TOWN OF PALM BEACH
SPECIAL TOWN COUNCIL MEETING
FEBRUARY 29, 1996

I. CALL TO ORDER AND ROLL CALL

The meeting was called to order by President Smith at 2:00 p.m. on February 29, 1996 in the Town Council Chambers. On roll call the following Elected Officials were found in attendance: Mayor Paul Ilyinsky, President Lesly Smith, Leslie Shaw, President Pro-Tem Jack McDonald, Councilman Samuel McLendon, Councilman Allen Wyett.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

The Invocation was given by Mrs. Mary Pollitt. The Pledge of Allegiance was led by President Smith.

III. APPROVAL OF AGENDA

A motion was made by Councilman Wyett to approve the minutes as written. The motion was seconded by Councilman McLendon. The motion carried unanimously.

IV. UPDATE ON TELECOMMUNICATIONS ACT OF 1996

Mr. Jakubiak addressed the Council, referencing his memorandum given to each member of the Council. Mr. Jakubiak explained the three main sources of revenue received from franchise taxes. The first source was the franchise fees from the telephone system. The Telecom Act is no longer just dealing the Cable system; it is dealing with cable, telephones, wireless systems, paging radio networks, and connections to computers. All those competing technologies may offer potentials for new revenues that the Town can receive. There is also the possibility of certain revenue sources with new technologies. For example, if a telephone company provides video dial tone service, you might see a loss of franchise fees from cable which would then become the competing technology. As far as revenue sources, from Comcast the Town receives a 5% franchise fee which allows the cable company to work in the rights-of-way in the Town to lay their cable or to do whatever work it takes to improve the cable system. That 5% fee is per Federal Statute and is still applicable with the Telecom Act of 1996. We are now collecting approximately $120,000-$130,000 per year which goes into the General Fund from Cable Television Franchise. The Town also received a 1% telephone franchise fee from Bell South which is approximately $41,000 and we will have an issue if the cable company chooses to provide telephones. There will then be another 1% fee that the Town may be able to collect down the road. In addition to the franchise fees, the Town has an Ordinance, Section 21-34, which discusses public service taxes. The telecommunication taxes we receive are 7%. Mr. Jakubiak gave the Council an exhibit prepared by the Finance Department that listed over 40 companies that provide this tax. Currently in FY 95, the Town has received $528,000 from telecommunication taxes. This includes anything from a wireless service to cellular paging radio, etc. The reason this will be an important source of revenue is that we can see that the Telecom Act will provide competing technologies. Comcast for example is in a consortium with Sprint, Cox Enterprises and TCI. They recently purchased one of the largest, most expensive wireless licenses at recent FCC auctions. Those auctions have completed at least for the first two rounds and are going on for the lower megahertz bands. What that means is that a cable company will now be providing cellular service. The cellular service and the airways in this community as well as many other communities are now controlled through the FCC with these companies that have purchased the licenses. We are looking right now at $700,000 of revenue that we feel is going to be very important in the upcoming years to protect. Also be staff will be very careful in finding any competing companies that are doing business in the Town, and feels that they are going to have to abide by our Ordinance and the Statutes for the Town to recover those monies.

Mr. McLendon questioned if the percentage fees that the Town is able to charge, over the different types of services that are rendered, are set as a maximum by the State or Federal Government or is there some latitude that the Town would have beyond that. Mr. Jakubiak replied that the 5% is the maximum amount that the Town can collect for cable under Federal Statutes. The 1% is per State Statute and is the most that municipalities can collect for the telephone franchise. The State Statutes address the 7% and the Town did implement an Ordinance to collect the 7%. Mr. McLendon questioned whether all these fees were passed through to customers. Mr. Jakubiak stated yes they were passed on to subscribers of those services.

