

MINUTES OF SPECIAL TOWN COUNCIL MEETING  
HELD ON FEBRUARY 24, 1995 at 10:00 A.M.

I. CALL TO ORDER AND ROLL CALL: President Smith called the Special Meeting of the Town Council to order at 10:00 A.M. on February 24, 1995, in the Town Hall Council Chambers. On roll call, the following Elected Officials were found to be in attendance: Mayor Ilyinsky, President Smith, President Pro Tem McDonald, Councilmen McLendon, Shaw and Wyatt. Also attending were Town Manager Doney, Town Attorney Randolph, Assistant Town Manager Elwell, Assistant to the Town Manager Jakubiak, Personnel Director Crouse, Director of Public Works Dusey, Director of Recreation Bitzer, Director of Building and Zoning Moore, Finance Director Crozier, Police Chief Terlizzese, Fire Chief Elmore, Town Engineer Bowser, Risk Manager Martinuzzi, and Information Systems Manager Wilson, Town Clerk Peters and Deputy Town Clerk Pollitt.

II. INVOCATION AND PLEDGE OF ALLEGIANCE: Invocation was given by Mrs. Peters. The Pledge of Allegiance was led by President Smith.

III. COMMENTS OF THE MAYOR: The Mayor had no comments at this time.

IV. APPROVAL OF AGENDA: Motion was made to approve the agenda as printed by Mr. Shaw and seconded by Mr. McLendon. On roll call the motion carried unanimously.

V. TOWN MANAGER'S COMMENTS ON TOWN CHARTER AND CODE, INCLUDING COMMENTS ON ADMINISTRATIVE ISSUES AND ELECTED OFFICIALS' COMMUNICATIONS WITH STAFF: Mr. Doney addressed the Council, stating that Town Staff had prepared overview comments for today's meeting--in order to acquaint new council members with the Town's administration, how Town Government had functioned in the past and how it continued to function. The Town of Palm Beach had a Council/Manager form of government and this had been in effect since 1911. The Town Manager was responsible for day-to-day administration of all town departments and town operations. The Town Council was responsible for establishing policy. Policy had been established historically in three particular ways; by Town Ordinance, by Town Resolution and also by Motion of the Town Council. When the Town Council sat in an official meeting by one of those three methods it would direct particular actions to be implemented by the Town Staff. Any one individual Council Member or the Mayor could not direct the Town Staff to do any particular action that he or she individually believed was important or should be done. From time to time he knew there had been a desire, in good faith, to request that the town staff pursue a particular course of action that was not specifically identified and authorized by the Town Council. Therefore, from a staff perspective, it would have to be brought back to the Town Council to make sure that the Town Council believed that course of action should be pursued. He believed that most of the issues confronting the Town were not new issues. He continued that the Town had a very professional, competent, and well-experienced staff that was an asset to the Town's elected officials, and he hoped that would continue.

Mrs. Crozier would be commenting on the overview of the budget process, and Mr. Randolph would speak to State Law as it pertained to elected officials. Mr. Doney added that Town operations were severely impacted in terms of both unfunded and partially funded mandates from the federal, state, or county governments. The way things were done as a Town government and a municipal home-ruled city was mandated by the Florida Statutes, Chapter 166. Any Town Council Meeting Agenda was approved by the Town Council President. The town staff would meet with the Town Council President to bring forward and set out an agenda with items to be considered by the Mayor and Town Council. If there were items that individual elected officials wished to have added to the agenda, the appropriate time to bring those up would be under approval of the agenda, so that the Town Council itself could determine whether or not it wished to add specific items over and above what was on the agenda. Mr. Doney said that he was proud of the fact that he and staff members did thorough research and attempted to answer all of the questions that the Town Council needed to consider in formulating action. Mr. Doney commented that he had requested each department head to present brief overview comments to the Town Council.

Mr. Doney continued that the Town Manager's office consisted of nine personnel. There was an Information Systems office (data processing) that also reported to the Town Manager. The Information Systems Manager was Spencer Wilson, who would be able to answer any technological questions. An annual work program existed, with a three year projection of needs for internal operations. Mr. Wilson would meet with each department head and key staff to determine hardware and software needs. The Finance and Taxation Committee then would consider the budget request, for review by the Town Council.

Mr. Doney added that Peter Elwell is Assistant Town Manager and Dave Jakubiak is Assistant to the Town Manager, both of whom reported to him independently, with specific areas of responsibility assigned to them.

Mr. Doney continued that there was one Town Policy issue that he felt needed to be addressed. He pointed out that he had sent each member of the Town Council a memorandum concerning letters of interest about town-owned properties. From a policy perspective, historically, the Town Council had directed that Town staff or Town attorney time should not be spent until the matter was first considered by the Town Council as a policy matter. He inquired whether the current Town Council wanted the Town staff and Town attorney to spend time and money on pursuing particular issues.

He noted that the Council should know what the property was being used for and how staff saw the property being used, as well as other issues surrounding it. There were legal, liability, and structural issues. The particular property being addressed today was the town-owned property on El Campeon in the City of West Palm Beach, in which an individual had expressed interest. The two pieces of property both were currently in use by the town. The standard response made to a letter of interest was that the Town staff and Town attorney would not spend any time investigating or responding to requests for information unless the Town Council directed so. The letters of interest were responded to with notation that a copy of the letter of interest had been provided to the Mayor and each Town Council member, and only if they requested that the matter be added to a future Town Council meeting agenda would it be added.

Mr. Doney acknowledged that from time to time other issues arise as far as the Town's green space Charter Amendment that protects a number of town properties from sale or lease. This issue was also very important. He mentioned that periodically he would change areas of responsibilities between Mr. Elwell and Mr. Jakubiak, but that he would provide each Council member a memorandum identifying responsibilities of each of them.

Another Town government issue cited by Mr. Doney was legislative matters. Each year the Florida Legislature met and there were a number of issues that come before it that would impact the Town of Palm Beach. The Town staff would receive updates on legislation from the Florida League of Cities affecting town operations. When the Town Council took policy action on a certain issue, a letter would be prepared for the Mayor or the Town Council President's signature to advise of the Town's official comments or objections, thus there would be no misunderstanding of the Town's position by the Palm Beach County Legislative Delegation when it received the letter. An existing action, set in November, 1994, authorized the Mayor and the President of the Town Council to sign these letters when existing Town policy was established on certain legislative matters, and unless the Town Council would direct otherwise today, that policy would continue.

Mr. Doney continued that each department head belonged to professional organizations that contributed information about current legislation and rules that would also be advanced to the Mayor and Town Council as needed. As a staff, Mr. Doney stated that they were always looking for opportunities to make improvement in operations. However, the policy levels under which the town operated were set by established levels of service done through the adoption of the annual budget. The annual budget would give all of the policy descriptions on a program by program basis. Once the Town Council approved a program, it would be the staff's job to carry out those orders.

Another issue Mr. Doney addressed was mail. He described the way it was currently being handled: historically, all mail that was addressed to the Mayor and Town Council was received by the Town Manager's office, opened, date stamped, and put into each respective file for review. If a letter concerned a policy matter, a memorandum would be included from him on what actions he thought were needed. If the letter merely requested information, he would ask a particular department head to draft a letter of response for the Town Council President's or Mayor's signature. Sometimes, a council member would like to answer or comment on an individual basis, but he felt it must be understood that an overall policy direction should be set forth in a letter from the President of the Town Council. If anything was addressed as "personal" it would not be opened and would go directly in the box of the individual.

Mr. Doney added that he and the staff try to avoid surprises and if they were aware on short notice of an issue that the Council would be receiving questions about, (for example, the sewer main break recently on South Ocean Blvd.) the staff would notify the Mayor and Town Council so they would be apprised of the situation.

