

TOWN COUNCIL MINUTES OF MEETING HELD ON MARCH 23, 1993	
I. CALL TO ORDER AND ROLL CALL: The Special Meeting of the Town Council on zoning was called to order by President Weinberg at 9:30 AM in the Town Hall Council Chambers on March 23, 1993. On roll call, the following elected officials were found to be in attendance: Mayor Ilyinsky, President Weinberg, Councilwomen Douthit Smith and Royal. (President Pro Tem Wiener was not in attendance). Also attending for all or portions of the meeting were: Mr. Doney, Mr. Randolph, Mrs. Peters, Mr. Moore, Mr. Zimmerman, Mr. Frank, Mr. Elwell, Mrs. Crozier and Mr. William Brisson from Adley, Brisson & Engman, Zoning Consultants.	Roll Call
II. INVOCATION AND PLEDGE OF ALLEGIANCE: Invocation was given by Mrs. Peters. Pledge of Allegiance was led by Mayor Ilyinsky.	Invocation
III. PROOF OF PUBLICATION: Mrs. Peters confirmed the legal advertisement was published but the Proof of Publication has not as yet been received.	
IV. APPROVAL OF AGENDA: Motion was made to approve the agenda by Mrs. Smith with the following additions under Any Other Matters: 1. Charitable Solicitations for Hope House of the Palm Beaches and the Comprehensive Aids Program of Palm Beach County. 2. Set hearing date for Mar-a-Lago Special Exception application. Motion was seconded by Mrs. Royal. On roll call, the agenda was approved as amended.	Approval of Agenda
V. PROCEDURES FOR COMMENTS BY GENERAL PUBLIC: Mr. Weinberg advised staff will give their comments, and Mr. Brisson will give his comments, then the Council will discuss it and public comments will be received after which the Council will go into Executive Session to make the final determinations.	Procedures for comments by public
VI. ZONING PROPOSALS: A. MODIFICATION TO SIGN REGULATIONS _ LOGOS IN COMMERCIAL DISTRICTS. Mr. Moore explained the Zoning Commission considered this matter once again and recommend the following: (a) Amend Section 2.10, "Definitions" to add a new definition (29 (29.05) "Logo" to read as follows: "A graphic representation, letter, character, symbol, trademark, design or crest, or combinations thereof, used to identify a business or organization." (b) Amend Sec. 6.33 (b), "Permitted Lettering" to read as follows: Permitted signs shall consist of lettering which specifies the name of the establishment and/or the nature of the business. Logos shall be allowed provided that such logo will fit within a box twelve (12) inches square. Not more than one such logo shall be permitted on each building street frontage face and the area of such logo(s) shall be counted towards the maximum allowable gross area of signs. Mr. Moore advised they discovered a glitch in the language and new language was distributed to the Mayor and Council which would read: "Logos shall be allowed provided that such logo will fit within a box twelve (12) inches square. Not more than one such logo shall be permitted on the street frontage of each business establishment and the area of such logo shall be counted toward the maximum allowable gross area of sign." Mrs. Douthit commented the logos cannot be seen from an automobile and could only be seen by those who are walking and she felt twelve inches square was too large, suggesting it be reduced to eight inches square. She exhibited a piece of cloth which would be eight inches square and she thought it could seen very clearly as one walked down the street. Mrs. Royal asked what is the maximum signage per building? Mr. Moore responded buildings with street frontages of 18' or more, may have twenty square feet and less than 18', it would be ten square feet; and what was being proposed would be 144 square inches regardless of the frontage. He explained if Mrs. Douthit's proposal is accepted, it would be 64 square inches. Mr. Moore reported Mr. Wood of the Zoning Commission did a survey of some of the existing shops which had signs and logos and this was distributed to the Mayor and Town Council. Mr. Weinberg called for public comments: Jesse Newman addressed the Council noting the business community in the Town has been decreased in commercial zoning throughout the years and he believed they were probably the only ocean-front community in the United States which could make that statement and where business has enhanced the residential properties. He recalled 100 Worth Avenue used to be a public swimming pool with shops and is now the Winthrop House; 101 Worth Avenue used to be a hotel; all along Ocean Boulevard were motels and now it is residential. He was making the point that the business community always wants to live up to the reputation and identity they have throughout the world as Worth Avenue is a street of elegance and prominence and this has not happened by accident. He stated with that preamble, he would like to make the point that the logo is not just something that has happened but goes back to the Greek hieroglyphics where the word logo meant words as before there were words, there were symbols and signs. He stated whether it is called the Code of Arms or the Trademark, a crest, a logo or an architectural detail. He stated the Zoning Commission was understanding and used common sense to note the fact that logos are important in our every day way of life.	Zoning Logos Amend Sect. 2.10 Amend Sect. 6.33 Logos Logos

Logos

Logos

Mr. Newman asked what would the American Red Cross be without the Red Cross or Prudential Life without the Rock or United Way without the hands - it is a common every day way of identity and he believes a lot of progress was made in the understanding that the Palm Beach business community wants the highest grade of standards and ethical conduct and it must be happening as people when they come to Palm Beach like the charm and stroll the Avenue. He thought that as far as the signage is concerned, the Architectural Commission has complete control over the signage and the twenty square feet to include the logo would be appropriate. He does not totally agree with Mrs. Douthit on the eight inches she wants and thought that in view of the fact that the recommendation is for one logo, the twelve inches is vital, whether it is being seen from a car or by those walking. He believed if the logo is included in the total signage figure, the Architectural Commission does have control. He thought if it were made smaller, that could open the door for more than one logo. He asked the Council to consider the recommendation of the Zoning Commission and they adopt the twelve inches for logos as he strongly believed the control of the Architectural Commission and the control of the Associations in Town, all will police themselves.

Mr. Weinberg suggested a change to the amended language and that would be to add the words "no more" after the word "box" and the new language would read: "Logos shall be allowed providing that such logo will fit within a box no more than twelve (12) inches square."

Mrs. Peggy O'Brien addressed the Council noting she has recently rented a home here and started a business and is a librarian and she does have a logo and is a firm believer that business people should be allowed to have logos. She distributed her card with the logo which was a globe with the words "Teach them to care".

Jeffery Smith addressed the Council asking if the words "graphic representation" would be a better term than "logo" as most company logos are registered and cannot be changed. He thought if the term "graphic representation" were used in the Sign Ordinance, the Architectural Commission could have input in making color changes or deletions. Attorney Randolph responded the point is well taken, however, the definition itself includes the words "graphic representation" and he didn't believe it would make that much of a difference. Mrs. Smith asked if the lettering in the logo would count as the lettering in the signage using as an example the card just handed to the Council by Ms. O'Brien. Mr. Randolph thought the lettering would be subtracted from the overall signage. Mr. Newman asked if the words "graphic illustration" as recommended by Mr. Smith be included as "also known as" and he suggested it should also include "architectural detail". He noted there is an architectural detail over the entrance to the Building Department and it is beautiful and it is larger than the twelve inches and he could see nothing wrong with it. He advised they are in favor of as much control as possible. Mrs. Smith responded the Town of Palm Beach put the logo there and there is no signage with it as it doesn't say "Town Hall" also. Mr. Newman recalled Mr. Moore has called this an architectural detail and that is the point he is making. Mrs. Douthit reminded all that the Town does not have to abide by its own regulations although it frequently does, however it does not have to.

Mr. Moore advised what is before them is the issue of the logo or a graphic representation, however, they wish to say it, but the architectural detail is not before them today. Mr. Randolph stated the definition does not include architectural detail, nor would it prohibit anyone from including architectural detail. Mr. Moore agreed.

