term.

Architect Gene Lawrence addressed the Town Council at this time, as he would not be able to be present at a later time in the agenda when the Code Enforcement Board discussion would take place. As Chairman of the Code Enforcement Board, he commented that the Board did vote to recommend giving the authority to foreclose to the Code Enforcement Board and also suggested that a manual be prepared to specify what is expected of members of boards/commissions.

On roll call the motion made by Councilman McDonald, seconded by President Pro-Tem McLendon carried unanimously.

Item No. 2:

Allocate sufficient funds in the budget for the Chairperson of each board to attend an in-state conference at the expense of the Town, and for payment of registrations for two additional board members to attend a local conference when and if the subject matter is relevant to their board activities.

Mayor Smith asked if the Town currently reimbursed members of commissions who attended conferences, etc.?

Mr. Moore replied that the Town did not reimburse currently.

Mr. Dick Kleid, Chairman of the Planning and Zoning Commission, 2660 S. Ocean Blvd., commented that the conferences should not be limited to only technical conferences, but management conferences as well – conferences that would show how to set priorities and goals, how to work through problems, etc.

Councilman McDonald moved approval of the recommendation of staff to allocate sufficient funds in the budget for the Chairperson of each board to attend an in-state conference at the expense of the Town, and for payment of registrations for two additional board members to attend a local conference when and if the subject matter is relevant to their board activities. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

Item No. 3:

If the Town Council determines that it would like to consider formal or informal input from Boards on prospective applicants, convey that desire to the boards accordingly, along with guidelines for the receipt of such information.

Mr. Moore explained that there were various types of inputs regarding prospective applicants; if the Town Council preferred that there be a more uniform method of receiving input, staff would then make suggestions and bring them back for consideration.

Mayor Smith commented that the Town Council had been lobbied for people to be on the commissions and for people not to be on the commissions, which took the objectivity out of the process. She suggested that individual interviews with the applicants by the Town Council members may be more appropriate.

Councilman McDonald moved approval of Item No. 3 of the staff recommendations, noting that the Town Council was indicating that it did not want to be lobbied by commission members. President Pro-Tem McLendon seconded the motion.

President Wyett commented that he strongly depended upon the applicant's letter and resume, as the process was then objective. He suggested that perhaps the Chairman or the Co-Chairman of each of the commissions interview the applicants. He suggested that the Planning and Zoning Department come back with a recommendation, after considering the input received today.

Councilman McDonald clarified that through the motion the Town Council was indicating that it did not want to be lobbied by commission members, and staff would come back with a plan.

Councilman Brooks commented that he would like to maintain the existing system. He noted that he had asked Mr. Elwell to make the present application form more professional, as it had been copied over the years and was sometimes hardly legible. He suggested that the application contain the standard government caveats.

Town Manager Elwell commented that it was an administrative matter to clean up the application; one of the reasons that it had become cluttered and unprofessional looking was that there had been an attempt to keep it on one page.

On roll call the motion carried 3/2, with Councilman McDonald, President Pro-

Tem McLendon and Councilman Goldblum casting affirmative votes; Councilman Brooks and President Wyett casting dissenting votes.

Item No. 4:

Direct the staff to meet with the Code Enforcement Board, the Landmarks Preservation Commission, and the Planning and Zoning Commission to develop modified mission statements based on suggestions made at the workshops, for presentation to the Town Council for their consideration at a future date.

In response to Mayor Smith, Mr. Moore explained that the mission statements of Code Enforcement, Landmarks Preservation Commission and the Planning and Zoning Commission had not yet been revised. Based upon some of the comments heard today, staff would review the mission statements with those commissions. Those commissions would then have the opportunity to discuss and present the mission statements to the Town Council.

Town Manager Elwell clarified that the mission statements would guide the work of each commission, particularly for the benefit of new members, to reflect the current authority of those commissions. He stated that he had expected that discussion would take place regarding the scope of authority of some of the commissions. He requested clarification as to whether Item No. 4 was intended to refer that substantive discussion to a future date, or whether it was simply intended to create the necessary description of the current authority.

Mr. Moore relied that it was intended to have substantive discussion at a future date.

Mr. Dick Kleid, Chairman of the Planning and Zoning Commission commented that the Commission would like some input from the Town Council as to what they believe the planning functions included.

Mr. Kleid continued that the Planning and Zoning Commission would like to know from the Town Council what planning and zoning functions they should be doing. The membership of the Commission had been polled, and they all said they would be willing to attend more meetings if that was necessary to take over whatever planning functions the Town Council would like them to take over. Staff had indicated that if there were more meetings, additional staff may be required.