Another issue that Mr. Doney believed was very important and should be discussed was appointments to the various boards and commissions. In the past, the policy had been to prepare a letter of acknowledgement and response for the Town Council President's signature to any letter of interest expressing a desire for appointment to a board or commission. If a Town department head would be contacted by an individual wishing to serve on a board or commission, it was suggested that a letter of interest be submitted, describing background information. The only contact staff would make with board and commission members would be to notify them when a term had been served, asking whether they would still be interested in serving additional terms. Mainly, the town staff assisted only in a clerical role regarding board and commission members.

The Mayor asked Mr. Doney if discussion could be held among council members as to specific issues that needed to be on the agenda--he wanted to be sure that the new council understood that anything that they would want to talk about concerning the agenda could certainly be discussed over the telephone and asked for Mr. Randolph's comments.

Mr. Randolph replied that it would be just as much of an action of the Town Council if two or three council members got together outside of the public eye, and said that they thought an agenda item should be added.

Mr. Wyatt asked if there was official ruling on the matter or was it strictly Town interpretation.

Mr. Randolph responded that it had been ruled on quite a bit, and the matter would be discussed during his presentation later in the meeting.

Mr. McLendon asked Mr. Doney if staff should encourage people interested in being on commissions to send in additional information?

Mr. Doney replied that he felt that was appropriate and thought that the current Town Council should talk about ways that they would like to handle the advancement of verbal interest in serving on a particular board or commission. This had been discussed in the past with different opinions given.

Mrs. Smith added that this was not a decision that would be made today, but it could be put on as an agenda item.

Mr. Doney noted that he had given council members a copy of the amendments done in 1993 that describe the number of terms, the duties, responsibilities and other details that were prerequisite requirements for commission and board members.

Mr. Doney continued that the department heads could answer questions concerning particular information, but any direction would have to come before the Town Council. There should be a clear identification between policy and administration. By organizational design in the Town of Palm Beach, the Public Works Director was responsible for contract administration of all on-going engineering and construction projects. Mr. Dusey also had many day-to-day responsibilities that relied heavily on personnel-related issues.

Mr. Doney then introduced Chief Terlizzese, who had been with the town since 1978, and had a Master's in criminal justice.

Chief Terlizzese addressed the council stating that he would give a brief overview of the Police Department. The Police Department's major function was to serve and protect the people and property in the community. The largest element in the Police Department was the Patrol Division, with 55 sworn officers assigned to the Patrol Division, patrolling the Town 24 hours a day, seven days a week. They were broken down into zones to cover the Town. Various methods were implemented for patrol--bicycles, police cars, and motorcycles. Undercover or unmarked patrols are also utilized, one of which paid off recently involving the arrest of gypsy burglars that were committing

burglaries in this town and across the nation. Approximately 30 police agencies had contacted them in 15 states that had made cases based on the evidence compiled in the Town.

He added that the department had a small crime scene evidence unit which he thought was as professional and efficient as any he had seen in larger agencies. There were three people employed in the crime scene and property unit that were responsible for maintenance of evidence and found property and for processing crime scenes. Every crime scene was processed, unlike most police agencies. As a result a great deal of evidence was gathered to solve and clear crimes that normally go uninvestigated and uncleared. The clearance rate was about 33% of all crimes reported in the town, which was much higher than the national average of 21%.

In addition to the Patrol Division, Chief Terlizzese explained that there was a Parking Enforcement Unit, responsible for handing out about 35,000 parking tickets per year, seven days a week. In addition to writing out parking tickets, the employees also assisted motorists. Crime prevention was the major emphasis in the department and many crime prevention activities were engaged in during the year--the Crime Watch Newsletter was put out, going to all residents in the Town; a fax alert communications transmission system was utilized; security surveys were done, there were certified, expert-trained people who had gone to the best schools for this kind of work. The security surveys were done in residential, commercial, retail and marine activities. The department was involved in the DARE program in both public and private schools, National Night Out Against Crime, Red Ribbon Week, the public school carnival, Palm Beach County Crime Prevention Officers Association, Palm Beach County Crime Stoppers, Community-Oriented Policing Association, various merchant and civic associations. The department also worked with the Recreation Department in the positive life skills programs.

Mr. McLendon asked Chief Terlizzese how many detectives were on staff?

Chief Terlizzese replied that there were six detectives, a sergeant, a captain and a secretary assigned to the detective unit.

Mr. McDonald mentioned that he had recently been detained for ten or fifteen minutes on a recent Friday night because of a large party stopping traffic on A-1-A and asked Chief Terlizzese if he had noticed a dramatic increase in traffic?

Chief Terlizzese responded that traffic volumes were up during the current year compared to the last few years. Mr. Bowser and Mr. Dusey maintained traffic counters on the bridges, as well as the DOT. On any given day in January there were over 100,000 vehicle trips in and out of the Town of Palm Beach per day, measured by electronic counters on the three bridges.

Mr. McDonald asked if it was standard to delay traffic when large parties were held?

Chief Terlizzese responded that it would depend. He used the Ocean Grand as an example--every time they had a big event there was a traffic tie-up in north and southbound lanes in the southend. This presented a problem in emergency response times, but occasionally that would occur when a large function was held.

Mr. McDonald asked if it was permissible to park along A-1-A?

Chief Terlizzese replied that under the Town Charter he had authority to permit or prohibit parking in certain areas on occasion. On an infrequent basis he would authorize parking under regulated conditions, as a service to residents.

Mr. Wyett asked how many patrol cars were active in any given shift?

Chief Terlizzese responded that the day shift, afternoon, was the busiest, with an average of 7-9 cars out at a time, covering a 13 mile area.

Mr. Wyett asked if that required standard time or overtime to maintain that level?

Chief Terlizzese replied that was standard time. Overtime expenses were not too bad, considering that about 45,000 calls were handled per year.

Mr. Doney mentioned that a good example of impact upon Town budget and the demand for services was that when the Town had dignitaries that visited the Chief was usually contacted, and a lot of resources and time were spent in this regard.

Chief Terlizzese added that his department had dignitary protection responsibilities, and worked with the State Department and Secret Service and heads of State, as well as foreign government security forces.

Mr. McLendon asked if all overtime was for unscheduled activities?

Chief Terlizzese explained that there was not normal planned overtime--the department did not give out legitimate routine overtime. Overtime would have to be approved by a supervisor and court time would have to be under subpoena.

Mr. Doney introduced Chief Elmore to the Council, stating that he had been with the Town since November 30, 1981 as Fire Rescue Chief. He added that one thing done when Chief Elmore started was to begin calling the department the Fire Rescue Department because the paramedic-related services were the majority of services rendered.

Chief Elmore addressed the Council, stating that the Fire Rescue Department consisted of 69 employees; three civilian employees and 66 certified fire fighters. Of the certified fire fighters, all were state certified emergency medical technicians with about 50% being certified paramedics. There were two contract employees--one the medical director and the other a part-time fire inspector. He added that the Fire Rescue Department operated out of three fire stations, operating five state licensed advanced life support vehicles. Three of the vehicles were pumpers and two were medic units. There were two aerial trucks and one reserve engine and one reserve medic unit. Approximately 2,300 emergency calls were responded to each year, with 1600 or about 70% of those being EMS calls. The 700 others were structure fires, vehicle fires, elevators, animal emergencies--anything that could not be found in the yellow pages was responded to.

Chief Elmore explained that about 1,000 patients were transported to local hospitals each year. About 800 fire inspections were conducted each year, finding about 1,000 code violations. About 1,200 blood pressure screenings were done per year and 300 people certified in CPR each year. Public education programs for the schools and condominiums were also conducted by the department.