Mr. Jakubiak stated that the new Telecom Act, which he has only had the opportunity to review over the last couple of weeks, raise some legal issues that the Town would need to resolve. For instance, the Telecom Act states that a municipality cannot get a second franchise from a cable company for the provision of telephone services; therefore, if a cable company chooses to provide telephone services, we cannot get a second franchise for that. The Town's original intention in the franchise agreement was to exclude the telephone service from the cable franchise and have just a cable franchise. Mr. Jakubiak stated that he is concerned, and still feels that, based on everything staff has researched, the 1% fee for telephones provided by telephones is a fee that the Town is entitled to recover. How the Town recovers it still needs to be addressed, whether it's through a franchise agreement, or through a new telecommunications ordinance, these are still issues that will have to be brought back to Council. Mr. Jakubiak stated that the Town has broadened the franchise agreement to include everything from January 23 and the language is now included to allow the Town to collect those types of fees in telecommunications. The Town is assuming that the cable company is moving ahead with telephone services. The other issue is the Cable Act isn't very clear, i.e. a telephone company that chooses to provide cable services, even though the Telecom Act states the Town cannot get a second franchise from a cable company, it doesn't address clearly the opposite as to whether the Town can provide two franchises to a telephone company. Mr. Jakubiak stated that the telephone franchise expires in 1997. Mr. Jakubiak explained that the franchise fee is a fee just for the companies to work in the rights-of-way, so anyone providing cable (whether telephone or cable) has fees committed for works in the rights-of-way.

Attorney Randolph stated that there are provisions in the State ordinance relating to the 1% that would allow the Town to charge certain telephone costs over and above the 1% for the number of linear feet of the right-of-way used.

Mr. William Gutman addressed the Council and stated that the Telecommunications Act is quite mind boggling in it's length. Mr. Gutman felt that Mr. Jakubiak may have missed the particular section that states if a telephone company provides video services, then the local municipalities are entitled to charge up to 5%. In other words, the same rule applies whether it's a cable company or telephone company providing video services. It was Congress' intention to make it a level playing field. As far as the 1% rule is concerned, Mr. Gutman felt Mr. Jakubiak was right that it varies from state to state.

Mr. Jakubiak stated that the other issue that was brought up in his and Mr. Doney's memo dated 2/21/96 was the potential for a franchise fee and telecommunication tax audits. There was legislation in 1992 at the State level that preempt any municipality from doing audits on a contingency basis. Legislation almost passed on a vote of 156 to 4, but the governor overroad that with a veto, so the Town is still permitted, if the Council should elect, to do a franchise fee audit. The staff is not making a specific recommendation at this time on what audits should be conducted, but there is language in the franchise agreement and the State Statute which permits the municipality to do audits. The Town has never done an audit on these monies and cannot state what those revenue sources are comprised of and whether they are completely accurate yet. The intent of an audit on a contingency basis would be a company that is willing to come in because they do see that there is a potential revenue source that presently isn't being recovered by the Town. If that is something that the Council wanted to pursue, staff would have to do a review of companies and come back to Council with a list of what those potential contingency audits might be composed of.

President Smith questioned Exhibit B, prepared by Mrs. Crozier, that listed some of the companies and some of the telecommunication taxes being recovered in the Town. Mrs. Smith questioned how staff knew these companies were doing business in the Town and how they knew there were not any more companies then the ones on this list. Mr. Jakubiak stated that the State Statutes do state that it is the Town's responsibility to inform companies that are doing business in Town of the addresses in Town and that the Town should be collecting the fee. Mr. Jakubiak stated that if the Town was involved in an annexation, the Town would have concerns whether revenues were going to a neighboring municipality. Mr. Jakubiak felt that the only problem the Town may have there is South Palm Beach because some of the Town's zip code is in South Palm Beach.