Town Manager Elwell commented that some recommendations from the Planning and Zoning Commission had been considered a year ago, and some of them were being reiterated at this time, and some new ones were coming forward. He clarified that it was his understanding that the context of the decision one year ago to change the name from the Zoning Commission to the Planning and Zoning Commission was not to expand the role of the Commission at that time, but to recognize that the Commission had an important role in the planning function of the Town, specific to land use. The decision in changing the name to Planning and Zoning Commission was to recognize that there was planning going on with the Commission, as it advised the Town Council on land use matters, including comprehensive planning matters that go beyond strictly zoning and the land use map.

Mr. Moore clarified that currently the Planning and Zoning Commission looked at issues such as all of the elements of the Comprehensive Plan, beaches, recreation, land use, and capital improvements. The Commission had the authority to deal with planning issues and recommend final actions to the Town Council. He noted that if the role of the Commission was expanded, it would require meeting once a month and having year round meetings.

Town Manager Elwell commented that it was very important that the difference between planning functions and operational functions was defined before deciding whether an expansion of the role of the Planning and Zoning Commission was appropriate. He explained that the Right-of-Way Manual, for example, was not a planning document, but an operation document with rules and regulations. He explained that while there may be some legitimate ways that the Town could function better with some expansion of the Planning and Zoning Commission's role in planning, care should be taken in not creating a second layer of Town Council authority that would make everything less efficient and more cumbersome than it would need to be in the operational area.

Mr. David Barton, 215 Jamaica Lane, addressed the Town Council, stating that he was invited to the Zoning Commission last year to make some suggestions as to how they could act in a more effective planning role. He explained that the Zoning Commission should be a tool of planning, and right now it was the tail wagging the dog – the Town Council acted as the planning commission and did not have the time to do it. He summarized his proposals given at the meeting one year ago:

1. The Zoning Commission should act as a planning commission first, and secondly as a zoning commission.

2. The Zoning Commission should take the responsibility for the initial formation of the five-year capital program.

3. The Strategic Plan should not be allowed to remain in its incomplete condition and should be translated into a long range plan.

4. The Town development should be more policy driven than market driven.

Mr. Barton explained that the Zoning Commission should be responsible for constructing a specific long range plan on zoning issues, and recommending changes to the Town Council.

Mr. Al Flamm, 2000 S. Ocean Blvd., and a member of the Strategic Planning Board, addressed the Town Council, stating that he believed that the Planning and Zoning Commission had an important planning role, centered around land use. To expand that into being the planning function for the entire Town, which would encompass all of the finances for the Town, security of the Town, and all of the other things that were involved. He stated that as experts, the commission could make recommendations to the Town Council, however, if the members become generalists, the very important role that zoning takes in Palm Beach would be diluted.

President Wyett commented that he would like to see some changes in the operation of the Planning and Zoning Commission; the Commission should meet more often and consider less items per session. Town staff should also have the opportunity to break down the study items into more depth.

Mrs. Wendy Victor, 208 Via Tortuga, encouraged the Town Council to go forward with the plans for the education programs for all of the commissions. She noted that the Landmarks Preservation Commission had the opportunity to hear speakers, etc., funded by the Preservation Foundation, and that perhaps some of the local organizations could provide funding as well.

Councilman McLendon commented that roughly 80% of the lots in the northern area of the Town were nonconforming. He suggested that variances were often granted because of that fact, and he hoped that there was something that the Planning and Zoning Commission could do to modify the zoning.

Mayor Smith commented that the zoning code of the Town of Palm Beach was the envy of the entire county, and the problem today was that too many variances were granted. If the code was modified to make it easier to obtain variances, the whole ambiance and quality of the Town would be destroyed. She suggested that less variances should be granted, and that she was violently opposed to modifying the zoning code.

Zoning Chairman Dick Kleid commented that the Planning and Zoning Commission believed that variances should be handled by the Zoning Commission and then be appealed to the Town Council if necessary. He explained that most Zoning Commissions handled that portion of business, and that the expertise existed on the Commission with respect to variances.

Councilman McDonald commented that he agreed with the statements of the Mayor that too many variances were granted. He stated that the Town Council had the traditional role of considering variances, intending to maintain the small Town feeling and ambiance of Palm Beach.

Councilman Brooks commented that he agreed with the Mayor and Councilman McDonald. He stated that he would love to see the Commission become the Planning and Zoning Commission, bringing their findings and reports to the Town Council, while trying to preserve and maximize greenspace and limit development.