Mr. Doney then introduced Mr. Albert Dusey, Director of Public Works, to the Council. Mr. Dusey had been with the Town since June 24, 1985 and had a Bachelor of Science Degree in civil engineering.

Mr. Dusey addressed the Council, stating that he was also a registered professional engineer in Pennsylvania, New Jersey and Florida. He continued that he had been a public works director for 15 years in total. The Public Works Department general fund budget was about 8.9 million dollars and there were 112-1/2 full time positions. Infrastructure maintenance was performed by the department in all areas--buildings, parks, medians, streets, sidewalks, street lights, traffic lights, traffic signs, roadway markings, sanitary sewer collection system (including pump stations), storm water collection system (including pump stations), and vehicle maintenance with the exception of police and fire vehicles. In the way of services, there was a garbage collection disposal service, yard trash collection and disposal, recycling, and beach cleaning. The sand transfer plant operation was budgeted for, when and if it becomes operational, and the sanitary sewer treatment costs were paid for in the amount of over \$1,000,000. Engineering services were also provided to the Town in the way of general services to all departments on an as needed basis. Administration of the permit process was performed by the department for right of way usage, and project management was done for about \$1.9 million dollars of capital improvement programs for the current fiscal year. Mr. Dusey explained that the non-general fund involved management of marine operations for the Town (about a \$1.2 million dollar operation). He continued that the Public Works Department attempted to provide the level of services that were defined by the Mayor and Town Council at the least cost. Over the last 10 budgets, the Public Works Department had eliminated 18 full time positions at an estimated annual savings of approximately \$650,000. Also, better equipment was now being purchased with the result of a savings of \$190,000 per year. In fiscal year 1986 the Department of Public Works budget represented about 36-1/2% of the total general fund budget and it now represented about 29%. At the same time, responsibilities such as recycling, beach cleaning, and budgeting for the sand transfer plant operations had been added.

Mr. McLendon asked Mr. Dusey where the property line was on the two basic kinds of streets in the Town of Palm Beach?

Mr. Dusey replied that there was very little uniformity in the right-of-way system. The east/west streets in the Town were fairly narrow as they were platted back in the 1920's. A 30 foot right-of-way for those streets was very normal, with some of the bigger streets having 50-60 feet.

Mr. McLendon asked how it was determined what rights existed in individual circumstances if the right-of-way was unknown?

Mr. Dusey responded that the plats that define and dedicate rights-of-ways were used from when the subdivisions were originally created.

Mrs. Smith asked Mr. Dusey how much money the recycling program cost?

Mr. Dusey replied that it was about \$190,000 for the current year, and it was growing very rapidly because the program was expanding exponentially.

Mr. Doney next introduced Mr. Robert Moore, Director of Building & Zoning.

Mr. Moore addressed the Council, stating that the Planning, Building & Zoning Department consisted of 15 employees, plus some part-time retired people under contract. The department managed a budget of \$1,200,000, totally supported by user activity fees. Comprehensive plan activities were regulated by the department, as well as zoning ordinances, development review activities, permits (about 6,000 per year were issued, which had about 25,000 associated inspections), and occupational licenses. The department was also responsible for three Advisory Commissions--the Zoning Commission, the Landmarks Preservation Commission and the Architectural Commission. Non-advisory Commissions included the Code Enforcement Board and the Building Board of Adjustment and Appeals.

Mr. Doney introduced the Council to Mr. Russell Bitzer, Director of the Recreation Department.

Mr. Bitzer addressed the Council, stating that the Recreation Department was comprised of five budget programs--facility maintenance, the tennis center, adult programs, youth programs, and the golf course. For the entire department there were 15 full time employees and 5 full time equivalent part-time people--7 of those in the golf course and 8 in all other departments. In addition to the full time and part time staff a variety of contract employees and services were used, including instructors, coaches, and referees. The full time and part time contractual staff was supplemented by the volunteer program, which last year logged about 2,800 hours, saving the department approximately \$18,000. Services of the Recreation Department were very highly utilized, with 50,000 rounds of golf being played each year and about 1,300 golf lessons. The tennis center included six clay courts and two hard courts with many private lessons, leagues and tournaments. Last year 17,000 court reservations were logged and about 3,700 tennis lessons were taught. There were about 900-950 children using the Community Center Building, as well as a comprehensive athletic program--soccer, basketball, baseball, and an ADA accessible playground. The golf course was an enterprise program, recovering 100% of its costs with the fees from the adult programs offsetting 100% of the costs.

Mrs. Smith asked Mr. Bitzer how many people he thought participated in the programs throughout the year?

Mr. Bitzer replied that there were about 900-1,000 children throughout the year and about 450 adults.

Mr. Wyatt asked if the tennis program was self-supported?

Mr. Bitzer responded that tennis recovers about 70% of its operation.

Mr. Doney added that Mr. Bitzer had been with the Town for 20 years and that Mr. Moore had started with the Town 14 years ago, and that he himself had been with the Town 21 years.

Mr. Doney then introduced the Finance Director, Mrs. Marie Crozier to the Town Council, stating that Mrs. Crozier had been with the Town 21 years.

Mrs. Crozier addressed the Town Council, stating that the Finance Department was comprised of four programs--auditing, purchasing, budgeting and financial administration. The department was staffed by nine individuals in addition to herself. The Purchasing Division, staffed by five individuals and the Risk Management Division staffed by two individuals also fell under the direction and responsibility of the Finance Director.

She continued that the Finance Department coordinated and monitored the annual auditing process, as well as the annual budget process, known as the Truth In Millage Law, commencing on July 1st of each year with receipt of the Certification of Preliminary Taxable Value from the Palm Beach County Property Appraisers Office. The process began the 100-day statutory time table during which the budget process must be concluded. Historically, the budget process began internally, approximately 30 days prior to receipt of the Certification of Preliminary Taxable Value. Additionally, throughout the year data was collected with respect to cost savings measures and expenditures that were the result of unfunded or partially funded mandated programs. This information was included on an annual basis in the budget packages and was presented with current year estimates and five years of historical data. The Finance Department was responsible for the overall management of the Town's finances, which included the collections of revenues from various sources, investment of revenues, payment of all invoices, allocation of retirement and insurance benefits to past and present employees, and processing employee paychecks. The Finance Department was also responsible for the regular reporting of Town revenues and expenditures to administrators, department heads, and elected officials. For six consecutive years the department had attained the Government Finance Offices Association Certificate of Achievement for Excellence in Financial Reporting and for four consecutive years had received the Government Finance Offices Association Award for Distinguished Budget Presentation.

Mr. Wyett remarked that he was aware that the City of West Palm Beach started their budget process much earlier in the year than the Town, and he asked Mrs. Crozier to address that.

Mrs. Crozier replied that they could start internally, but actually the Town budget process was a process that went on all year long. The information that was needed to really start the process rolling was the Certification of Preliminary Taxable Value. Without that number it would be very difficult to know where things were headed. In the past, public meetings had been held in March and April but the information available was so preliminary that it had been difficult to come up with numbers. In addition there had been a very poor turn out at the meetings.

Mr. McLendon added that the difference between the tax revenue and the gross budget involved utility tax revenue, and he asked Mrs. Crozier if she knew if those utility taxes were then placed by the utility on the consumer's bill?

Mrs. Crozier replied affirmatively.

Mr. McLendon asked if an alternative had been considered--that if they were part of the tax structure they would be tax deductible, whereas a utility bill was not?

Mrs. Crozier replied that had not been considered to her knowledge, but referred to Mr. Doney.