Mrs. Crozier, Finance Director, stated that approximately every 6 months she asks the League of Cities for a list of all the telecommunication companies providing services in this area. At that time, those that are not remitting taxes are sent a letter asking them to certify that they either need to start remitting taxes or certify that they are not providing services in this area. Mr. McLendon asked if he was using a third party for long distance services, other than AT&T, MCI or Sprint, how would she be aware of it. Mrs. Crozier stated that if they were licensed to provide service in the Town they would be on the list provided by the League of Cities. Mrs. Crozier stated that a resident could look at their bill and determine if their company is paying taxes to the Town. Mr. McLendon stated that he uses a third party that is not on the list. Mr. Jakubiak stated that some of these companies have elected not to bump up their fees in order to remit the 7% to each municipality, while others tack it on top of the bills. Mr. McLendon questioned if we had a list prepared for surrounding municipalities that can be cross-checked to see if some companies were being missed. Mrs. Crozier stated that we get the same master list obtained from the Florida League of Cities. In response to Mr. McLendon, Mrs. Crozier stated that the Town anticipates receiving monies from the hotels for the tax on the surcharge for the first time in April.

Attorney Randolph stated that these charges cannot be retroactive. Mr. Randolph stated that it was discovered that this is a practice that we should have been doing and the hotels have been notified that we would start requiring this within 60 days of the letter.

Mr. Shaw stated that in looking at some of the companies on the list, specifically Bell South, which until recently was the mobile side, and Cellular One, questioned whether the numbers were reasonable or did staff feel there was revenue missing. Mrs. Crozier stated she can look at them but cannot determine without an audit if they are accurate. Mr. Shaw stated Bell South is paying an average of over $1000 a month, however, Cellular One, which is approximately the same size cellular service, is paying $64. Mr. Shaw felt there was a question as to whether or not they are complying with the ruling and from a point of clarification when the idea of charging for the audit or conduct the audit, the way it was put on the agenda only implied an audit of the cable and electric. Mr. Shaw did not recall it including other services and in reading through the minutes it seemed that all the Council discussed was cable and electric.

Mr. Jakubiak stated that when this was discussed in 1992, staff felt that the only auditors qualified to come in was from the Florida City Manager's Association, with an attorney that worked with them that was experienced in franchise fee audits. They also asked to do an audit, in addition to the cable company, do a large audit of the electric company. They also looked at the telecommunication taxes and look at the Town's ordinance and also looked at the franchises of all the companies. They thought they should start out with the cable company and the electric company as they felt there were some revenue sources based on what staff sent them. The intent was that Council always had the opportunity to pursue the other audits as time went on.

Mr. McLendon stated that AT Wireless recently merged with Cellular One. AT&T in the first monthly report for September has paid $5200, however, Cellular One in the entire previous year paid $540. Mr. McLendon felt it was obvious that we have a claim against Cellular One on the basis of their last report in September, of about $60,000-$70,000. Mr. McLendon stated that if they have under-reported, the Town will go back a few years to recheck figures. Mr. McLendon felt there was several hundred thousand dollars of lost revenue potential.

Mr. Shaw stated there is no indication that there was ever a discussion about telephone utilities in the minutes. Mr. Jakubiak stated that the reason it was presented that way was because staff felt that the first thing the Town should do is have the Council consider audit of the cable company because the franchise agreement was subject to renewal. Mr. Jakubiak stated the same approach could be taken with the telephone company as their agreement will expire in 1997. An audit company will come in an say they will do the telephone companies, but would like to do the electric company at the same time. Mr. Shaw felt that the reason the Council turned it down was because the two entities being addressed, Comcast Cable and the electric franchise, were not the ones at risk and never saw a report that Mrs. Crozier had that would lead them to believe that there could have been some benefit to doing the audit. Mr. Shaw felt that we needed to make sure that the Town is maximizing what is available because there will be a change in how technology is going to impact the Town and where the sources will come from as far as collecting the fees. Mrs. Smith stated she was in favor of the audit in 1994 feeling that the Town could recover and open the door to see what other possible audits the Town may want to do.

Mrs. Crozier stated that there have been cases where revenue is coded incorrectly for the municipality and the potential for that to happen to Palm Beach exists because of there being a Palm Beach, Palm Beach County, Palm Beach Gardens, and a Palm Beach Shores. Mrs. Crozier felt there could be other loss of revenue for that reason. As far as the hotel fees never being collected, Mrs. Crozier stated that when the ordinance was originally written and imposed hotels were overlooked as a revenue source.