Councilman Goldblum applauded the Planning and Zoning Commission on the powerpoint presentation regarding over-development on the north end. He noted that there was a Special Town Council meeting scheduled to review that subject. He stated that he expected the Planning and Zoning Commission to make recommendations to the Town Council for consideration.

In response to Mayor Smith, Mr. Kleid replied that the members of the Planning and Zoning Commission had been asked if they were willing to serve on a 12-month basis, and most of them said that they would come back once or twice during the summer, however, not on a continuous basis. He stated that it was believed that the Commission should meet for a longer season, and that the zoning season had been extended through May 31st. He suggested that the Commission meet once a month during the season, and several times during the summer.

Mr. Kleid advised that the Planning and Zoning Commission was looking for input from the Town Council as to exactly what functions it would handle.

Mr. Harrison Robertson, 134 Jamaica Lane, member of the Planning and Zoning Commission, suggested that the Town Council should transfer the hearing of variances to the Commission for consideration, with the applicant having the right to appeal to the Town Council. He stated that he believed the members of the Commission could be more objective in their considerations, since the Commission positions were appointed and not political. He also suggested that the ordinance be amended so that the Planning and Zoning Commission was the planning agency for the Town of Palm Beach.

In response to Councilman McDonald, Mr. Robertson replied that the Commission could be required to meet 12 months a year; a majority of the members had indicated that they were able to do that.

Ms. Susan Markin, 176 Kings Road, alternate member of the Planning and Zoning Commission commented that she sensed several frustrations. She pointed out that she had the ultimate respect for the Town Council, and that she loved the Town of Palm Beach. She stated that the Commission wanted to do what the Town Council directed; she stated that she thought the Town needed a much stronger Planning and Zoning Commission. She noted that the traffic on the Southern Bridge area was dictated by the traffic light in West Palm Beach – seven cars at a time could get through the traffic light during rush hour. She stated that the responsibility of the members of the Planning and Zoning Commission should not be dictated by whether the members wanted to come to a meeting once a month, but should be dictated by the needs of the Town. She stated that she believed the Town Council should deal with bigger issues, much bigger issues affecting the Town, rather than whether someone gets a wall that is three feet high. She suggested that a strong Planning and Zoning Commission would make the Town a lot more efficient in terms of the bigger issues that the Town Council needed to address.

Mr. Moore suggested that staff meet with the Planning and Zoning Commission to review some of the issues discussed today, and bring back a list to the Town Council incorporating the items discussed.

Mr. Bill Watchman, 269 Miraflores Drive, member of the Strategic Planning Board stated that he was alarmed by what he had heard at this meeting. He stated that it was critical that the Town have strong planning on an ongoing basis – not a task force for a few months. He stated that he saw zoning as one of the avenues for implementing a plan.

Ms. Joanna Golina, 245 Seminole, member of the Planning and Zoning Commission, stated that she appreciated many of the remarks heard today. She stated that the Planning and

Zoning Commission was ready to step up to the plate and do whatever the Town Council would like it to do; the expansion of the role of the Commission would be welcomed. She stated that she believed the Commission needed the power to set an agenda; if there were issues that came to the forefront that needed to be studied, the Commission should have the ability to study those quickly. She stated that most of the members of the Board had agreed that they could meet monthly; she stated that she believed that the members of the Commission had given Mr. Moore a good idea of what the Commission wanted to do. She stated that she believed that the variances should be handled by the Commission, to allow the Town Council to make any final determinations. She recommended that the Town Council consider giving the Commission the planning function along with the title, and that the Commission was ready, willing and able to step up to the plate.

Mr. Al Flamm commented that discussion of the expansion of the role of the Commission had centered around land use development, re-development, and related issues, which he found perfectly appropriate. He stated that he could not think of anything more important than the planning function, which was the function of the Town Council.

Town Attorney Randolph advised that Florida Statute Chapter 163 related to planning in the State of Florida; he advised that he would provide a copy of the statute, which defined the role of planning, and may give a better outline of types of things that planning and zoning commissions ought to handle.

Mr. Moore advised that staff would meet with the Planning and Zoning Commission to discuss the issue and return to the Town Council with a list of items that the Commission may want to consider.

Mr. Kleid stated that it was very clear to him that the Town Council did not wish the Commission to take on the obligation of hearing special exceptions and variances, and he also stated that he had the impression that the Town Council would like the Commission to limit its planning to zoning and land use. He stated that if that was the feeling of the Town Council, the Commission was perfectly willing to work within those parameters. He stated that he was not quite sure what would be accomplished by having a meeting with staff.