Mr. Doney stated that to his knowledge there had not been a policy consideration in that regard, and legal issues would have to be investigated in this regard also.

Mr. Wyett asked if there could be a legality ruling on that consideration, as he thought the suggestion of moving taxes to a deductible basis would be more preferable than having them as a nondeductible item.

Mr. McLendon added that it was nice to be able to brag about low taxes, but that it may be harmful to residents.

Mr. McDonald asked Mrs. Crozier about employee advance travel money and the long delay in completing reports that had been mentioned in the auditor's report.

Mrs. Crozier replied that every employee was required to fill out the advance form prior to travel that indicated the exact dollar amount that would be spent for approval. Upon return, the employee was to supply the Finance Department with a copy of the completed form that indicated travel was completed. There had been occasions when an employee did not spend more than they had anticipated and as a result they were failing to fill out the balance of the form to say that travel had been completed as expected. The auditor's contention was that they need to do that as proof that the commitment had been kept. A follow-up procedure was being implemented to be sure that everyone returned that form, regardless of whether they expended more or less than money than they had anticipated. The form was supposed to be provided to the Finance Department within 10 days after travel completion.

Mrs. Smith recommended that since the meeting today was in the form of a workshop, that the question of looking into legalities that Mr. Wyett had suggested could go on a regular Town Council Agenda for public discussion.

Mr. Doney introduced Mr. William Crouse, Personnel Director, who had been with the Town for 16 years and had a Master's Degree in administration.

Mr. Crouse addressed the Council, stating that the Personnel Department consists of two offices--one in the Town Hall building with four individuals and one office in the Public Works Building in West Palm Beach, the Medical Clinic, which consisted of a full time registered nurse and a part time secretary. A medical physician was held on contract who came in a minimum of two days per week.

Mr. Crouse broke the process of personnel administration into eight major areas of operation. The first and the most obvious was recruitment and selection. It was the personnel department's

intent to recruit, screen and select the most qualified individuals to come to work for this organization. He believed that history had shown they had done a very good job.

The second area would be the area of benefits administration. Benefits, along with pay, were the two most important aspects of attracting and retaining the most qualified people, and benefits administration was a big job for the Personnel Department. It consisted of a health benefits program including medical, dental and life insurance that consisted of approximately 1,000 individuals (employee dependents were included and retirees and their dependents). In addition, benefits also went into areas such as employee assistance programs, educational incentive programs, deferred compensation plans, flexible spending accounts, and benefit plans. In addition to benefits, compensation was also handled. It was the intent to maintain a competitive compensation plan. Surveys were conducted every year on pay and benefits. The department also kept job descriptions and classifications up to date and in line with laws.

The evaluation system was also monitored through the Personnel Department. The Town of Palm Beach was the only municipality that pays for performance, with no other municipality doing that. Only top performers attain the top pay range.

Legal issues were another item that confronts the department. There were twenty-four federal and state laws dealt with each day.

Records management was another big job for the department, as records were retained and maintained of all employees and retirees. Policies and procedures were developed and written that were mandated by the Town Council and the Town Manager.

Employee relations was another issue that the department was involved in. The comraderie of the organization was encouraged by the Annual Holiday Party, the Annual Picnic, Softball Tournaments, Blood Drives, the Employee Newsletter, Wellness Programs, Recognition Programs for Retirees and many other aspects. The Town Clinic also fell under the responsibility of the Personnel Department. Everyone who came to work for the Town of Palm Beach must pass a medical examination, screening out potential problems with pre-existing medical problems. The health of employees was reviewed through annual physicals, house calls done by the nurse, immunization programs, and wellness programs.

There was attendance in training on rules and regulations to be sure that the Town was in compliance. The major responsibility of the Personnel Department was to shield the Town of Palm Beach from costly liabilities in such areas as discrimination, employment, discipline and discharge pay, sexual harassment, labor relations and others. Such liabilities included actual compensatory damages and punitive damages, as well as legal expenses. A typical sexual harassment case that was lost by an employer ran in the area of about \$300,000 for damages, not including all of the other expenses that could go into it.

Mr. McLendon asked what all of the fringe benefits added to the direct payroll cost percentage-wise?

Mr. Crouse replied that the benefits varied considerably. For example, health care could have a significant impact from one year to the next. The Town was self-insured, which meant that an insurance company, making a profit, was not used. The health plan was self-administered by the Town and expenses were paid direct. Right now, it would be in the area of about 42-44% but that was subject to change.

Mr. McLendon asked what the policy of the Town was on dues to accepted organizations and renewal of licenses for employees?

Mr. Crouse replied that if they were approved by department heads and if they were a requirement of the job, the Town would pay them.

Mr. Doney added that dues and subscriptions were authorized and approved in the budget process.

Mr. Doney then introduced Mrs. Peters and Mrs. Pollitt from the Town Clerk's Office.

Mrs. Peters addressed the Town Council, stating that since August, 1994 the Town Clerk had three regular members of the staff and one part time member. The Town Clerk's office was the custodian of the records of the Town and was responsible for giving information to staff and to the public. Included in the management of Town records were the Town Council Minutes, the Town Council Committee Meetings, the maintenance of original deeds, contracts, agreements, easements, titles, ordinances and resolutions. Up until the present time, the Town Clerk had administered the Retirement System, which had now been transferred to the Personnel Department. The Town Clerk's office was also responsible for signing and distributing all payroll checks, along with the issuing of many permits, such as Charitable Solicitation Permits, Special Event Permits, Going Out of Business Sales, and Door to Door Solicitation Permits, among others. The Town Clerk's office was also in charge of municipal elections.

Mr. McDonald asked how many citizens' requests for information were received by the Town Clerk's office?

Mrs. Peters replied that hundreds of requests were received each month, as the long distance operators consistently referred Palm Beach County inquiries to the Town of Palm Beach. Usually, there would be at least one request per day that would take up some time, i.e., for an attorney or perhaps for a staff member requesting information.

Mr. McDonald asked if there were any people who were large requesters of information on a consistent basis?

Mrs. Peters replied in the negative.

Mr. Doney added that every year requests are received from residents of the Town who do not want to be solicited and Mrs. Peters had maintained a master list of these individuals who will then not be solicited by door to door solicitation that is authorized by federal law.

Mrs. Smith asked if that concluded the section on the department heads.

Mr. Doney acknowledged that it did.

Mr. Randolph then addressed the Town Council, stating that he had provided each council member with a notebook of material that contained information from his presentation. All of the areas which would be discussed were very controversial areas and areas in which there were oftentimes not plain and simple answers. As an example, he said that he had several volumes of opinions by the Commission on Ethics which were given yearly.

His presentation was divided into four different segments--the Sunshine Law, Public Records, Ethics and Conflicts, and Zoning.

The first subject would be the Sunshine Law. The Statute relating to the Sunshine Law had been placed in each council member's notebook. He called attention to the supplement, 286.012, to the Sunshine Law, which talked about voting requirements at meetings. Specifically, that section said that a council member could not abstain from voting on an issue unless there was a valid conflict of interest. If there was a legitimate conflict of interest, then a council member can abstain. The Sunshine Law was a law that had been the recipient of more four letter words than any law he had ever seen that related to public officials. The typical reaction to the Sunshine Law by people who were first involved with it was that they had sometimes run multi-million dollar businesses, and if they had to run their businesses in accord with a law like it, nothing would ever have gotten done. The State of Florida was one of the first states to adopt such a strict law, and a lot of opinions had been written on the Sunshine Law.