Attorney Randolph referred to Mr. Smith's statement indicating he was not sure they could entirely avoid the problem as even if the words "graphic representation" were used, rather than logo, the problem will still exist.

Mr. Weinberg called for further public comment and there were none. Mrs. Douthit advised she would like to see the logos at the eight inch figure and she moved that the logos be allowed not to exceed eight inches square, which would be totally visible to those walking along the street. Mr. Randolph advised that motion would be to approve the Zoning Commission's recommendation as amended by staff with its language and with the words "no more" inserted by the President.

Mrs. Smith asked if someone had a logo which was a larger size, could they come to the Council for a variance to which Mr. Moore responded affirmatively. Mrs. Smith seconded the motion.

On roll call, the motion did not carry (3-2). Affirmative votes cast by Mrs. Douthit and Mrs. Smith. Negative votes cast by Mrs. Royal and Mr. Weinberg. Mayor Ilyinsky broke the tie by voting against the motion, explaining his reason was for a great number of years, he has represented a company which makes the Boston Whaler and he was asked by them if he would be interested in opening up a small office in Palm Beach to keep the Boston Whaler name in front of the public. He recalled the Boston Whaler people do have a unique logo and he told them no because this matter was still not resolved. He stated their logo is world famous. He stated he was walking down a street in Paris and spied the Russian double eagle logo on a shop and would not have gone into that shop if that logo had not been there. He stated he was going to vote against the motion and would be in favor of the 12" size, as he didn't believe that was so enormous that it would offend anyone. Mr. Weinberg pointed out they didn't have to have a twelve inch logo as it could always be less.

Motion was made by Mrs. Royal to permit logos on signs not to exceed twelve inches square with the rest of the language as stated previously. Mr. Randolph commented this is to approve the Zoning Commission's recommendation with the inclusion of the amendment as presented by staff with "No more than twelve inches" to which Mrs. Royal agreed. Seconded by Mrs. Smith. On roll call, the motion carried 3-1 with Mrs. Douthit voting against the motion on the grounds that she views 12" as being too large.

Zoning
R-B District

B. MODIFICATIONS TO LOT, YARD AND BULK REGULATIONS - R-B DISTRICT. Mr. Moore recalled this item was also sent back to the Zoning Commission for review and the architectural community was invited to come to the Zoning Commission and offer their comments to this problem. Mr. Moore noted a letter has been received today from the President of the Palm Beach Board of Realtors, Mrs. Carol E. Digges, and he believed from the tone of the letter they felt the Town was adding unwarranted, unnecessary language and viewed this as an infringement of the property rights of the individual property owners of the Town. He did not believe the proposals changed the Floor Area Ratio. He advised the lot coverage was increased from 25% to 30% and the issue of cubic content was discussed. He noted Mr. Brisson will discuss the reduction proposed of five feet in the mass itself and an increase in height of three feet in the overall structure, which would result in a net reduction of two feet in the overall structure. He indicated there was a proposal of one story structures to be put on a certain level and Mr. Brisson will also address that item.

Mr. Moore read the recommendation of the Zoning Commission:

(a) Amend Sec. 2.10 "Definitions" to add a new definition (11.04) to read as follows:

(11.05) BUILDING, HEIGHT OF (APPLICABLE ONLY IN THE R-B DISTRICT.

The vertical distance measured from the grade established by the Town for the crown of the public street or road at its height elevation abutting the lot to the top of the beam or plate of the top story. The Grade as identified above, is defined as the zero datum for the lot.

In the event the street is at 7.5' or higher, then the building height shall be the vertical distance measured from the top of slab to the top of beam or plate of the top story.

Mr. Moore indicated this also related to the Town's Flood insurance and gains a better handle on the way heights are measured and he called on Mr. Brisson for his comments.

Mr. William Brisson of Adley, Brisson & Engman, Zoning Consultants, addressed the Mayor and Council, indicating he will give them a rundown of the recommendations of the Zoning Commission and noted most of the changes (a) through (l) are administrative changes necessary to incorporate the substance of the recommendations and are rewordings to make appropriate references. He advised essentially the Zoning Commission recommended reducing the allowable building height of two story structures from the 25' as now measured to the top of the ceiling, to 20'. He stated they also suggested the allowance for the roofing be changed and allow a three foot additional height for the parapet on a flat roof structure and up to eight feet for any of the other roof styles, such as the peaked type roof.

Mr. Brisson recalled at the present time, 25' of story height is allowed for two story structures plus five feet for the peaked roof or two feet for the parapet, and the Zoning Commission is proposing it be 20' plus an allowance of three feet for a parapet or eight feet for the peaked roof.

Mr. Brisson advised the second recommendation is to reduce the single story allowable height from 15' to 12'.

Mr. Brisson advised the third recommendation is the way the building height is measured, essentially stating the building height will be measured from the top of the slab to the top of the topmost beam of the second story. He stated the other recommendations are all changes in the language of the Ordinance necessary to be consistent, so he would like to deal with the substance as he thought it would be a lot easier.

Mr. Brisson noted the primary proposal is to reduce the allowable building height and in the two story structures, it would be from 25' to 20'. He exhibited a drawing showing the 25' two story structure and the top of the structure is 25' and up to five feet for the peaked roof. He stated under the proposal the face of the building is being reduced, the mass of the building by five feet, and taking it down to 20', which reduced the face of the building, or the mass and it makes it appear smaller, however, it does allow instead of five feet for the roof, eight feet. He stated the two foot reduction may not be truly significant in the overall height of the building but the mass reduction is significant as the roof generally slopes away and the height of the building above the top story line is not as noticeable.

Mrs. Douthit asked if they were able to incorporate the space within the structure as in high ceilings, so that more interior space is being gained. Mr. Brisson stated that would be true this for cubic air space, and he will discuss that further when they discuss the cubic contents later in the meeting. He commented they could have the ceiling rise into the roof and that space above the top story beam would not count against the cubic content, so there is the flexibility of having additional cubic content beyond whatever limitations might be imposed if that regulation is adopted. Mrs. Douthit asked if dormers would be allowed in the roof to which Mr. Moore responded affirmatively.

Mr. Brisson pointed out the drawings reflect allowing the two story lot coverage to go up to 30%; and also incorporates the reduction in cubic content. He advised that essentially a two story structure can be built at 25' within the two stories plus a five foot roof which would produce an overall height of 30' and that would allow the .45 FAR, with 4500 square feet, with 2250 on each floor. He stated under the proposal the story height would be reduced to 20' and that can be a 11.5' first story with 1.5' for the construction and another 8' story on the second story. He stated this would be limited to 4500 square feet which is limited to cubic content. He commented this could be accommodated in another way as they could build split level type homes where they can have the maximum allowable story height on the first floor and the second story and they could achieve the FAR of 4500 square feet. He stated he did have an area of concern as far as reduction height as proposed by the Zoning Commission is when it deals with a single story structure. He recalled at the present time, they are allowed to have a 15' single story structure with a 10' roof up to 25'. He felt that under this Zoning Commission proposal, they would be reducing the 15' to 12' so the ceiling height would be 12' and they could have an eight foot roof or a 20' high structure. He stated if they had a flat roof with the parapet, they would add three feet.

Mr. Brisson proposed an alternative recommendation on one basis, that they leave the existing story height for a single story structure at 15' as it is now, but only allow the 8' for the peaked roof as is proposed for the two story structure and allow the three feet for the parapet, so in essence, they could have a building which could be twenty three feet, which would consist of fifteen feet to the top story, eight feet for the roof or if it were a flat roof, it would be fifteen plus three or eighteen feet. He knew this was considerably less than what is allowed now. He stated his reason for this alternative proposal instead of the further reduction proposed by the Zoning Commission is he finds it difficult to say that a two story structure twenty feet high with an eight foot roof is alright, but a fifteen foot structure - one story - isn't. He finds that hard to justify from a planning viewpoint.