Councilman McDonald commented that, without having read Chapter 163 of the Florida Statutes, he would suggest delegating most of the land use functions to the Planning and Zoning Commission in the planning sense, with the Town Council being the ultimate planning body overall, even if the Zoning Commission held the land use function.

Town Manager Elwell clarified that further discussion would take place at the May 11, 2004, Town Council meeting, prior to which additional information would be received from both the Town Attorney and the Town staff, and any additional input from the Planning and Zoning Commission.

Mr. Peter Rock, 44 Cocoanut Row, addressed the Town Council, questioning why the Town Council would want to handle all of the variances, special exceptions, etc.

Mr. Heinz Gundlach, Algoma Road, commented that the Town Manager was in charge of the operation of the Town; he offered to assist free of charge to simplify the process.

Item No. 5:

Encourage the Planning and Zoning Commission to conduct an annual workshop with the Architectural Commission (ARCOM) and the Landmarks Preservation Commission (LPC) to solicit feedback on planning and zoning issues.

Director of Planning, Zoning & Building Robert Moore recommended that the Planning and Zoning Commission hear input from the other commissions, because the end users of the actions of the Planning and Zoning Commission were the Landmarks Preservation Commission and the Architectural Commission.

Councilman McDonald moved approval of Item No. 5, as recommended by staff. The motion was seconded by Councilman Goldblum. On roll call the motion carried unanimously.

Item No. 6:

Provide ARCOM with the ability to fill required architectural positions with a non-resident, as has been utilized successfully by the LPC.

Director of Planning, Zoning & Building Robert Moore advised that ARCOM Commission Chairman Floyd had requested that his comments be forwarded to the Town Council: he is in favor of this policy, providing there are no available architects in the Town as residents to fill the position.

Councilman McDonald moved approval of staff recommendation No. 6. The motion was seconded by Councilman Brooks. On roll call the motion carried unanimously.

__Item No. 7:__

Direct staff to work with Commission Chairpersons to pursue guest speakers when possible and where appropriate.

Councilman Goldblum moved approval of staff recommendation No. 7. The motion was seconded by President Pro-Tem McLendon. On roll call the motion carried unanimously.

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Town Manager Elwell requested that Town Attorney Randolph address the suggestion that the Code Enforcement be given the authority to foreclose, rather than recommending foreclosure to the Town Council.

Town Attorney Randolph advised that Florida Statute called for the Code Enforcement Board to make the decision in regard to foreclosures, however, the Town had always taken the position that because the Town Council made the decisions regarding finances, it was a good idea to bring the recommendation to foreclose to the Town Council. It had been a procedural situation, and was a policy decision as to whether the Town Council wanted to continue with the present situation.

Councilman Brooks recommended that the Town Council maintain the right to approve foreclosure action, and that he recalled the issue had been addressed by the Town Council several months ago, when the Town Council had agreed to retain the right to approve a foreclosure.

President Wyett stated that since there were no objections, the policy would remain as it was currently.

Town Manager Elwell advised that the Recreation Advisory Commission had recommended that members be appointed from alternates. He explained that at the present time the Town Council had the right to make a selection from all candidates applying.

Councilman Goldblum commented that he had reviewed the minutes of the Recreation Commission and that members should not be automatically appointed because there was an opening; consideration must be given to attendance record, etc. in order to make a judgement call.

The Town Council determined that the policy would not be changed and would remain as was currently in place.

D. Purchase of New Rescue Transport Units

Town Manager Elwell explained that there were two fire-rescue units that were scheduled to be replaced, and there was money for those units in the equipment and replacement fund. Also, because of recent donations, there were sufficient donated funds to buy those units, and for the reasons set forth in Acting Fire-Rescue Chief Deiorio's memorandum, staff believed it was advantageous to purchase three units together at this time. Town Council authorization was needed because of the magnitude of the cost, which was beyond what staff could authorize. There was a $156,003 cost for each of the three units, and the request was for approval to expend the funds, even if it was just the two donations. In addition, authorization was requested to pay for the third unit, if a donation was not received. The funding would come from the equipment replacement fund.

Acting Fire-Rescue Chief John Deiorio commented that his memorandum included two parts – one dealing with the purchase of the three units and justification for that; the second part explained why a spare reserve unit was needed.

Councilman McDonald moved approval of the purchase of the three rescue units. The motion was seconded by Councilman Goldblum. On roll call the motion carried unanimously.

Councilman Brooks complimented the police and fire departments regarding the actions taken last week in the horrible rip-tide situation at the end of Sunset Avenue.