Mr. Wyett asked if there were updated figures past 1995 pertaining to AT&T Wireless to see if the one payment in 1995 was consistent. If they are consistently paying $5,000 a month, Mr. Wyett stated there is a possibility of monies being owed from their predessor company, Cellular One and that would lead this Council to think about whether under-reporting has occurred from other companies. Mr. Wyett pointed out major companies that are sending very little money. Mr. Jakubiak pointed out that only the calls made within the State of Florida are subject to the tax, so long-distance companies such as MCI that handle telephone service between states are not subject to this tax.

Mr. Jakubiak stated that in the memo it was stated on page 3 (attached to the report),that since Comcast Cable and Florida Power & Light are the biggest revenue generators, staff recommended that these two franchise fees, the only compliance reviews initiated at this time. Preliminary of the gas and telephone collection indicate that a compliance review is likely not to be cost effective.

Mrs. Smith pointed out that there was an item on the agenda that had a 3:00 P.M. time certain and when it was that time, Council would stop and hear about the Sand Transfer Plant.

Mr. Jakubiak stated that there were three other issues relating to telecommunications law. The Town may look into the establishment of a Telecommunications Ordinance and how it would be put into effect in relation to the Telecom Act. It would probably be included in the section of the Telecom Tax, however, Mr. Jakubiak and Attorney Randolph would need to discuss this in greater detail. In zoning issues, which will be an item for the March Council meeting, there is an issue relating to personal communicating services and the placements of towers and antennas that may have an effect of pre-preempting certain municipal zoning code requirements. Mr. Jakubiak attended a session with the Florida League of Cities Regional Seminar regarding the placement of towers and there are specific guidelines that the Town must follow. Mr. Wyett stated that the zoning issue interested him the most as it had tremendous implications which meant the Town could possibly have towers put up regardless of the zoning regulations in the Town, in order to accommodate the personal communication services. This was originally designed for large cities where receivers and senders would be put up on almost every block and the services you would have for people walking along the street would be fantastic. This idea expanded to the idea that the present communications that we have is going to digital and the potential now is that every little community would be putting an aerial throughout the town, however, when you get to residential areas you would need to find roofs for these towers. It's a zoning issue and Mr. Wyett felt that the Council did not want to see all these towers and needs to find a way around it.

Mrs. Smith felt this was an issue that should be discussed at the March Town Council meeting as the Town has already received requests to do this in the Town on public property. It was the consensus of the Council to put this on the March agenda. Mr. Doney stated that Mr. Moore has been gathering additional information on this issue.

Mr. Jakubiak stated that the final issue relating to the Telecom Act, has to do with cable rates and deregulation. The Telecom Act states that by March 31, 1999, all regulation of cable rates will end. Staff plans to bring forward, as directed by Council, the previous changes to rates up until that time and will have to get rid of the ordinance presently on the books. Mrs. Smith stated that a new ordinance will have to be written.

Mrs. Diane Christy of Comcast Cable stated that the Telecommunications Act was just passed into law on February 8, 1996, and they are still in the process of interpreting it also and she therefore has no comments on this Act. Mrs. Smith stated that it will probably be necessary to have another public hearing on the franchise agreement before the Council will be in a position to make a determination. President Smith stated that if the public hearing was put off for six weeks both the Town and Comcast would have time to review the Telecommunications Act. Mrs. Christy stated that the franchise agreement could be written such as if Federal law would over-ride anything that was put in the agreement. The Council determined that the public hearing and franchise agreement would have to be done before April 20, 1996.

Mr. Wyett stated that this new Cable Act means the Town should have a very short agreement and because of the time constraints we don't know what we are talking about for perhaps six months to a year. Mr. Wyett stated that therefore he is looking for a short agreement in regard to term. Mr. Wyett stated that all the Council really needed to discuss were the provisions of that contract and how many years are going to be offered and how many years Comcast would accept.

Mr. Doney stated they met with the Cable representatives at the staff level in regard to the franchise and there were 3 major areas of concern with the cable company.