Most opinions on the Sunshine Law strictly construe the Sunshine Law, allowing no room for argument as to what the Sunshine Law means. The judges and the justices of the Supreme Court said that this was the law that had been written, this is the way it would operate and there would be no exemptions from the Sunshine Law other than those stated in the Statute. The act itself read "all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision at which official acts are to be taken are declared to be public meetings, open to the public at all times, and no resolution, rule or formal action shall be considered binding except as taken or made at such meeting." Mr. Randolph said that the Sunshine Law did not say, nor had it been interpreted to mean, that if action was not taken two council members could meet. If two council members got together and discussed the business of Town government by phone, letter, or by meeting outside the presence of the public, the Sunshine Law would be violated. There were three parts to the law: first, meetings must be opened to the public; second, reasonable notice of the meetings must be given; third, minutes must be taken of the meeting. The heart of the law prohibited two or more members of any board or commission from meeting together outside of a public meeting to discuss business of government.

Mr. Randolph talked about the consequences of violation of the Sunshine Law. The first thing he pointed out was that a person who violated any provision of the Sunshine Law and was found guilty would be found guilty of a non-criminal infraction, punishable by a fine not exceeding \$500. However, if there was an intentional violation of the Sunshine Law there could be charges of a misdemeanor of the second degree, and if one was found guilty, would include a definite term of imprisonment, not exceeding 60 days. The Attorney General's office did not really look forward to prosecuting Sunshine Law violations, but it was not unheard of. He cited an instance in the City of St. Augustine Beach where the matter had been brought to the State Attorney's office, where two people on a council had been discussing on their cellular phones the advancement of one of their relatives in an organization they sat on as commission members. Their first mistake was talking on a cellular phone. The airways were open to the public and those would not be private conversations. In that particular case, an obvious violation of the Sunshine Law had taken place, and the State Attorney decided to prosecute it. A plea bargain was worked out, but there was a civil suit brought by an individual who had alleged a conspiracy against those individuals. He added that there were serious repercussions for violation of the Sunshine Law.

Mr. Randolph explained that of more importance than the consequences to individuals was the consequence that could result to the commission as a whole. To illustrate that, he pointed out the landmark case in the State of Florida involving the Town of Palm Beach, in 1969. The Council decided that the people who really knew about the Town were the residents, and wanted to hear from the residents as to what zoning ordinances should contain. They then appointed an ad hoc committee of residents who would get together with an appointed consultant at their homes, from time to time, to discuss and then recommend to the Council what they would like to see within the Town's Zoning Ordinances. That case went all the way to the Supreme Court, and a determination was made that those meetings were in violation of the Sunshine Law. Even though this had been just an advisory body, an ad hoc committee, that was going to give advice to the Town Council, not acting upon it, that was considered a violation. The argument was made in Court that decisions were not being made, the meetings could not be considered public business outside of the public, because determinations were not made. The Court said that something cannot be created in the dark and corrected in the Sunshine. In other words, the argument was made that there had been no harm done, recommendations only were being made. The Town Council could then reject them or accept them, and the Town Council was meeting in the public. The Court ruled that was not the case. Mr. Randolph said that he considered this the most serious part of the Sunshine Law because all of the work that had been done and all of the actions that were ultimately taken by the Town Council in regard to adoption of that initial zoning code were thrown out, and the Town Council had to go back to square one and adopt and consider a new zoning code in the public.

The other thing that Mr. Randolph pointed out for consideration in regard to Sunshine Law violations was the fact that if someone alleged a violation of the Sunshine Law against a particular agency, attorney fees could be collected by a successful lawsuit. These types of lawsuits become very expensive and could result in a hefty bill for taxpayers.

Mr. Randolph continued that there were related sections of the Sunshine Law. One thing was that notices of meetings must advise that persons have a right to appeal any decision made, so there was specific language put in notices. Also, a member of the Council must vote on every issue that comes before the Council, unless a real conflict of interest exists.

Mr. Randolph noted that it was important to keep in mind what may be perceived by others as a violation of the Sunshine Law. The intent of the law was to preclude the discussion of the public's business outside of a public meeting. It was clear that if two council members were to get together by phone, meeting, fax, or letter and communicate in regard to the business of the public, the Sunshine Law would be violated. It was not a violation for two council members to get together to play golf, go to a cocktail party, or lunch where public business would not be discussed. However,

what must always be considered was the perception of whether or not there would be a violation. That was something that must be dealt with on an individual basis.

Other potential violations of the law would be gatherings during a break or after a meeting--business should not be discussed between any two council members at that time as it would be in violation of the Sunshine Law. Another situation he mentioned was where one council member would be seen whispering to another member--that could give detractors an opportunity to allege that may be a violation of the Sunshine Law. If one council member leans over to another and asks how he or she was voting, that would be a violation of the Sunshine Law. If a commission would gather in order to see a particular site, the press would need to be invited and a clerk must attend to take minutes of the meeting. If two council members would want to go together and visit a house to see something, that would also have to be done.

From time to time, questions had come up as to whether or not a secret ballot could be taken at a meeting. There would be nothing wrong with that, but the ballot must be signed, then becomes part of the record, which was maintained by the clerk, so everyone could know how a council member voted in that particular instance.

Mr. Randolph then discussed use of memoranda and written communications among members of a board or commission. The use of a written report by one commission or board member to inform other members of a subject which would be discussed at a public meeting would not be a violation of the Sunshine Law if, prior to that meeting, there had been no interaction between the individuals in regard to that particular subject. If the report was circulated among board members with comments being provided to each board member, that would be a violation of the Sunshine Law. If a member had conducted some research and simply wanted that to be available, he suggested that rather than give that report to an individual council member or the Mayor, that the report be given to the Town Manager for distribution. Thereby no exchange of ideas would take place with no interplay between council members and therefore no chance for coercion. In the event there would be comment on it, that would be a violation of the Sunshine Law.

Mr. Randolph explained that in some instances a single individual could be guilty of a violation of the Sunshine Law. That could happen if, for example, a single individual was appointed to act on behalf of the Council. Authority would be delegated to an individual and a potential violation of the Sunshine Law could result.

No violation of the Sunshine Law would take place if council members talked one on one with staff members. It would be a violation if one council member asked a staff member what another council member had said to that staff member on a certain subject.

Mr. Randolph noted that staff could violate the Sunshine Law without meeting with two council members. For example, if an ad hoc committee had been appointed, composed of the Town Manager, Town Attorney, and three other people to conduct business and make a report, that would be a potential violation of the Sunshine Law--action had been formalized to be taken outside of the public view. That could be avoided by using staff. The Town Manager could delegate authority to various department heads and get things done in that manner.

Mr. Randolph next approached the subject of candidates' forums during the election process. They were not a violation of the Sunshine Law in and of themselves. However, if candidates got together at candidate forums and talked about the business upon which they might embark if elected, then that could be a potential violation of the Sunshine Law. Obviously the mere expression by an incumbent of an opinion would not be a violation of the Sunshine Law, because trading of thoughts with another member was not taking place.

Mr. Randolph posed the situation of a meeting between the Mayor and a council member. In an instance where the Mayor would have the ability to vote, even though he may not vote, it would be a violation of the Sunshine Law for the Mayor to meet with a council member on an issue.

Mr. Randolph said that it was not difficult to comply with the Sunshine Law as long as its intent was understood. Most interpretations of it had been strictly construed, and unless it was a written exception to the Sunshine Law, the courts would not take good sense arguments to change the Sunshine Law. For example, issues which were in litigation, with the Town Attorney receiving advice from the Council with regard to resolution, would be exempt from the Sunshine Law. Closed meetings were possible, but those meetings were subject to very strict rules and very strict scrutiny. If such a meeting were held, it would first have to be called at a public meeting. A court reporter would have to be present at a closed meeting, and the issues that could be discussed at that meeting would be only the issues relating to the settlement of that particular case. Once that litigation is completed, the transcript of the court reporter would become available to the public.