VII. Strategic Plan Review (if necessary)

A. Review of Input Received from the Public at Community Forums on February 25 and 27, 2004 (and in writing).

Town Manager Elwell advised that the input from the Community Forums had been summarized, and distributed to the Town Council in a three-page report. He noted that he had been disappointed with the turn out of the meetings, and that approximately 50 residents had participated. He noted that staff would be considering some options in holding future Community Forums that would be more efficient and that would garner meaningful input from a broad cross section of the Town; staff would make some recommendations in that regard at a later point this year.

President Wyett echoed the disappointment in attendance, and thanked those who took the time to attend.

Discussion took place regarding a citizen survey process; Mr. Elwell indicated that staff would provide some cost information for consideration of the Town Council.

Town Manager Elwell advised that there were several letters received from individuals who had not been able to attend the Community Forums, who had provided their thoughts in writing. In addition, there was some material from Dr. Sten Lilja who had some further information that he wanted to share.

In response to Councilman Goldblum, Public Works Director Al Dusey replied that the work done in 1987 had involved the roadway protective seawalls only; the existing Town Council policy was that if someone wanted to do substantial work on a roadway protective seawall, the Town could be petitioned to participate in the cost of the repair.

Mr. David Barton commented that in the drainage study, there had been a forecast that on the seawalls on the lake side, a five-foot surge that came through the gap near the Palm Beach Country Club would inundate the area. There were no seawalls there, and it was a very vulnerable spot. He suggested that a Town policy could be adopted that would require a new owner of property to raise the seawall five feet.

Dr. Sten Lilja addressed the Town Council, stating that he believed that this was the last chance he would have to bring up the seawall question, and he wanted to be sure that the Town Council understood what he would say. He proposed that the Town investigate the costs and worthiness of building seawalls; to say that we don't know, and to just charge ahead with something else was not the right solution. He stated that he was interested in preserving the property and the shoreline of the Town, and that he believed that seawalls were the way to do that.

B. Review of Strategic Plan Implementation to Date.

Town Manager Elwell reviewed the Strategic Plan Implementation Plan, explaining that the items were presented in chronological order in the Implementation Plan because that provided the prioritized order that had come out of the Strategic Plan process.

Item D3. Young Families: Pursue community enhancements and other actions to attract, encourage and support young families, including but not limited to the following: Provide playground at north end (nursery site) if feasible.

Mr. Elwell explained that there had been a tentative offer of a boundless playground on the nursery site, which had not resulted in action, as it had been decided that the playground would be built elsewhere. He suggested that during the upcoming budget process, staff consider the feasibility of constructing a traditional playground at that site.

Former Mayor Marix addressed the Town Council, stated that the area in question was covered in the greenspace amendment, which prohibited any construction on Town owned greenspace.

Mayor Smith replied that she understood that any greenspace question in the Town could be taken to the people in the form of a referendum.

Mr. Elwell replied that the way it had been recommended in the plan was that, rather than go to referendum with a concept over the playground facility, it would be better to develop that concept into a proposal where a plan could be shown to the people, and then have an intelligent vote.

Public Works Director Al Dusey advised that staff was in the process of getting a feasibility study regarding the possibility of the playground. It was planned to notify all residents in the area, and come back to the Town Council in May to consider the recommendation.

Item F1. Emergency Water Supply - Modify Agreement: Modify present agreement with West Palm Beach (if necessary) to allow development of an emergency (not an additional) water source.

Mr. Elwell reported that the issue had been given substantial consideration this year, and the decision had been made not to pursue a separate emergency back-up water supply, but rather to continue with the advanced security effort that had already been put in place, with contingency planning for how to address any emergency circumstances that could arise if the security was penetrated.

Councilman Goldblum suggested that staff prepare a list of emergency facilities or agencies along with an inventory of what they could provide.

President Wyett suggested that individuals keep a supply of bottled water on hand in the case of a contaminated water supply, as the public water supply could not be depended upon in the case of a full contamination.

Mr. Elwell suggested that modified language be inserted in the Strategic Plan that would address situations where issues had been addressed, and there was now a different course based upon policy determinations made by the Town Council. He indicated that the necessary language would be developed on each item, and staff would present the proposed language to the Town Council.

ItemG5: Construction Parking; Identify and apply techniques to reduce the impact of construction parking, including but not limited to: a) centralized/shared parking; b) off-island parking.

Mr. Elwell advised that the current policies were being administered and there was no additional action at this time; there may be a change in that policy at such time there was an overall traffic/parking improvement program.

Councilman Goldblum commented that the current policy must be enforced.