He repeated his recommendation which was to reduce the building height for a two story structure from 25' to 20'; allow three feet for a flat roof for the parapet and eight feet for a peaked roof for both the one story and two story structures; leave the fifteen foot building height for one story structure and make various changes to the text which are identified in his memorandum and also in the Zoning Commission recommendation which keeps the Zoning Ordinance consistent and

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changes the measurement of the building height from measuring it from the crown of the road to measuring it from the top of the building slab to the topmost story of the building.

Mrs. Smith asked how the architects reacted to his suggestion at the Zoning Commission meeting? Mr. Brisson responded he did not make that suggestion to the Zoning Commission. He recalled at the Zoning Commission meetings, he had a different approach to reducing mass and bulk which was changing setbacks and the cubic content and additional setbacks for extra height. He stated the design community suggested that rather than going through these particular steps, they reduce the height of the building. He stated at that point one story was not a significant problem, but the Zoning Commission thought it was and they felt the single story height should be reduced. He agreed with the Zoning Commission that height was the simplest way of reducing the bulk and mass.

Mrs. Smith noted the recommendation Mr. Brisson made to the Zoning Commission was not the recommendation he is making here today. Mr. Brisson responded he did suggest to the Zoning Commission that the single story height be left at fifteen feet but they wished to reduce it to twelve.

Alexander Beal, the Chairman of the Zoning Commission addressed the Council noting there is a difference between the Zoning Commission recommendation and the recommendation of Mr. Brisson. He recalled they were instructed to study the cubic feet of the residences and this is what they did and they cut down considerably on the cubic feet. He thought it was rare for a single family to be fifteen feet as normally it is eight, nine or ten feet, so it is his suggestion that the proposal which the Zoning Commission recommended be adopted.

Robert Deziel, Zoning Commissioner, addressed the Council indicating the Zoning Commission did make a recommendation for a one story height limitation and now we hear Mr. Brisson's recommendation, which is different. He thought more importantly than comparing the numbers 15 and 12 is what is up there right now, as for the most part, the R-B Zoning District is the north end and the one story residences which are located there now are in the height range of eight to ten feet, so when the Zoning Commission recommended fifteen feet, it did so with the thought in mind of where they would be going in the future. He stated the homes in the north end with fifteen foot heights are homes which have been built within the last ten years. He stated a few other issues is the decision is going to be where do they want the trend of their architecture to go in the future. He wanted to put a perspective on to what Mr. Brisson said. He stated they backed off to the fifteen by taking into consideration what is located there today and didn't recommend it, by stating that is how they want their new homes to look, but they tried to have a melding of the future with the past.

Mr. Deziel felt that all by itself, Mr. Brisson's comments do not make sense.

Mr. Deziel stated another item on the height limitation and whether it should be for the two story or for the one story and also where the vertical height is measured from. He pointed out a typo in the recommendation read by Mr. Moore on this subject, pointing out "height" should be "highest" to which Mr. Moore agreed.

Mr. Deziel felt the height measurement could be maneuvered depending on where the grade is measured from and it is understanding that the general height difference between the crown of the road and the slab of a building is generally 18". He thought on one hand it would not be fair if they have a property owner who we are trying to limit their ceiling to 20', and if for some reason, the measurement they were measuring from was quite high and they weren't given the full twenty feet to work with. He didn't believe that was the intent but it is something that could happen with the way the language is written today. He gave as an example: If someone had a lot which was considerably higher say 18" than what the crown of the road is, he thought it should be discussed and considered to have that grade brought down to 18" higher than the road, assuming they are still above the flood level of 7'5". He thought perhaps they wanted to gear the language with the concept that they get twenty feet; secondly, they get 18" from the top of the crown of the road, if needed to get them to seven and one half feet. He stated if for some reason the slab is only 12" above the crown of the road, the height shouldn't be measured from the crown of the road. He stated they should measure it from the slab to the top and get 20' and if they get 18" from the crown of the road, those should be the rules. He didn't believe that was what it said. He recalled they have to allow people 7.5' for flood regulations. He recalled they never agreed upon this at the Zoning Commission, although it was discussed conceptually but they never agreed upon the language. Mrs. Smith asked if there was some reason why they did not work on the language? Mr. Deziel stated this was an issue that was left to the Staff and Town Attorney to resolve, as it was more of an administration situation.

Mrs. Douthit felt if a property was built up to 7.5 because of Flood Insurance and they are in an older neighborhood which is at 4.5, so automatically before they build the slab, they are at 3.5' and then having the house on top of that would make it tower over all of the neighboring properties which were built earlier. She thought they should look into this as the regulations being passed do not fit the community in any way. She wondered if they lowered the height of the house because the ground has to be built up higher, and it would be a distinct horror to the neighborhood.

Mr. Moore recalled there were discussions at the Zoning Commission regarding this but he did wish to address several issues raised by Mr. Deziel. He commented in the event the property is higher than the street, the procedure in place now would still be in place and that is a variance. He thought a good example would be the homes built between Southern Boulevard and Widener's Curve as everyone of those homes has a higher lot. He stated if a hardship is involved with a lot which would be at elevation 3.5 and if they needed a variance to get the 20', they would apply for a reverse variance.

Mr. Deziel gave an example, indicating if a street is at 7.5 and if the lot is sitting at twelve feet, the lot would be five feet higher than the street and the way it is written, the twenty feet would start from the slab at the five feet, or six or eight feet, whatever it took to pour the slab, so the 20' would be started from the lot and then would be going up. He thought if that is what the Council wants to do, where they then would be 25' above the crown of the road, that is fine with him but this is something that ultimately needs to be addressed.

Mr. Moore pointed out they come now and ask for a variance. He stated the intent is not to prevent them from getting the twenty feet in the language. Mr. Deziel stated his point is yes,

they do come for a variance but it is not so bad now as they have the extra feet to work with. He felt when these extra feet are now taken away in terms of the height limitations, there really won't be that much room for people to maneuver the height and not have to come for a variance. He stated if they had a street that was only two feet below the 7.5, there will be many variance requests for that situation.

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Mrs. Douthit recalled flood variances have been granted in the past, but basically it was for remodeling. Mr. Moore explained this would be a different type of variance. He explained the intent was not to create an anomaly and if Mr. Deziel has some language he would be glad to hear it. He didn't believe there could be language written for the higher properties, such as the west side of North Lake Way just south of the Country Club, as this is high topography. He didn't think that problem of the higher lot and the lower street is a major concern, but what is a problem is the low street and having to build up to the 7.5. He stated it was never the intent to deprive the property owner of a right to build within the twenty feet they are talking about here in the proposal.

Mr. Deziel believed the concept would be to measure the twenty feet from 7.5' plus an allowance of up to whatever the staff would propose and his suggestion would be eighteen inches for natural grading from the crown of the street to the slab. Mr. Deziel asked what would they do if they were on a street where the elevation is four or five feet and the slab has to be at 7.5, he views them losing 3.5' from the 20' in building height they have. Mr. Brisson explained in a case like that, the way this is written they could build to 20' from the three feet above the roadway. Mr. Deziel disagreed stating it does not say that. Mr. Moore stated there was no intent of depriving that property owner of the disadvantage of having to build up the lot, if the street was at elevation 4. Mr. Deziel reported the way it reads now, they would start the twenty feet from the street unless the street is above 7.5'.