Mr. McLendon commented that he could not understand how an individual on a unilateral action could be in conflict with the Sunshine Law.

Mr. Randolph replied that it would be very unusual for a situation to exist where an individual would be determined to be in violation of the Sunshine Law. He suggested that it was not a matter that was of concern, but that the main thing to know was that a council member could act one on one with any staff member or any member of the Town, but no interaction would be allowed with other members of a commission or the Mayor.

Mr. Wyett commented that the Council had a problem in negotiating a water contract if everything said was public, which would make it very difficult to negotiate. He asked if under the heading of litigation, could a private meeting be held with a court reporter present as well as the Town Attorney?

Mr. Randolph replied that if such a meeting was a guise to get around the Sunshine Law it would not be permitted. If litigation were pending and ways to settle it were being approached, then such a meeting would be appropriate.

Mr. McDonald asked Mr. Randolph what the availability of the transcript was once the court reporter prepared it, and how quickly it must be provided?

Mr. Randolph replied that it would be after the litigation had been completed. If there was an appeal, he presumed it would remain private until after the appeal had been concluded.

Mr. Randolph added that he had received questions as to what can be done to amend the Sunshine Law. He believed that the only way it was going to be amended was if a logical argument could be made to the legislature as to why a certain specific item ought to be discussed in private, that may be considered and written as an exemption into the law. He did not believe that the law would ever be changed in regard to its intent and purpose.

Mr. McDonald commented that he was not aware that the City of West Palm Beach conducted all of their negotiations on the water contract in public and he inquired if there was some reason that this could be done?

Mr. Randolph replied that there was no reason that he knew of.

Mr. Randolph stated that the next subject included in the notebooks related to public records. Public records law was interpreted in the same manner as the Sunshine Law in that it was strictly construed and applied. If there were any exemptions to the Public Records Law, those would be written into the act. The issue of Public Records Law would not be as much of a concern with council members as it would be with staff, but Mr. Randolph felt that the council members needed to know that any records which they created or received which were part of the public business were public records under the definition of the Public Records Act. He remarked that it would depend on whether records were really business of the public in determining if it was a public record or not. What the council members needed to know was that anything they did in regard to the business of the public that was put in writing could at some point be determined to be a public record. There was no policy dictating what an individual would have to do in regard to communication received at his or her home. Mr. Randolph said that he had never seen a case that interprets communication received at home as being a public record, but he thought that if it was dealing with the business of the public, someone could launch a successful argument that it would be a public record. He added that does not mean that there was an obligation to bring a public record that was received at home into Town Hall to keep on file for everyone to see, but it did mean that if a communication was a public record and a request was received, a response may be necessary. He said that there was no obligation on the part of any council member receiving private communications at home to bring them in, except under a circumstance such as ex-parte communications.

Mr. Randolph remarked that the section included in the council members' notebooks included the whole Statute on public records as well as the supplement.

The Mayor asked how the Sunshine Law felt today about council members receiving calls from lawyers about specific matters that would come before the Council.

Mr. Randolph replied that would not be a Sunshine Law violation because that was not a communication between two members of the council. It would be a Sunshine Law violation if after that lawyer called the Mayor, or one council member, he or she in turn called another council member to discuss it.

Mr. Randolph then talked about the matter of conflicts of interest and ethics. He referred to the specific Statute, which read "no county, municipal or other local public official shall vote in his official capacity under any measure which he knows would inure to the special private gain or loss of any principal by whom he is retained, any parent organization or subsidiary of a corporate principal by which he is retained..." The reason he brought the definition up was that the definition was broken down where "special private gain" was concerned. There was special gain and there was private gain and in the treatise that he had provided for council members the breakdown in the definition was described. He referred council members to page 784 which talked about the legislative intent and the declaration of policy. In the first paragraph--"it is essential to the proper conduct and operation of government that public officials be independent and impartial and that public office not be used for private gain other than the remuneration provided by law. The public interest, therefore, requires that the law protect against any conflict of interest and establish standards for the conduct of elected officials and government employees in situations where conflicts may exist." Mr. Randolph mentioned that the section he had just read was Section 112.313. Section 112.3143 talked about voting conflicts and item 3.A said "no county, municipal, or other local public official shall vote in his official capacity upon any measure which would inure to his special private gain or loss or which he knows would inure to the special private gain or loss of any principal by whom he is retained...", then relatives are talked about in the same vein, which Mr. Randolph pointed out was a new addition which he thought council members should keep in mind when reading the section on the Stetson Law Review.

He commented that he had provided council members with a letter of June 10, 1991 that he had written to Mr. Doney regarding a question of an individual sitting on the board of a charitable organization having a conflict with voting on a matter. This letter explained the issue of conflict of interests.

The next portion he mentioned was the matter of ethics. Mr. Randolph suggested that council members go through the publication "Quality Cities" from the Florida League of Cities to review the issue on ethics, along with the Stetson Law Review article on ethics and conflicts of interests. He remarked that if a council member was present at a meeting he or she should vote on all the issues, unless there was a particular conflict.

Mr. Randolph pointed out page 682, which he read--"the most critical aspect of the Statute is the question of when an official may abstain from voting pursuant to Section 286.012. An official may abstain when there is or appears to be a conflict of interest." It appeared that the Attorney General's interpretations of the statute required a public official to have a personal financial interest in a matter in order to abstain from voting on that matter. Almost every opinion would somehow relate to a financial conflict of interest.

Mr. Randolph next called attention to page 683 which said that the Commission on Ethics had generally agreed with the Attorney General's interpretation of the Statute, advising that a city council member may not abstain from voting on grounds of bias or prejudice against an individual when matters concerning that individual or the business he represents come before the council. Notably, Mr. Randolph pointed out, the Third District Court of Appeal had referenced this opinion of the Ethics Commission in finding that previously expressed opinions on a subject of a vote did not require or permit disqualification of a county commissioner.

Mr. Randolph called attention to the next paragraph, which read "The Commissions opinions have read the statute appears to be a conflict language as permitting abstentions under a broad variety

of circumstances." Therefore, there were permitted abstentions and the only way he could suggest dealing with matters such as this would be on a case by case basis.

Mr. Randolph continued that he wanted to make it clear that there were two portions to declaring a conflict of interest. When a council member decided to abstain because of a conflict it must be announced orally before the Council. Subsequent to that, the conflict of interest form must be filed with the Town Clerk, ultimately going to the State, and becoming public record. There were several tests to indicate what "special private gain" was. The size of class test was one: if one was a member of a class, for example living in a certain zoning district, and a piece of property was being re-zoned, there may not be a conflict. There was also the test relating to remote and speculative--a gain received might be so remote and so speculative that it would not necessarily be a conflict of interest. There was also the gain or loss test--there was no difference between gain or loss with regard to the Statute--if a council member was going to vote on something and there was a situation where it could inure to special private gain, involving either a gain or loss, a conflict would still have to be declared. Another test was the procedural or preliminary issue test--if an issue was just a procedural issue, that would not be a conflict.

Mr. Randolph said that he wanted to note political contributions, as to whether or not a person must abstain from voting on an issue involving a party from whom he or she had obtained a political contribution. There would not be a conflict in that case; general contributions from people to political candidates did not create a conflict of interest.

Another issue Mr. Randolph discussed was whether or not a council member belonging to a club may vote on a matter relating to the club. If a person was simply a member of a club that came before the board, there would be no conflict of interest, unless it could be shown that person had a special private gain which would inure to that person, a relative, or a principal by whom that person was retained.

Mrs. Smith asked Mr. Randolph how members of the Council could deal with public perception?