Police Chief Reiter advised that the primary enforcement mechanism for construction parking was the Public Works Department right-of-way inspector. It was difficult to enforce because of the construction work circumstances; the Police Department was not equipped to determine what phase the project was in; there was a communication necessity between the Police Department and the Public Works Department.

Mayor Smith commented that it was impossible to get by construction vehicles when there were multiple projects taking place on the streets.

President Wyett commented that Queens Lane, for example, was often somewhat blocked by vehicles parked on the side of the street where no parking was allowed; there was no attempt to force people to park only on one side. He suggested that warnings, and tickets, be given out to force people to park only on the designated side of the street.

Police Chief Reiter responded that when the police officers observe situations that were unsafe, the vehicles were moved; there was a period of time that enough cars were towed that people complained, and it was realized that the cars could be towed to a nearby street, rather than a towing company. He stated that parking was a horrible problem, and was further complicated by construction.

Councilman Goldblum suggested that the Public Works Department send notification to the Police Department of where the construction permits were and the dates they expired.

Chief Reiter responded that he would remind all parking enforcement officers of the problems discussed today.

Mr. Dusey advised that the general contractor was responsible for any construction vehicle going to the site – three spaces were allotted to the contractor.

Mayor Marix commented that safety was her primary concern, and the ability of emergency vehicles to get down the streets. She suggested that the construction parking should be stopped, and the contractors could be told that they would have their permits pulled if the parking regulations were not obeyed.

Mr. Elwell indicated that a staff report regarding enforcement would be provided to the Town Council for consideration.

A4. Public Communications; Expand opportunities for public communication and involvement in Town governance, including the following: b) Publish a Town Newsletter mailed to every resident on a regular interval.

Town Manager Elwell reported that the Town website had been improved, and more traditional ways of providing information to those who did not use computers was also being improved. The Town Cable TV channel provided information in a bulletin board format. He also mentioned that it had been proposed to have the Town Council meetings televised.

Mr. Elwell noted that the only additional suggestion at this point, would be to publish a newsletter; he estimated that a quarterly newsletter would cost $60,000 per year, and staff would be happy to review the matter if so directed.

Mr. Bruce McAllister, 240 Bahama Lane, commented that there was a mass of information that came from the Town to the residents, which was readily available to anyone who wanted to read it; yet, there was the underlying frustration as to why the Town had done something one way or the other. He recommended that it was not so much information that was needed, but explanation of why things were done in a certain manner. He suggested that perhaps the Town Council could designate one member to address, from time to time, a problem that was causing frustration among the residents, and with the help of staff, set forth in writing an explanation as to why something happened in a certain way.

Mayor Smith suggested that perhaps the editorial page of the Palm Beach Daily News could be utilized.

D2. Underground Utilities: Pursue opportunities to place utilities underground, including the following: a) Oversee an evaluation of the technological and economic feasibility of installing utility lines underground to provide information to decide on the desirability of proceeding on a long-term project. The study should include alternative methods of financing. The word "oversee" is used since there are resources such as local civic organizations, representatives of other municipalities, etc., who are readily available to assist in such an effort.

Mr. Elwell noted that there was a Special Town Council meeting scheduled to address underground utilities in detail. The Town was currently on schedule with implementing what had been recommended in the Strategic Plan.

D5. Nuisance factor - Noise: Improve the effectiveness of the Town's noise ordinance including revised noise standards, measurement, enforcement techniques, etc. Accomplishment of this objective may require additional personnel. Pursue tighter regulations on internal combustion equipment such as leaf blowers and chain saws.

Mr. Elwell noted that noise would be discussed at the upcoming Town Council meeting on April 13, 2004.

G1. Traffic & Parking Improvement Plan. Prepare an integrated traffic and parking improvement plan to include components as stated in the Strategic Plan.

Mr. Elwell commented that the Strategic Planning Board had given many hours of consideration to traffic and parking, and had identified a long list of things that should be examined, without any specific indication of what should be done. It was recognized that creating more free-flowing traffic in Town was not necessarily the best thing for the Town. Parking had also been considered by the Board, and the Board had recommended that there be a comprehensive study of traffic and parking that would recommend ways to improve the utilization of parking and traffic flow. The estimated costs were $100,000 - $200,000; a defined scope of work would more clearly define the costs. He explained that the Town Council had deferred the issue last year to this year, with the idea that funding would be examined.

Councilman Brooks commented that he believed a comprehensive traffic study would be needed.

President Wyett commented that he would prefer to wait for a study, given the development going on in West Palm Beach.

Councilman Goldblum suggested a small study to review the use of the parking lot on the north side of Worth Avenue.