Mr. Moore stated they are addressing it by the fact they are reducing the overall height by five feet, so it is being addressed. He stated Mr. Deziel's point is well taken and he didn't think it was the intent of the Zoning Commission nor the staff to deprive the property owner, however, they can still come for a variance.

Mr. Gene Barbato addressed the Council pointing out on a low street, the elevation is measured from 7.5' in the Code. Mr. Moore agreed. Mr. Deziel stated the reason why that provision was in the Code is because they used to measure from the street and now they are saying they are going to measure from the slab. He thought there needed to be language added to the new provision that the slab shall not be higher than 18" above the crown of the street. Mr. Brisson believed the low streets in the R-B District would be measured as shown in Section 11.3. Mr. Deziel didn't believe they needed it as it was like having one Code provision that states it doesn't make sense now and they should go to the other Code provision.

Mrs. Smith asked if anyone had specific wording to put into writing what the concepts of the Zoning Commission were? Mr. Randolph explained they haven't changed the definition of 11.3 which talks about building heights of lots abutting low streets and it provides that in that instance the measurement shall be from the 7.5' level. He believed that that provision is still applicable and it should take care of the situation which Mr. Deziel is describing and asked Mr. Moore if he agreed? Mr. Moore stated he does but Mr. Deziel is stating that this would make it more simplistic and they would be able to read it in one place rather than two places. Mr. Randolph stated if the intent is as stated in 11.3, they can come back in the final reading of the ordinance which will take care of that intent.

Mrs. Smith asked Mr. Deziel if he was objecting on behalf of the Zoning Commission to which Mr. Deziel responded affirmatively. Mr. Deziel proposed the following language:

"The vertical distance from the top of slab to the top of beam or plate of the top story. The slab of a building shall not be higher than 18" above the crown of a public street or road at its highest elevation abutting the lot."

Mr. Moore stated he would like to study this with Mr. Randolph although it sounds like it would work. Mr. Randolph stated they wanted to look at the whole Ordinance to make sure it does what they want it to do.

Mrs. Royal asked if after all this is adopted, would it be possible for someone to build a house without a variance request? Mr. Moore responded it is his belief that other than the A typical condition of a high lot, they would not need a variance.

Mr. Barbato addressed the Council once again stating he thought the problem they were running into is most of the heights in the north end are about four feet and the problem is they have to go to 7.5' and what they are seeing is the larger house being built on a lot at four feet, and it has an immense look. Mr. Moore stated the problem is caused by the Federal Government who mandates from where that floor is going to be built. He recalled when the regulation went into effect in 1974, they had to meet the flood level requirements that the Federal Government set up, and the Town of Palm Beach's is 7.5, 8 and 10, depending on what part of Town it is and the Town has no control over it. Mr. Barbato stated that is what is causing the mass of the houses being built.

Mrs. Smith knew this was a tremendous problem in the north end and it could destroy the integrity of the neighborhood and those who have sat on the Architectural Commission are well aware of the problem.

Mr. Barbato did not see the advantage by allowing two story houses to increase their lot coverage to the thirty per cent. Mr. Moore felt it was an advantage to the designer and they don't have to go to the thirty per cent as that is a maximum figure.

Mr. Moore advised all of these matters are interrelated (Items a through e) to the overall philosophy of reducing the mass of the structures as well as provide some increases in what the maximums or minimums are now, and they sort of work together as a package rather than on an individual basis, but he thought they needed to discuss all of the items found in the Zoning Commission's report.

Item (b) - Amend Sec. 2.10, "Definitions" to modify the title of definition (11) BUILDING, HEIGHT OF. to read as follows:

Amend Sect.
2.10

11. BUILDING, HEIGHT OF (APPLICABLE TO ALL DISTRICTS EXCEPT THE R-B DISTRICT)

Item (c) - Amend Sec. 2.10 "Definitions" to modify definition (11.1 BUILDING, HEIGHT OF, CORNER LOT to read as follows:

In those cases involving a corner lot, as defined in this section, the zero datum for the lot set forth in (11) and (11.05) hereinabove...

Item (d) - Amend Sec. 2.10 "Definitions" to modify definition (11.2) BUILDING, HEIGHT OF, THROUGH LOT to read as follows:

In those cases involving a through lot as defined in this section, the zero datum for the lot grade as set forth in (11) and (11.05) hereinabove...

Item (e) - Amend Section 2.10, "Definitions" to modify definition (11.3) BUILDING, HEIGHT OF, LOT ABUTTING LOW STREETS to read as follows:

For the purpose of establishing zero datum lot grade in (11) (11.05) (11.1) and 11.2) hereinabove...

Mr. Moore advised the Council they needed to address Items (a) through (j) and asked for Mr. Brisson's comments.

Mr. Brisson referred to Item (f) in the Zoning Commission's Report which reads:

(f) Increase allowable lot coverage for two-story buildings from 25% to 30%.

He advised what this does is allow the designer the flexibility of having a greater first floor and a smaller second floor, if they wish. He stated the previous limitation of 25% tended to force the designer to a boxy structure if maximum square footage was desired. He recommended approval of this item.

Mrs. Douthit thought this made sense to give greater versatility and greater design possibilities and she moved that Item 2 (f) to increase allowable lot coverage for two story buildings to 30% and she so moved. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Mr. Brisson stated the items discussed earlier relate to Items (a) through (e) and (g) through (k). Mrs. Smith stated she believed the language needed to be modified and asked if a concept could be approved. Mr. Randolph advised if they didn't want to approve it, it was not necessary and normally before they go ahead with the approval of the Ordinance, they do approve the actions but if the Council was not comfortable in approving it until the language was modified, they didn't have to. Mrs. Smith felt if it is written wrong, it will create more problems for the property owner instead of less. Mayor Ilyinsky indicated they do have the opportunity to do that when they vote on the Ordinance. Mrs. Smith thought that was what was happening today.

Mr. Moore asked if there could be a conceptual direction to draw up the language with the intent discussed earlier by Mr. Deziel and Mr. Randolph, which was not to penalize the property owner with a low street.

Mrs. Royal commented she would like to send Items (a) to (e) back to make sure all the language is correct. Mr. Moore noted they are all interrelated. Mrs. Royal believed they were all linked together and she would like revised language on all of them. Motion was made by Mrs. Douthit that the principle of Items (a) through (e) is fine, but the language needed to be modified. Seconded by Mrs. Royal. On roll call, the motion carried unanimously.

Item (g) Reduce allowable building height for two-story structures from 25' to 20'.

Mrs. Douthit moved to approve Item 2 (g) to reduce the allowable building height from two story structures from 25' to 20'. She stated the reduction still in her mind is not a vast reduction and the space will be useable, whereas it was not before. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Item (h) Reduce allowable building height for one story structures from 15' to 12'.

Mrs. Douthit moved to approve Item 2 (h) to reduce the allowable building height for one story structures from 15' to 12' on the same ground that she mentioned in the previous motion. Seconded by Mrs. Smith. On roll call, the motion carried with a negative vote cast by Mrs. Royal. (3-1)

(Item (i) Delete footnote 18A in its entirety and replace it with the following:

(18A) Maximum overall height of a building in the R-B District shall be the allowable building height plus three (3) feet for flat-roofed structures and eight (8) feet for all other roof styled structures. Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.

Mr. Moore stated this is changing the overall height of the parapet and the pitched roofs. Mrs. Smith asked who will make this determination to which Mr. Moore responded the Architectural Commission. He stated this was a tool put in for the benefit of the Architectural Commission who made the request.