Mr. Randolph replied that he thought that was up to each individual, however, one of the ways to deal with it would be to bring any issues up front and at the beginning.

Mr. McLendon asked for clarification between abstention, excusing, and recusing from votes.

Mr. Randolph replied that there was really no difference between the three--either the matter was voted on or abstained from.

Mr. Wyett asked if they, as the Town Council, could enact their own standards of ethical behavior in conflicts of interest?

Mr. Randolph replied that they could be stricter than the code if they so desired.

Mr. Shaw stated that he had a question regarding abstentions in difference to deferring--if an issue was brought before the Council to act upon, where there is no third party input, would a deferral be a valid action as a form of abstention?

Mr. Randolph replied that was not abstaining--that a positive action was being taken to defer for future consideration, and ultimately that issue would be voted on.

Mr. Randolph continued that the next item would be zoning issues. He first spoke about the difference between a variance and a special exception. Variances were considered on a monthly basis and they were something that was not provided for in the code. Certain criteria had to be applied in determining whether to grant a variance. A special exception was an allowed use according to the code, requiring someone to come before the Council in order to have a determination as to whether certain criteria had been met. In addition, financial hardships could not be considered when granting a variance. A variance was something unique to the property itself that was not something caused by the property owner, such as a triangular shaped lot. Recently case law had made a determination that a variance should not be granted unless no other reasonable use could be shown for the property. Medical excuses were not grounds for granting a variance. There must be something unique about the property itself. Mr. Randolph felt it very important that when a variance or special exception was granted, the Council make a finding, so that when a review of the matter occurred in court, the court could look at the reasons for granting.

Mr. Randolph addressed the issue of legislative versus quasi-judicial meetings. When laws were enacted that usually involved a legislative capacity. A recent case had come out that said that even a zoning issue where legislation takes place could be quasi-judicial. Normally, when laws and ordinances were being passed that would be a legislative matter, and could be discussed with members of the public. Instances where the council would sit as a quasi-judicial body would be the hearing of variances, special exceptions, site plan reviews, and zoning applications affecting property owners. Quasi-judicial meetings require the Council acting as judges and no one from the public should be talking to council members as far as judgment in a particular matter. The idea behind legislation in this regard was when acting in a judicial capacity, council members should not be talking to people who were pro and con about issues, except at a public meeting.

Mr. Randolph next discussed the question of communications received on a particular item. The Jennings case interpreted that if there had been shown to be an ex-parte communication that would be deemed on its face to be prejudicial. The person claiming the violation would not have to prove prejudice--it is deemed on its face to be prejudicial.

Mr. Randolph also mentioned case law regarding the Snyder decision in which zoning matters were in the past considered legislative. If a zoning issue was legislative, then all that need be done to sustain action taken was to show that what was done was fairly debatable. In regard to zoning actions, not involving a large number of people, relating to a specific tract of property, the ruling by the courts now was that is considered a quasi-judicial decision, meaning that the decision could be reviewed by a court on appeal and the burden there was "substantial, competent evidence" must have been before the ruling council in order for them to rule. A quasi-judicial hearing may or may not involve swearing in witnesses; the other elements being cross examination, allowing people to ask questions, due process, and that a finding be made in regard to any decision made.

Mr. Shaw asked if there ever was a hardship on vacant land where someone would be building a new structure, asking for set back variances?

Mr. Randolph replied that there would be very few instances where new construction on a vacant lot would require a variance, however, there could be instances where the configuration of that lot was such that a variance may be entitled. It would have to be looked at on a case by case basis.

Mr. McLendon asked how the terminology relating to special exceptions came about--why was it not called a conditional use?

Mr. Randolph replied that the term had been used for some time, and that the exception was indeed special, because it was not permitted, and because there was a list of criteria that had to be met in order to get it. It was not a conditional use because it could be that conditions were not put on it--if all of the criteria set forth in the ordinance were met a special exception could be granted.

VIII. CONSIDERATION OF PROCEDURES FOR OTHER TOWN COUNCIL MATTERS

A. Consideration of Expenditures by Elected Officials

Mr. Doney addressed the Council, stating that the past practice had been that if an elected official wished to travel or spend any town funds, the item would have to be brought up before Town Council for approval. Unless there were any further direction, that was the way staff would continue handling it.

B. Coordination and Proposed Responses to Letters Addressed to Mayor and Town Council or Letters Addressed to Individual Town Council Members or the Mayor

Mr. Doney had previously described how this was handled and unless directed otherwise would continue in this manner.

C. Town Council Meeting Agendas and Back-Up

Mr. Doney suggested that each council member could bring his/her notes to the meetings, transferring them to their notebooks.

D. Other

Mr. Doney brought up the issue of staff action directed by the Town Council and that he thought motions should be taken today regarding staff action. Mr. Doney then named the five items he was referring to:

Item No. 1: Whether or not to add to the Agenda for March 14 an item about the Town Attorney investigating the taxes for all utilities.

Mr. McLendon said that he did not think there was a question that the utilities had a right to tax, but that he thought the question was why it might not be considered an advalorem basis, rather than an add on back to the utility bill. The only question was, legally, whether the utility had the right to put the 10% tax back on the utility bill.

Mr. Shaw made the motion that consideration of utility taxes not be put on as as an Agenda item. Seconded by Mr. McDonald. On roll call the motion was defeated 2/3.

Mr. Wyett made the motion to put consideration of utility taxes on the Agenda. Seconded by Mr. McLendon. On roll call the motion carried 3/2.

Item No. 2: Mr. Doney said that he understood from earlier discussion that a code of ethics for the Town may be established.

Mrs. Smith felt that this item should go to committee for study.

Mr. McDonald agreed with that.

Mr. Shaw motioned that this item should be sent to committee. Seconded by Mr. Wyett. On roll call the motion carried unanimously.

Item No. 3: Mr. Doney said that this issue was whether or not the Council wished to direct any action regarding swearing in of witnesses for variances and special exceptions.

It was determined that no action was required.

Item No. 4: Mr. Doney brought up the issue of whether or not the Town Council wished to discuss the criteria for individuals who wished to be considered for appointment to boards and commissions.

It was decided that no action was required at this time as this would be considered at the March 14, 1995 meeting.

Item No. 5: Mr. Doney addressed the issue of the handling of back up letters that come in for the Mayor and Town Council on variances and special exceptions.

Mrs. Smith said that when letters are placed on the table during the meeting itself, there was no time to read them. If letters were not received prior to the meeting, then the meeting would have to be stopped in order for them to be read.

Mr. Randolph stated that in other communities the presentation is made, and afterwards the clerk is asked whether or not any communications had been received in regard to a particular item. The clerk would then advise of any communications received, which the council members would already have in front of them.

Mr. Shaw made the motion that all letters pertaining to variances and special requests be handed out at the time of reading by the Town Clerk. Seconded by Mr. McLendon. On roll call the motion carried unanimously.

Mr. Shaw asked if Mr. Randolph could give a brief summary of the Sunshine issues and some of the procedures for potential council members, right after the caucus, as a means of explaining to those running what the general accepted rules were.

Mr. Randolph said that he could put together a one-page clarification to be included with filing papers.

Mr. Wyett brought up the status of Mar-A-Lago and the procedures for its approval being included under X. Any Other Matters.