Mayor Smith commented that the Strategic Planning Board had reviewed all of the parking in the Town of Palm Beach, and had concluded that the Town was not utilizing the available parking spaces – if people could not park directly in front of their destination, it was considered a parking problem. It was also considered that parking and traffic was a problem only during four months of the year. The Strategic Planning Board had recommended a traffic and parking study to address concerns raised, such as permit parking, employee parking, a centralized parking system, and the impact of commercial encroachment on residential areas.

Town Manager Elwell recommended that staff obtain some prices for a study, however, it would be broken down into pieces – at least a traffic piece and a parking piece, and some unit prices would be obtained.

Town Manager Elwell noted that a petition had been submitted earlier today by a group of people in the Sunrise Avenue area, requesting that Sunrise and Sunset be studied as a one-way pair.

Mr. Alec Flamm commented that the Strategic Planning Board had concluded that traffic and parking was one of the major irritants to the quality of life in Palm Beach, and that there was the obligation to look into the issue.

Mr. Peter Rock commented that the main focus should be on Town residents, and what is going on "across the pond" should be ignored; while making it very desirable for them not to come to the island. He suggested that perhaps rather than publish a newsletter, the assistant to the Town Manager could do a study informally about the parking problem.

H1: Neighborhood Impacts: Limit impact of commercial encroachments on neighborhoods by requiring neighborhood impact assessment for all residential-to-commercial re-zonings and increases in commercial intensity.

Town Manager Elwell advised that the Town had started the practice that every time there was any proposal to modify the zoning frm residential to commercial, then neighboring residential area is analyzed for the impacts.

J6: Erosion Control Line Exemption: Seek modifications to Florida State statutes to exempt properties down drift from inlets (such as the Town of Palm Beach) from Erosion Control Line (E.C.L.) requirements.

Town Manager Elwell advised that the deadline for this recommendation by the Strategic Planning Board was the year end of 2003. An intense effort had been undertaken last year, continuing this year, with the angioplasty effort. The E.C.L. was something that would stay on the agenda for the Town, however, given the emphasis of the angioplasty issue, the E.C.L. issue had not been pursued, and was something that would be addressed during the next legislative session. In the absence of any specific direction to the contrary, that was how staff would proceed.

Mayor Smith suggested that both issues be added to the agenda in October so that the Town Council could discuss them before the next legislative session begins.

L7: Property Taxes: Approach the Florida State Legislature to promote tax fairness for property owners in the Town of Palm Beach.

Town Manager Elwell commented that Mayor Smith had made this a personal high priority last year, and Representative Domino had introduced legislation to extend the Save Our Homes cap to make it portable, which would address one of the major concerns that are related to how Save Our Homes can make taxes imposed on two nearly identical adjacent properties so very different from one another.

A1: Strategic Planning: Continue and expand the strategic orientation of Town government with the following measures:
b) Monitor and periodically revise the Strategic Plan.

Town Manager Elwell advised that the Strategic Plan was being monitored and would be periodically revised and that the process that was going on at this meeting would be done on an annual basis.

At this time, Mr. Elwell advised that the next several items relating to the future were either at the no action yet to be taken stage, or at the early action stage, and all were on schedule. He offered that he would stop and explain any of them more explicitly if so desired, and then move on to page nine of the Strategic Plan Implementation Schedule & Status Report (Report of Town Staff Administrative Matters).

Mr. David Barton commented that the policy of relying on market demand to allow what is constructed in any part of the Town must be altered to be more policy driven, and not market driven. He submitted photographs of property in Town that exhibited the scale of what is being built, and stated that there were no policies in place to stop it.

Mr. Elwell explained that the Town Council had scheduled an upcoming meeting to discuss the zoning issues; there was a multi-year program in place to continue to address these issues, and the Town was on schedule as per the Strategic Plan.

Town Administrative Matters:

Town Manager Elwell explained that he would skip over every item that was complete or on schedule; he would only address those items where there was some deviation or some action necessary.

K5: Drainage on State Roads: Submit a request to Florida Department of Transportation (FDOT) to improve drainage on State Roads, especially A1A.

Town Manager Elwell advised that FDOT had rejected the request to improve drainage on the segment of roadway between Lake Worth Road and Southern Boulevard on A1A. Staff would continue to work with FDOT as the remainder of the A1A project was completed.

J1: Beach Nourishment: Implement the Expanded Mid-Town Beach Renourishment Project and the Phipps Ocean Park Beach Restoration Project.

Town Manager Elwell advised that the expanded Mid-Town Beach Renourishment project had been completed, and the Phipps Ocean park Beach Restoration Project had been delayed. It was hopeful that a permit would be issued sometime in May.