Motion was made by Mrs. Douthit, seconded by Mrs. Smith that 2 (i) deleting the footnote 18 A and substituting the language recommended by the Zoning Commission be approved. On roll call, the motion carried unanimously.

Mr. Moore advised item 2 (J) is a housekeeping matter which deletes the reference to footnote 18 under the height column relating to the two-story structures in the R-B District and replace with a reference to Footnote 18 A.

Mr. Brisson recommended a possible change to this recommendation and a reference should be made to the one story structures also, and if that is done, the parapet will be left at three feet

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and the height at eight feet for one story structures. He felt if that reference was not made, they would be allowing a five foot parapet and a ten foot roof on one story structures. Mr. Brisson felt this recommendation is made to be consistent with everything else that has been done as the Council if they are reducing the story height, they would probably wish to reduce the parapet and allowable roof height for one story.

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Mr. Moore stated where it now reads two story structures, it would read one and two story structures.

Motion was made by Mrs. Douthit that the "one story" be included and with that modification, Item 2 J be approved. Seconded by Mrs. Royal. On roll call, the motion carried unanimously.

Item (k) Mr. Moore explained this item deletes reference to the Building Height Plane under the front yard setback column as it pertains to the R-B District. He recalled this was a tool that was used to control the mass and height as it appears from the street and in applying the changes which are already in effect, he felt this particular tool was no longer needed, so it would not be necessary to have it in the Code and the Zoning Commission agreed with that recommendation.

Motion was made by Mrs. Douthit to approve Item (K) to delete the reference to the Building Height Plane under the front yard setback column in the R-B District. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Item L. Mr. Moore explained this is a new section and he called on Mr. Brisson for his comments.

The Zoning Commission's recommendation was:

"Item (L) Add a new provision for a Maximum Cubic Content Ratio of 4.25 in the R-B District.

EXPLANATORY NOTE: While this recommendation will allow the homeowner to achieve an FAR of 4.50, it will not allow a two-story structure which is entirely built at the maximum allowable height of 20' and the maximum FAR of 4.5. Rather, either the building height must be reduced to 18.9' or the floor area ratio of the structure must be reduced to 4.25.

In order to construct a building to both the maximum height of 20' and the maximum floor area ratio of 4.5, the cubic content ratio would have to be set at 4.5 rather than the 4.25 recommended by the Zoning Commission.

In addition to the foregoing, a proposal to allow the first story of a two-story structure to be set back according to the front yard setback established for a single-story structure was offered by a member of the design community and discussed by the Commission. Although the proposal was looked upon favorably by the Zoning Commission, it was not acted upon, and remains worthy of further consideration."

Mr. Brisson advised the Zoning Commission has recommended adding a definition for Cubic Content Ratio and limiting the allowable cubic content of a structure in the R-B District to a ratio of 4.25. He stated in essence that means if you have a 10,000 square foot lot, they can have 42,500 square feet of cubic space encompassed within the structure. He stated for simplicity's sake, he will assume it would be only one structure, but it does apply to all structures.

Mrs. Douthit asked if this would include the space in a garage? Mr. Brisson responded the floor area would incorporate the floor area of those structures, the same as the FAR. Mr. Moore asked Mr. Brisson to use the Floor Area Ratio scenario as the Council is somewhat used to dealing with that. Mr. Brisson advised the footage area which does apply to the Floor Area Ratio, for example the garage, as well as the principal residence, would also apply in the cubic content. He stated in order to make this simple is the floor area of the structure times the height, which is measured up to the top beam of the top floor and that is the cubic content which could be possibly limited under these regulations. He felt it would incorporate whatever structures are incorporated within the floor area ratio, however, they assumed they had the main structure all tied together.

Mr. Moore clarified in this definition the cubic area of a tray above the beam or a cathedral ceiling would not be penalized as indicated earlier and it would not be included in the measurements.

Mr. Brisson advised the Town does limit its control of mass and bulk essentially in two dimensions - the Floor Area and the Height. He stated they have been looking at the various controls, the setbacks, the height regulations and floor area regulations, etc., and these are the tools to find the building envelope and which allows the Town to consider what mass and bulk are appropriate. He stated as they look at the Cubic Content, they are essentially adding a third dimension - another tool - which would in one respect at least set the basis for preventing a building designer to develop to the maximum extent of all the minimums and maximums they have in the Ordinance. He viewed this as one more technique which compresses and give the choice to the designer, but does set certain limitations within which he has to work in the building envelope.

Mr. Brisson advised the inclusion of a cubic content ratio also has the advantage of a direct tie-in with the Architectural Commission as that Ordinance has as one of its criteria the cubic content and it's compatibility with surrounding residences. He felt by incorporating a regulation for cubic content in the Zoning Ordinance, they have more of a direct tie which is an advantage.

Mr. Brisson discussed the effects of the regulations as proposed noting at the present time, since they will be adopting the reduction in height, and he wanted to explain the cubic content and how it affects the regulations as they have proposed to adopt them. He stated if there is a one story building which is at 12', they could presently get 36,000 cubic feet in that particular structure. He stated this would provide a 3000 square foot area, twelve feet high (not counting any tray ceilings). He stated this is a cubic content ratio of 3.6 and that is not affected by any reduction or any setting of the cubic content ratio of 4.25.

He advised on a two story structure, with the height limitations they now have, 20', the largest two story structure which can be built right now, with the reduced height would be a 3000 square foot footprint with a 12' ceiling height for the first floor, which would give them 42,000 cubic feet and then they could put a 1500 square foot portion on the top which would give them the

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total FAR of 0.45 and have the ceiling at about 8'. He stated this will give them 48,000 cubic feet and as a ratio that would be 4.8 which is the maximum that could be built under the regulations they now propose to accept. He felt if someone does wish to build a straight box, 2250 square feet on the ground floor and 2250 on the second story, maximizing the Floor Area Ratio, they actually could build a 45,000 cubic foot building and that will be the maximum that could be built. He stated the proposal is to limit it slightly from 4.5 down to 4.25, which limits the design of the building. He stated in this case, if the cubic content ratio is adopted at 4.25, they could not necessarily build a building at the maximum FAR and the maximum footprint and height. He stated the ceiling heights could be reduced slightly to keep the 42,500 cubic feet or they might squeeze the building to make it slightly smaller in square footage, which could also keep the 42,500 cubic feet. He stated that is the effect of a cubic content ratio of 4.25. He stated if they don't wish to do any squeezing, they could set the cubic content at 4.5 and that would allow them to build the typical two story 4500 square feet, total FAR at a maximum of 20'. He stated they do have a slight reduction in the allowable footage if they choose 4.25 and that is a policy decision which would prevent people to go to the maximums and is another way of limiting the maximums and minimums.

Mr. Brisson recommended that if that is the case, he suggests they add the new provision of a maximum cubic content of 4.25 in the R-B District and then secondly, add a definition which defines the cubic content ratio and he has written it along the lines of the FAR now in the Ordinance:

"A measure of land use intensity, expressing the mathematical relationship between the cubic content of a building and the unit of land. It is arrived at dividing the gross cubic content (as calculated by multiplying building height as defined in Sec. 2.10 (11.05) times building width times building depth) of all structures by the gross area of the lot."

Mr. Moore clarified that if the Council wishes no squeezing to take place on either the height, the floor area ratio or the cubic content, they would need to consider a 4.5 cubic area ratio.