Attorney Randolph stated that the agreement before the Council has been agreed upon by the Town and Comcast except for some procedural language which he will change. The Grant of Authority section was a stumbling block because of the issues contained therein relating to telephone and telecommunications. Mr. Randolph stated that the position of the cable company is that the Town cannot require a franchise for telephone.

Mrs. Christy stated that it has been left to their attorney and the Town attorney and they have not had the opportunity to speak as of yet. Mr. Randolph stated that is a good example of the type of question that interrelates with the Telecommunications Act which may cause the Town to be in the position of not being able to give the Council an answer in April. Attorney Randolph stated that the next major area of concern in the document relates to the term of the agreement. Staff is still of the opinion that 3 years is the maximum we should go on this franchise and Comcast has another position. Mrs. Christy stated their position is that it is still too short of a term and does not feel it is in the best interest of the Town. Mrs. Christy stated they did address that no capital expenditures would be made in the Town and language was written in to that effect. Ms. Christy stated that there are two parts to this, as the Town wants the Most Favored Community clause and when you tie these two things together, Comcast feels it is unfair to them to have only a 3 year agreement, yet expect to have everything done that another municipality may want done. Mrs. Christy questioned if another company came into the Town, would the Town only grant them a 3 year term. Mr. Len Rosack, Area Vice President of Comcast Cable, stated things are very fluid right now with the Telecommunications Act and stated he would appreciate the time between this meeting and the next meeting with Council to get some further directions on the Act with regard to term. President Smith stated that it would be beneficial for the two attorneys to meet and did not feel the Council would be able to solve anything today. Mr. McLendon questioned why the term of the franchise is even important if it is non-exclusive. Mr. Rosack stated that it is important to Comcast is simply for their business model. If Comcast decides that they want to offer things such as cable telephone service over cable television or upgrade their plant to be able to deliver interactive services, etc., it requires a substantial capital investment. Their concern would be that if there was only a 3 year term on the franchise there would not be a long enough period of time to recover the investment. Mr. Rosack stated that a 10 year term would be better since most capital investments take 5-7 years to recover the investment and make some return on the investment.

Attorney Randolph stated that while there are no plans to meet with the Comcast Cable attorney right now, they could get together almost immediately. Attorney Randolph stated that he was not sure if they would have all the information available at the next meeting regarding the Telecommunications Act.

President Smith suggested the Council set a date for the next discussion re: cable franchise agreement. It was agreed that Monday, March 25, 1996, at 2:00 p.m., would be the next meeting date on this issue.

VII. **UPDATE BY COUNTIES CORPORATION ON RESTORATION OF LAKE WORTH INLET SAND TRANSFER PLANT - DISCHARGE PIPING**

Mr. Dusey, Director of Public Works, addressed the Council and stated that the Mr. Duich called yesterday and indicated he would have a problem making today's meeting. Mr. Dusey requested Mr. Duich send him a memo indicating the status and Mr. Dusey passed it out to the Council. President Smith asked that Mr. Dusey read the letter into the record. Mr. Dusey read the following into the record:

"As previously discussed, I have had an emergency situation arise which will prevent me from attending the Council meeting on February 29, 1996. However, as discussed, the status and schedule of the Lake Worth project is essentially the same as reported at the Council meeting on February 13, 1996.

As an update to our last meeting, we now have personnel mobilized on site to begin the layout required to begin the drilling operations. As we have advised Jim Bowser and Dames & Moore, we are still waiting for revised design information to proceed with the layout work. It is our understanding that we will receive the information in the next day or so.

Provided that this information is received as promised and is complete, we plan to mobilize our equipment on site beginning today continuing through next week with the anticipated completion of the sand transfer lines by the end of March, or the beginning of April, taking into consideration the restricted work hours.

Again, I apologize for the circumstances which have prevented me from attending the meeting, but trust that this update will be sufficient for the Town Council."