K3: Modified Development Standards: Identify opportunities to adjust development standards for increased water retention in an effort to further reduce storm water loads from properties being redeveloped.

Town Manager Elwell advised that at this point staff was not pursuing additional steps because every redeveloped property was now required to retain two inches of water; additional regulations had been put into place as to how those systems would be monitored for recertification. He explained that the Town was now above the requirements that were normal in this area.

In response to Mayor Smith, Director of Planning, Zoning & Building Robert Moore replied that the two inch retention requirement was more than any jurisdiction required anywhere in south Florida.

Mr. David Barton commented that the two-inch system was a fraud, and did not work. He explained that the reason why it came into question was because of lot coverage; the properties being developed were required by the ordinance to retain the same amount of water that it was retaining prior to being developed, which was folly, because there were no records of what it retained before.

Mr. Elwell replied that he objected to the allegation that the two inch retention was fraud or folly or impossible to be a workable solution. All of the engineers who were working on the plans for these systems had reviewed the systems to be sure that they were adequate.

L1: Town Balance Sheet: Improve awareness of the Town's overall financial condition with a GASB34 required Statement of Net Assets which reflects all Town assets (land, facilities, equipment, etc.) This statement is similar to a private sector Balance Sheet.

Town Manager Elwell reported that the GASB34 implementation had occurred ahead of schedule, and was completely implemented.

L4: Golf Course: Assess the financial condition and structure of golf course operations.

Town Manager Elwell advised that staff had examined the golf course operation very thoroughly one year ago, and the golf course was now part of a leisure services enterprise fund, and there was a business plan and several very specific steps that had been taken.

K1: Drainage System Improvements: Implement trunk lines and pump stations as set forth in the town's adopted drainage system improvement program.

Town Manager Elwell advised that the improvements were on schedule, with the exception of the one project which was deferred out of respect for the residents' concerns.

The D-1 project would be reviewed next year so that alternatives could be discussed for completion of the project.

Recommendations for Ongoing Actions:

Town Manager Elwell explained that these items gave the general, philosophical, and value statement direction as to how to conduct the business of the Town. He stated that they were all being implemented, with a few exceptions:

A1: Strategic Planning: e) Any time staff proposes a policy action that is intentionally inconsistent with the Strategic Plan, the inconsistency shall be declared and explained in writing.

Town Manager Elwell explained that staff was identifying inconsistencies with the Strategic Plan, as well as identifying policy questions implementing the Plan, that come to the Town Council.

A4: Public Communications: Expand opportunities for public communication and involvement in Town governance.

Town Manager Elwell reiterated that another format would be investigated for the Community Forums for next year.

H3: Lake Worth Casino Area: Regulate Town commercial uses and monitor City of Lake Worth commercial uses east of Lake Worth Bridge so as to protect the interests of South End Town residents

Town Manager Elwell advised that the Army Corps of Engineers had just issued an application; there was a 30-day comment period that had just begun, and he expected that staff would have a report for the Town Council at the April 13, 2004, Town Council meeting.

K4: Drainage Upgrade on Individual Properties: Encourage the installation of upgraded storm drainage systems to meet current or new storm water standards on properties

which are not otherwise being redeveloped.

Town Manager Elwell advised that the wording on this item had been changed last year when there had been discussion about the difficulties with requiring installation of upgraded facilities on existing properties that are not being redeveloped. Staff had not yet taken any particular actions to encourage upgraded storm drainage systems, however, to obtain compliance with that initiative would almost certainly require a financial incentive to be offered to property owners.

L2: Fund Balances: Reassess and, as necessary, adjust Town policy regarding fund balances and reserves, employing the following principles: Manage Town's funds as one set of funds, for decision making purposes (not for accounting purposes). Provide for adjustments in reserves between enterprise funds, as needed.

Town Manager Elwell advised that the Strategic Planning Board encouraged looking at all of the Town's fund balances as a total entity for the overall health of the Town financially, rather than looking at fund by fund. Staff was now doing that, and in addition, the AAA ratings of both Moody's and Standard and Poor for the Town's recent bond issue relate to their overall favorable rating of the total fund balances in the Town.

C. Discussion Regarding Potential Changes to the Strategic Plan.

See Above

D. Description of How Strategic Planning is Being Integrated Into the Town's Budget Process.

Sea Above

VIII. ANY OTHER MATTERS

There were none.

IX. ADJOURNMENT

There being no further business, the Special Town Council meeting of March 26, 2004, was adjourned at 3:15 p.m.

Allen S. Wyett
Town Council President

Mary A. Pollitt
Town Clerk