Mr. Jeffery Smith, Architect, addressed the Council recalling when the architects addressed the Zoning Commission, the idea was not the entire house had to meet these high ceilings and that's where the space would come out of for the cubical content. He stated the garage, for instance, would not need to have a ten or twelve foot ceiling in that space. He thought by putting a cubical content portion in the Code, houses that exist right now in the north end, may have already been maxed out as far as their FAR was concerned, but when you look at it as cubical content ways with the ceiling heights being lower than newer homes being built, they could come back to Council for additions and use that in their favor noting that the cubical content is lower than what is allowed right now, although their square footage would be maxed out. He thought that was a good measurement of comparing of what is existing today to what is new.

Motion was made by Mrs. Douthit to approve of the Zoning Commission's recommendation for a 4.25 Cubic Measurement for the R-B District. Mr. Randolph noted this includes Item 3 as well as Item L.

Item 3 of the Zoning Commission recommendations was:

"In order to implement the recommendation under Item 2 (1) above, the Zoning Commission also included the following recommendation in the aforementioned 6:0 vote:

Amend Section 2.10, "Definitions" to add a new definition (13.35) Cubic Content Ratio to read as follows:

CUBIC CONTENT RATIO (CCR). A measure of land use intensity, expressing the mathematical relationship between the cubic content of a building and the unit of land. It is arrived at dividing the gross cubic content (as calculated by multiplying building height as defined in Sec. 2.10 (11.05) times building width times building depth) of all structures by the gross area of the lot."

Mrs. Royal asked Mr. Moore what would the visual impact be of this reduction to which Mr. Moore responded stated it would depend on how the house is situated on the property and would also make a difference as to whether the house is on a corner lot or an interior lot, but it may not affect it a bit as where the control may come could be in the rear of the structure, or the garage area.

Mrs. Royal wondered if it really mattered as if they already have the height reduction, how big their interior is if they are working within the perimeters which have been set. Mr. Brisson advised it is another tool and the Council actually doesn't care how big the inside of a house is, but how big the inside is does determine how big the outside is. He thought the primary benefit would be it ties into the Architectural Commission's criteria, and it is another tool to prevent someone from going to all the minimums and maximums. He stated it is possible it may have a small beneficial reduction in the mass and also it is possible, if they choose to reduce only ceiling heights in the rear of the building or only reduce the depth of the building on an interior lot, that it may not have any significant visual effect, however, it does have the potential to have some visual effect.

Mr. Moore believed it had a cumulative effect rather than an individual if all the regulations are put together and add that to the ones deleted.

Motion was seconded by Mrs. Smith. On roll call, the motion carried unanimously. NOTE: Later on in the meeting, discussion was had on this motion and it was agreed it was the Mayor and Town Council's intent to not include the "Explanatory Note" of Item L in the motion.

Zoning Commission Recommendation on Item 4:

"On a vote of 6 - 0, the Zoning Commission recommends disapproval of the proposal contained in the Adley, Brisson, Engman Technical Memorandum to apply the "angle of vision" to street side yards in the R-B District."

Mr. Brisson noted this was not approved by the Zoning Commission and he suggested this be put off to the next Zoning Season to possibly try to find a better solution. Motion was made by Mrs. Douthit to approve the Zoning Commission's recommendation to disapprove the proposal, and defer

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Item 4 to the upcoming Zoning Season. Seconded by Mrs. Royal. On roll call, the motion carried unanimously. Zoning

Zoning Commission Recommendation on Item 5:

"On a vote of 6 - 0, the Zoning Commission concurred with the recommendation contained in the Adley, Brisson, Engman Technical Memorandum to not impose a sliding scale FAR or CCR in the R-B District."

Mr. Brisson noted this was the possibility of instituting a sliding scale for the FAR and the CCR ratio and found in his study that it would not have much effect on the smaller structures, but would have a significant effect on some of the larger lots, as much as 15 to 20 per cent reduction in the square footage, however, he has recommended not instituting this particular aspect as the problem is when there is a larger lot adjacent to smaller lots, the homes on the smaller lots are generally within the .45 or less and if there was a larger lot next door the residence could be much larger. He commented if the sliding scale was instituted it would have to be District wide and would be requiring that someone has a larger lot, such as 20,000 square feet, which would be adjacent to another lot of that size and one had a 9000 square foot home on it, we might be limiting the new home to only 7000 square feet. He felt if they were concerned about the larger lots adjoining smaller lots and the compatibility of the bulk and mass, it should be handled by the Architectural Commission as they can use regulations and comparisons on a very small area.

Mr. Brisson felt if it was instituted District-wide, it would adversely effect people by reducing their square footage and have no beneficial effect on the neighborhood.

Motion was made by Mrs. Smith to not institute the sliding scale as recommended by the Zoning Commission. Seconded by Mrs. Royal. On roll call, the motion carried unanimously.

Mr. Weinberg referred to Page 13 of Mr. Brisson's report, Item 6.

Mr. Brisson explained since the Council has approved the cubic content and the reduction in height and the likelihood that one cannot get all combinations of the maximums and minimums allowed in the Zoning Ordinance, he has discussed with the staff and they thought this should be made very obvious to property owners that this Zoning Ordinance does not insure that a developer or designer can build to all combinations of the various minimums and maximums allowable and it is his suggestion to add to Section 4.10 a paragraph which reads:

"The restrictions and controls intended to regulate development in each district are set forth in Schedules A and B hereinbelow, which are supplemented by other sections of this Ordinance. Subsection A, Schedule of Lot, Yard and Bulk Regulations sets forth certain minimum and maximum criteria forming the building envelope within which development may occur. These regulations are not intended to allow development under many of the possible combinations of the minimum and maximum thresholds set forth herein."

Mr. Brisson explained this is a method of alerting the property owner that he is not guaranteed the ability to have maximum FAR and maximum height and minimum setbacks and maximum cubic content, etc. and rather would be limited in one form or another to some of those minimums or maximums.

Mr. Moore clarified many times they hear the comment, if it is in the Zoning Ordinance, why am I not permitted to have such and such. He stated this is a tool for the staff to talk with potential builders and their designers.

Mrs. Smith asked why is it a tool as if they are saying they can build to the maximums and the maximums are not acceptable, why is this a tool to explain to them that they cannot do it? Mr. Moore responded that what the Ordinance is saying is if they build a house, the maximum area of cubic content may not be achieved with the ceiling heights they may want, however, the cubic content could be laid out in such a fashion that 10' ceilings were permitted on the first floor and 8' on the second floor, this would give the staff the opportunity to point out early on that if they try to maximize or build to the complete outer limits, they may not be able to achieve all of the maximums or minimums.

Mr. Randolph referred to Item L and asked when the Council approved that item, was it to have the Explanatory Note go into the Ordinance as that would do what they are intending to do here. Mr. Moore responded it was not their intention to have the Explanatory Note included in the Ordinance. Mr. Randolph felt they should then have something like Mr. Moore is explaining in the Ordinance.

Mrs. Smith stated she assumed the Explanatory Note was going to be in the Ordinance, which she thought would have made this matter they are discussing a moot point. Mr. Moore responded he could put the Explanatory Note in if that was the intent of the Council in lieu of the recommendation. Mr. Randolph asked if there was any other instance where they could achieve the maximums and minimums other in this particular instance to which Mr. Moore responded he was not aware of any. Mr. Brisson believed if they were going to build a 0.45 FAR two story box with 2250 square feet on each floor, the setbacks would have to be more than the minimum required. He stated the combination of minimums and maximums in order for that building to be such a size on a 100 square foot lot, so it could only be 60' wide and that would leave twenty foot sideyards which are not required, but in order to have a box of that size, they would not be able to extend into the sideyards as far, so any number of things might occur - they might not be at the minimum sideyards, and perhaps the minimum front yard and the minimum back yard and the maximum floor area and maximum height and cubic content. He stated the combination of them all could not be achieved.