Mr. Dusey explained that Counties Corporation is seeking some design information for layout assistance. There is a question regarding whose responsibility it is to do this and is working this out with the Counties Corporation. Mr. Dusey further explained that it is not a new design, but basically laying out where they are going to start and where they expect to come out. Mr. Bowser, Town Engineer, stated that there is no equipment on site at this time and they have not asked them whether they will be using the same equipment. Mr. Wyett stated that in their statement regarding the restricted work hours, questioned whether the Council should consider amending their work hours. Mr. Doney stated this has been discussed at the staff level with the Town of Palm Beach Shores. Working within their code of ordinances, staff feels this is the best we can do at this moment. Mr. Doney stated that the actual physical work that will take place in the beginning will be in the corporate limits of the Town of Palm Beach Shores. Mr. Wyett felt that once that portion of the work is completed and they are working on the structure in the corporate limits of the Town of Palm Beach, perhaps the Council can assist in changing the hours for that work. Mr. Dusey stated that these hours are not a surprise to Counties Corporation.

RETURN TO ITEMS IV OF THE AGENDA

Mrs. Smith asked if there were any questions of Mr. Jakubiak on Items IV, V, and VI of the agenda.

Mr. Wyett questioned when talking about de-regulation whether that would make the franchise agreement null and void. Mr. Jakubiak stated it would not and explained that de-regulation is completely separate from franchising and that revenue would still be permitted to be collected. Mr. Doney stated that there was a need to move forward from an Ordinance, Rules and Standards Committee perspective, on the Customer Service Standards Ordinance. Mr. Shaw was directed to call an ORS meeting to discuss this issue.

Attorney Randolph felt that the recurring issue regarding the audit, Council may want an updated estimate to perform those audits from PTI and ICMA. In addition the Town is looking at the potential of other companies that do audits on a contingency fee basis, but from a staff level we would need direction from Council in order to do some advance preparation. Mr. McLendon stated he would like to see Mr. Wyett's suggestion followed to follow-up on the AT&T and Cellular One, Bell South situation. Mrs. Crozier stated that the only way the Town is going to know what those service providers owe the Town is to have an audit of their records performed. Mrs. Crozier stated the companies would not do that for the Town. Mrs. Crozier stated that if an audit were performed and we had figures that were verified as accurate with respect to collections that the Town was getting, staff would then have a base of reasonableness to work with into the future and would be able to know what the monthly anticipated revenue should be. Mr. Shaw questioned whether there was a penalty for failure to pay these taxes. Attorney Randolph felt the Town could go retroactive up to a period of time within the Statute of Limitations. As far as penalties, he would have to do further research. Mr. Jakubiak stated that as the Council looks through this and individually they look at names that "ring a bell", and possibly contact those companies and tell them that we are prepared to question these revenues. The Town may be willing to pay something instead of going through the expense of an audit. Mr. Jakubiak stated that even if the audit is a 50/50 share of a contingency, the Town is not looking at getting 100%. Mr. Shaw stated that he would ask Mrs. Crozier to write to these companies, stating that the Town feels there is a discrepancy in the amount received, and ask to meet with them to see if they can give justification as to why we should not go forward with an audit. Based on their findings, at the next Council meeting we could seriously discuss this issue and at the same time ask the Council what companies would they be willing to have do an audit and discuss their fee structure.

Mr. Shaw made a motion to have Mrs. Crozier contact companies asking for information regarding an audit. Mr. McDonald seconded the motion.

Mr. Jakubiak stated he has spoken to Mr. Ken Small of the Florida League of Cities and was told to prepare for battle as these companies do not like municipalities to come in and go through their records. Mr. Jakubiak pointed out that the Town is entitled to go through the records by State Statute and by the franchise fees. In order to get a good audit done would require an independent company to go through their records and Mr. Jakubiak did not think it would be cost effective to pick one or two companies that are only paying two or three thousand dollars. That is why the original proposal made to Council was to do the audit for the cable company and electric at the same time because you could get a company on a contingency basis. Mr. Jakubiak stated we could write the letter as suggested, however, the alternative force is that if there are certain companies that look rather suspicious as to what they are paying, the approach may be an audit on a contingency basis with a number of companies.