Mrs. Smith felt if the Explanatory Note under "L" was in the Ordinance, it would make that clear and then the provision just read would be unnecessary.

Mr. Deziel addressed the Council stating he didn't think they wanted that Explanatory Note or if they do, it could be a general statement which would apply to the entire Code, as this one doesn't work. Mrs. Smith noted the Explanatory note takes into consideration the 4.5 and they approved the 4.25, so that would be the difference. Mr. Moore believed that they could handle the problem by changing the "Explanatory" to a "For Example" which would be satisfactory. Mrs. Smith asked if the figures approved would be put into the example to which Mr. Moore agreed.

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Mr. Deziel recalled the history of this was the Zoning Commission thought they needed something in the Code which states that with all the Code rules, the builder or designer should not look at one and think they could get every individual one they are looking at and there was just no way they could have everything. He gave as an example if they wanted to go to a 30% lot coverage, they may think they could build a second story which would give them a 60' FAR and the background on the issue was they wanted to put the residents and builders on notice that they can't have everything in the Code and the different tests and the different rules are intertwined and some are subject to others. He stated it was his thinking the Explanatory Note should be deleted as it has a negative tone to it and just put language in wherever Mr. Randolph thinks it is appropriate that says while there are many rules in the Code, not everything can be achieved and they have to comply with all the rules on a cumulative basis and not an individual basis.

Mr. Randolph advised that recommendation was under consideration on Page 13 of Mr. Brisson's report. Mrs. Smith thought it was part of the Building Department's job that when the people come in, they have to be informed what the restrictions are. Mr. Moore stated that was the purpose of having it included in the Section under Lot, Yard and Bulk Regulations, as many times before they come to the Building Department the architects have already started their design using the available envelope and then when it is pointed out to them that they can't, it causes hard feelings and that is why they would like to have it in the Ordinance. He agreed with Mr. Deziel that it may be too narrow to include the Explanatory Note in that particular area and it might be better to put it where Mr. Brisson has recommended in the front language of the Lot, Yard & Bulk Regulations.

Mr. Randolph asked if they were recommending the additional language to 4.10? Mr. Moore responded affirmatively. Mr. Randolph suggested additional language: "These regulations are not intended to allow maximum development under many of the possible combinations." Mr. Moore agreed.

Motion was made by Mrs. Douthit to approve the recommendation as read to amend Section 4.10 and to include the language read by Mr. Randolph that the regulations may not allow maximum development. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Mr. Randolph noted it was not the intention of the Council when it adopted Item L to include the Explanatory Note to which the Council and Mayor agreed.

Sect. 4.20

ITEM 7 IN MR. BRISSON'S REPORT: CHANGING THE FRONT YARD SETBACK FOR TWO STORY STRUCTURES. Mr. Brisson indicated his recommendation would be to amend Section 4.20 A. Schedule of Lot, Yard and Bulk Regulations to change the minimum front yard setbacks for structure in the R-B District to read as follows:

First Story - 25'
Second Story - 30'

He stated the Zoning Commission reacted favorably to allowing the first story of a two story building to be set back to the existing setback for a one-story building, or 25'. He recalled the Town has used the second story setback of 30' for any two story building and at the time this was done, they were not building as high or as wide and essentially what was done the building was put back a little further which resulted in the forcing of the flushed face building as there was no incentive to set the second story back from the first story, so basically the whole building was set back which resulted in the boxy look. He thought now it would be appropriate to let the first story be set back at the twenty-five feet which will encourage the variation in the heights of a building. He felt this would also alleviate the pressure on the rear yard by pushing the building forward and leaving more space in the back yard, but not creating a mass as any second story portion will be set back at the 30'.

Mr. Weinberg asked why the Zoning Commission did not act on this proposal? Mr. Moore responded it was discussed with the design community and inadvertently they were not asked to act on it. He believed it was worthy of consideration by the Council. Mrs. Smith did not think the Council should act on this since the Zoning Commission did not act on it and she thought it should be deferred until next year's Zoning Season and she so moved. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Res. 12-93

VIII. CONSIDERATION OF RESOLUTION NO. 12-93 - ADOPTING THE FLOOD PLAIN MANAGEMENT PLAN FOR THE TOWN OF PALM BEACH. Mr. Randolph read the Resolution by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, ADOPTING THE TOWN'S FLOOD PLAIN MANAGEMENT PLAN WHICH EXCEEDS THE MINIMUM REQUIREMENTS ESTABLISHED BY THE NATIONAL FLOOD INSURANCE PROGRAM COMMUNITY RATING SYSTEM FOR A REPETITIVE LOSS PLAN.

Mr. Doney explained a memorandum has been prepared by Mr. Elwell dated 3-17-93 giving the background on this. He stated the Staff had understood from the Insurance Services Office that as a result of the Staff preparation, and transmittal to the Insurance Services Office that the Town would be eligible to receive the 5% Flood Insurance Discount. He noted they subsequently been advised by letter that the Town Council must adopt a Resolution and he recommended it be adopted. Mrs. Douthit moved for approval of Resolution 12-93. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

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IX. CONSIDERATION OF POTENTIAL REFUNDING OPPORTUNITIES OF TOWN'S GENERAL OBLIGATION BONDS - PRESENTATION BY REPRESENTATIVES OF SMITH BARNEY. Mr. Doney recalled at the March 12, 1993 Special Town Council Meeting, Mr. Scott Heath of Smith Barney addressed the Council and discussed the potential opportunities which existed for cost savings by refunding the Town's 1986 General Obligation Bonds. He advised it is on today's agenda to seek authorization for the Town to formally engage Smith-Barney and Mudge, Rose, Guthrie & Alexander and authorize the Town staff and Town attorney to proceed with all necessary actions so that the Town can capture the opportunity to achieve a cost savings. He noted the Vice President of Smith-Barney Michael Hole is here today to review this with the Mayor and Town Council.

Mr. Hole addressed the Council recalling about a year ago, they completed the 1992 refunding with a savings of approximately \$375,000. He noted Mr. Heath did present information to the Council on March 12, 1993 and was authorized to start with the initial process of putting together a refunding plan and they will update and go over a time table today. He noted an update has been presented to the Council as to where the market is today.

He noted the sheet does show the four outstanding General Obligation Issues which the Town currently has, and they have been analyzed. He pointed out the series 1973 Issue has an interest rate of 4.75, which they would recommend that issue not be refinanced. He noted the 1985 issue has an eight per cent coupon but the balance is \$250,000 which will be paid off in July of 1993, so the cost of refunding that would not pay for itself and it is recommended that issue also not be refinanced. He stated the Series 1986 issues have interest rates between 5.5 and 6.75 and that is the candidate for refunding in today's market, which is at 2.2 to 5 per cent.

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He advised the new Bond Issue as far as the refunding plan would be structured similar to the outstanding bonds, and the payment dates and final maturity would be the same and they are not lengthening the debt and would be paid off in the same time frame as the Series 86 Bonds were contemplated to be paid off. He advised they will be calling in the 1986 Bond and issuing similar bonds out at today's interest rate, which will achieve debt service savings over the life of the issue.

He discussed the target savings level, which is similar to what was done last year. He stated they have approximately two weeks of work to put the Town into a position of entering the market. He stated he would like to know from the Council their feelings about moving in and capturing the savings of the market. He stated the savings on a present value basis would be in 1993 dollars. He stated one of the ways to make the determination as to when would be the right time to move into the market and achieve the savings with the refunding is to measure the amount of the net present value savings, after all the costs of performing the transactions are paid, what would be remaining to reduce the tax bill of the taxpayers. He stated that savings last year were at approximately 3.5%.

Mr. Hole advised they have to be very careful in setting this target date, as this will be the last opportunity to refund these bonds, as the tax law precludes them from refunding them again next year, even if interest rates were lower, so they must be careful that the target is set which will be worthwhile for the Town to go through this process, but at the same time, they don't want to set the target too high as if interest rates start to move upward, they would have left "money on the table." He recommended is to authorize Smith Barney to move into the market when they are ready and if the market will produce at least three per cent savings in terms of a present value number, based on the amount of bonds issued. He believed the savings could be at least three per cent of the amount of bonds that are being refunded, or in 1993 dollars, approximately \$175,000.

Mr. Hole referred to the time table noting the Town Council did direct Smith Barney on March 12, 1993 to explore this opportunity and bring the process to put the Town into a position to go into the market. He stated this past week the refunding plan was completed and it was identified that only the 1986 Bonds are a candidate at this time. He stated the first draft of the prospectus is available and a draft resolution has been prepared and is being reviewed by the Town Attorney and staff.

Mr. Hole indicated if they proceed with this refunding, they will be sending credit packages to the rating agencies tomorrow and be finishing up the documents next week and be in a position the week of April 5, 1993 to look at the market and if the present value savings is there, they would go into the market at that time. He stated if the market is not there, they would wait and put the financing on hold and if interest rates continue to rise and the three per cent is never achieved, there is no obligation to the Town to move forward with the financing and there would be no monies spent as this is part of Smith Barney's service to the Town.

Mr. Hole advised if the market is strong and they are able to achieve the target, they will market approximately six and one half million dollars of the Town of Palm Beach General Obligation Refunding Bonds and a special meeting of the Town Council would be called. He stated this is necessary as the bonds cannot be confirmed until the Town formally meets and adopts the Bond Resolution and Purchase Contract. He stated at that time is when the Town is obligated to move forward with the transaction.

Mr. Hole summarized he would like to have the Town Council's discussion on whether they agree that the three per cent figure or approximately \$175,000 of present value savings is a reasonable number and get authorization to go into the market and capture that savings when the market is there.

He stated if a Special Town Council needs to be called during the week of April 5, they will do so if the market is there and if it is not, they will shoot for April 13, 1993 and if the market is not there that day, he will be at that Council Meeting to keep the Council informed and why the three per cent target was not hit and discuss possibly lowering that target, if they feel the rates will never be there. He wished to give the market a chance to hit the three per cent, as that is what he is comfortable with and that would be for now and the next regular meeting on April 13, 1993.

Mr. Weinberg asked if the savings of \$175,000 were net to which Mr. Hole responded affirmatively. Mr. Weinberg asked if this was after the fees were paid to which Mr. Hole responded it would be after all the professionals' fees are paid, including Smith Barney. Mrs. Smith asked what their fee actually would be to which Mr. Hole responded they are proposing \$11 a bond or 1.1% of the issue. Mrs. Royal asked if the 1.1% included Mudge, Rose's fees? Mr. Hole responded it does not, and the overall cost of issuance budget is \$59,000 which the main component of that is the Bond Counsel fee, which includes the rating agencies and it does include everything other than the underwriter's discount. Mr. Weinberg asked what that would amount to in dollars? Mr. Hole responded it would be approximately \$70,000.

Mrs. Smith asked if this bonding process is similar to other projects the Town does, and would it have to go out to bid? Mr. Hole responded it does not as this process cannot be done in a competitive bid environment. He referred to the 1970 issues, which are "new money" products meaning those bonds were issued for the sidewalk improvements, the water and sewer improvements, and they put those bonds out for bid because there was no escrow involved and those bond issues are very straightforward bond issues where they simply put it out to bid and Smith Barney did that. He advised on advance refunding, they cannot do that because of the preliminary work which must take place and the timing aspects to try and catch the market on any one particular day. He recalled last year they waited for two or three weeks to catch the market. He stated they must advertise on a day certain when bids will be taken and there is an obligation to take them on that particular day and hour, and it is not definitely known if that interest rate will be the one to maximize the savings, so in advance refunding, when the whole key is timing, they do not recommend that be put

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out for bid. He stated they do take the responsibility on themselves to put this together and underwrite the bonds when it is appropriate.

Mr. Weinberg asked when an ordinary investor gets a prospectus, it usually indicates a number of brokers or bankers involved and asked if this was exclusive with Smith Barney? Mr. Hole responded the direction given on March 12, 1993 was they would put the financing together with the same team as was used last year, and one local firm was used, and they would be proposing to do the same thing here and they would also be using Mudge Rose as the Bond Counsel. Mr. Weinberg asked if the Town was still listed as Triple A? Mr. Hole responded he would be confirming that and the documents will be sent to Moody's who has confirmed the standing on the existing debt, and Standard & Poors has the Town listed with a double A and that means they can market the bonds without insurance.

Motion was made by Mrs. Smith that Smith Barney be authorized to proceed with Mudge Rose as the legal counsel and the Town Staff be authorized to carry forth with the related actions that are necessary to allow and enable staff to assist Smith Barney to enter the market and attempt to maximize the savings; and if necessary, a Special Town Council Meeting be called to approve hopefully the three per cent figure. Seconded by Mrs. Royal.

Mr. Doney advised that under the direction of the Bond Counsel, Mudge Rose, there will be one Resolution, and perhaps another Resolution to consummate the actions of Smith Barney and what has been discussed today.

Mrs. Royal asked if the Town would be responsible for the cost of \$59,000 of Mudge Rose plus the expenses of Smith Barney of \$70,000 if they do not achieve their target goal? Mr. Hole responded they are not, as all of the professionals which comprise their team have agreed to work without fee, contingent upon the Town achieving the savings and they will assume the risk if it doesn't happen.

On roll call, the motion carried unanimously by those members present. (Mrs. Douthit had left the meeting).

X. ANY OTHER MATTERS:

Charitable Solicitations

A. CHARITABLE SOLICITATIONS:

- 297-93 - Hope House of the Palm Beaches
- 337-93 - Comprehensive Aids Program of Palm Beach County.

Mrs. Peters explained both of these applications did come in after the last Council meeting and they wish to have their events before the next Town Council meeting, and she was requesting approval with a waiver of the advertising rule, advising they have been approved by Staff. Motion was made by Mrs. Royal to approve the Charitable Solicitation applications with a waiver of the advertising rule. Seconded by Mrs. Smith. On roll call, the motion carried unanimously with the members in attendance. (Mrs. Douthit had left the meeting).

Landmarks Preservation Celebration

B. LANDMARKS PRESERVATION CELEBRATION ON MAY 14, 1993. Mr. Moore recalled there were no funds budgeted for this event and they will be asking for donations, recalling Mr. Ilyinsky and Mrs. Wiener did pledge monies at the Finance & Taxation Committee meetings last year. He advised the Charitable Solicitation Application will be before the Council at the April 11th Meeting and a letter requesting donations will be sent over Mrs. Volk's signature.

Special Excep. App. for Mar-A-Lago for use as a club

C. SPECIAL EXCEPTION APPLICATION FOR MAR-A-LAGO FOR USE AS A CLUB. Mr. Moore explained the application has been received and the staff is going through the review process and he suggested a special Town Council meeting be set to hear this application. After discussion, the Mayor and Town Council suggested the date of May 13, 1993 which will be acted on at the April 13, 1993 Town Council Meeting when the full Council is in attendance.

Adjournment

XI. ADJOURNMENT. There being no further business, the meeting was adjourned at 12:40 PM.

Grace T. Peters
Town Clerk