President Smith stated there is a motion on the floor, and it is the feeling of the Council that we are not moving ahead with a definite action on an audit today and if Mrs. Crozier writes the letters, in the meantime, we can look at the recent statement we have through January, 1996, and pinpoint the ones that look suspicious. The Council can then discuss these issues at the March Council meeting.

The motion was unanimously carried.

Mr. Doney stated that the other issue is the one from the Florida Legislature about the coverage of the floor sessions and other information which interrelates to the cable companies. Mr. Doney suggested that Mr. Jakubiak can talk to Mrs. Christy of Comcast further so that a report could be given at the March 12 Council meeting with information.

VIII. CHARITABLE SOLICITATION PERMIT FOR JACKSON MEMORIAL FOUNDATION, INC.; NO. 405-96 - REQUEST FOR WAIVER TO ADVERTISING REQUIREMENT (EVENT PLANNED FOR MARCH 9, 1996).

Mrs. Pollitt stated that the Town Clerk's Office received an application on 2/19/96 from the Jackson Memorial Foundation, Inc. And by the time it got through the appropriate departments on 2/23/96 she received a secondary fax which didn't get on the agenda in time. They are having the same event and are now going to take limousines down Ocean Boulevard for dinner and will be transported back to the yacht. This change will not affect the application itself. Mrs. Pollitt stated that the Police Department has signed off on the request after their review.

Mr. Wyett made a motion to grant the waiver, seconded by Mr. Shaw. The motion was unanimously carried.

IX. ANY OTHER MATTERS

President Smith stated she has been looking at the nominations of people for the various commissions. It appeared that if a name is submitted by an individual and they enclose their resume, they had a right to be considered by the Council. Since the Town has been working to change how this is done, President Smith felt it would be more fair if someone was not nominated by a Council member, they may take it personal. President Smith suggested that on the ballot we list the regular members and the alternate members, and include every person who has submitted their name for the various committees and then have the Council vote on them.

Mr. Wyett made a motion to approve this suggestion, seconded by Mr. McLendon. It was suggested that if staff is going to take letters or communications that are a year old, we have some follow-up written communication from the applicant indicating that they are still interested. Mrs. Smith stated that hopefully staff telephones people that have older applications to determine if they are still interested. Mr. Doney questioned if there are 20 names, whether the Town Council would have to rank order all 20 names. Attorney Randolph. President Smith pointed out that all applicants were ranked when the Council did the Shore Board. The motion was unanimously carried.

Mr. Eric Gilbertson, 151 Chilian, addressed the Council, reporting on last night's School Board meeting. Mr. Gilbertson did not feel that Acting School Superintendent Bernard Schulman knew the true values of an education. Mr. Gilbertson stated that Mr. Schulman knew what the administration wanted and that has been his course and felt that the School Board was willing to save $250,000 at the expense of Palm Beach's middle school children. Mr. Gilbertson stated he would pay for a filing fee for the Town to get an attorney to file an injunction. Mr. Gilbertson pointed out that a new Superintendent was coming on board and felt that this was an opportunity to save the public school.

Mr. Doney stated that the Town's first Employee of the Year, Sunshine Rawls, that served the Town for 50 years, passed away on 2/22/96. He was 81 years old. There will be a service at 10:00 a.m. on Saturday 3/2/96 at the Friendship Baptist Church, 718 Third Street, West Palm Beach. Friends and family will be received by the Rawls family from 6:00 - 8:00 p.m. on 3/1/96 at the Stevens Brothers Funeral Home at 1803 North Tamarind Avenue, West Palm Beach. Mr. Doney stated he had further details if Council needed them. President Smith stated she would be attending. President Smith stated that Mr. Rawls was a wonderful employee and a wonderful man. She last saw him at the Chamber of Commerce meeting. He was an inspiration and an example to all the other people in the Town.

Mr. Shaw stated that an ORS meeting would be scheduled for 3/6/96 at 10:00 a.m. There will not be a report available at the March meeting. The agenda will include Cable - Customer Service Standards and an item regarding Animals.

X. <u>ADJOURNMENT</u>

There being no further business to discuss, the meeting was adjourned at 3:30 p.m.

Mary A. Pollitt
Town Clerk