IX. CONSIDERATION OF ONGOING NEGOTIATIONS WITH CITY OF WEST PALM BEACH REGARDING WATER

Mr. Randolph stated that historically, prior to the expiration of the water franchise, representatives of the Town and the City of West Palm Beach sat down to attempt to re-negotiate the franchise. A point had been reached where most of the issues had been resolved, however, an agreement had never been reached. There had been a joint meeting of the Town Council and the City of West Palm Beach, with several ideas being suggested there. Subsequently, another meeting had taken place, but the surcharge issue entered the discussion and negotiations had broken down. Subsequent to that, the Town Council had decided to investigate other means and methods of obtaining water, other than through the City of West Palm Beach and this was continuing to be studied. The Town Council had asked that all efforts related to the negotiation be re-considered and this had been done via two different meetings with the City of West Palm Beach.

Mr. Randolph remarked that council members now had back-up information regarding the franchise agreement. The most recent information was his letter of February 15, 1995, summarizing what had been discussed at the last meeting. The areas discussed had been capital improvements to the system; pressure problems; the issue of non-potable water; a cap being put on increases; the term of the franchise; buy-out provisions; and the surcharge issue. He continued that staff now needed the Town Council's direction as to how to proceed.

Mr. Wyett said that he felt that West Palm Beach had never taken the Town very seriously--they had the water and the Town should take whatever terms they offered. He said that the opportunity should be taken to demonstrate to West Palm Beach that the Town is resolved to come to some type of fair and equal agreement, or that the Town will go elsewhere.

Mr. Wyett continued that the C-51 Canal non-potable water issue contained several aspects that should be looked into:

1. There was direction from South Florida Water Management District to put a conservation program in. If conservation does not occur, the Town could be looking at a potential loss of \$1,000,000 in revenue sharing funds. He felt this loss should be looked at as a cost.

2. The City of West Palm Beach had a real interest in the Town getting its own non-potable water. Non-potable water would constitute approximately 50% of the water used in the Town. If the C-51 Canal were used for most of the year, West Palm Beach would lose the sale of almost half of its water, but more than half of its revenue.

3. In constituting 35% of their water sales, they have a bond issue problem. The 1993 bond issue listed the Town a customer unsigned, but most likely would sign. It also promised the bond holders approximately a 4% increase in rates every year. When all of the numbers were applied, the crossover between the report that said water would cost 31% more was erroneous. It had been based on 1993 rates, and the 1994 rates had already risen 5, so that made it a 26% differential, and when upcoming rates were applied, there was a crossover point where water would be no more expensive if the Town switched to Riviera Beach or Lake Worth.

Mr. Wyett said that he felt that the Town had negotiation points and it was time to make some decisions. He suggested establishing a Water Department, then authorizing staff to negotiate the purchase of a pipe system.

Mr. McLendon asked Mr. Randolph if the City of West Palm Beach had the right to refuse to consider an agreement with a separate non-potable system.

Mr. Randolph replied that they did have the right to do that, since it was their determination as to whether a franchise agreement would take place or not. He went on to clarify that they did not want to sign a franchise agreement which would allow the Town to compete with them for non-potable water. They would allow an independent property to provide its own irrigation water. One of the suggestions made in recent discussions by one of their staff members was to sign an agreement which would give the Town a five-year window in which to provide its own non-potable water.

Mr. McLendon stated that he was not sure that even if the Town had a separate non-potable system it would be completely free from restrictions.

Mayor Ilyinsky remarked that the bottom line was cost. The idea of digging up the Town for a long period of time was not an attractive idea to him. He felt that the non-potable water issue was extremely important. He asked if Mr. Randolph had talked to the City of West Palm Beach about their giving the Town some of the surcharge back in order to fix the infrastructure.

Mr. Randolph replied that the City of West Palm Beach was not willing to talk about the surcharge issue.

Mr. McDonald asked Mr. Randolph what was the down side of continuing on a month to month basis with the City of West Palm Beach?

Mr. Randolph responded that the only down side would be relating to improvements in the infrastructure.

Mr. McLendon stated that he had a meeting with Mr. Olson and Mayor Graham discussing the water issues and one of the questions he had brought up to Mr. Olson was what value was placed on the distribution system in Palm Beach. Mr. Olson said that, based on the revenue derived, they would be looking for \$20,000,000. Mr. McLendon had then commented that an up-to-date, healthy distribution system would have to be included. Even if the Town bought a system, the decision would have to be

made whether to buy wholesale from them or to try and develop its own supply. There was no established wholesale rate, so the City of West Palm Beach could start at any point.

Mr. Shaw said that in keeping with the inverse rate structure one point missing was the percentage of water used per acre. He felt the only way to get around that would be for the Town to look into buying bulk water. He questioned the validity of a surcharge when there was no franchise agreement. Another issue he felt needed to be looked into was the source of water for the C-51 Canal.

Mrs. Smith asked Mr. Randolph about the legality of the surcharge and how it could be finally resolved?

Mr. Randolph responded that discussions had involved imposing the surcharge in a manner that would help the Town of Palm Beach--rather than use it for something totally unrelated to the water system to put it into an account where it would benefit the infrastructure within the Town. Another related issue was the legality of the surcharge. A lawsuit could be instituted to make a determination as to whether or not the surcharge had been legally imposed. In the event such a lawsuit were filed successfully, treble damages could be received as well as attorney fees. If the decision would go the other way, the City of West Palm Beach could receive its attorney fees from the party that filed the lawsuit. One thing that Mr. Randolph mentioned in this regard was that if there would be a question as to the legality of the surcharge, there could be a genuine dispute to be resolved by the courts and if the City of West Palm Beach thought it was right to impose the surcharge, then there should be no objection by the City for the two parties to enter into a friendly lawsuit, a suit for declaratory relief, to let the courts decide whether or not the surcharge was appropriate under the law. The parties could agree to be bound by the decision of the court in that regard. Mr. Randolph felt that the advantage in a friendly lawsuit was that each party could agree to bear its own attorney fees, and the party filing the suit would agree that treble damages would not be sought. That would be another way of approaching the matter in a dignified way, allowing a decision to be made by the courts as to whether a surcharge is or is not appropriate.

Mr. McLendon stated that he had read the statute and did not see where a franchise agreement was required for the surcharge, but that where a municipality supplies water outside its boundary they were entitled to charge up to 25% without any accounting for it, and could go as high as 50% if they could justify it by data.

Mr. Wyett remarked that he did not think the various approaches could be resolved at this meeting, but that some decisions had to be made, as well as sending some very strong signals. He suggested that the Town Manager and Public Works be relieved from going to all the meetings and substitute one or two council members to attend. Days and weeks would be spent negotiating and the strong expertise on the council could be beneficial to the Town. When technical decisions were required with more expert opinions, he thought Mr. McLendon would be aware of that. He continued that he would like to strengthen and modify the negotiation team as the first signal that the Council was very serious. He suggested a resolution to negotiate the purchase of a system, and the establishment of a water department so that the process could be started. He felt that some positive things had to be done as the water situation had existed for four years.

Mr. McLendon asked Mr. Randolph if the Town had the right of condemnation over the distribution system and how involved it would be to try to get the statute modified?

Mr. Randolph replied that more people would have to be interested in modifying the statute than the Town of Palm Beach. Many communities would have to be interested in doing that. Once that was done, a lobbyist would have to be retained, and there was a great deal of case law that had built up around the statute, as well as a great deal of history behind the statute that would have to be studied to find good reasons for modification.

Mr. Adrian Winterfield addressed the Town Council, stating that two people could read the same text and come to opposite conclusions. In 1935 there was a very simple section describing the situation of one municipality receiving water from another. The current surcharge ordinance was passed much later, in the 1970s, with the most recent amendment in 1988. He had never been able to understand why the Town had not instituted an unfriendly action immediately upon the institution of the surcharge, claiming that the Town qualified under the earlier statute--that there was nothing in the surcharge statute nor the case law which specifically said that the surcharge should be applicable in the event of a franchise agreement. He speculated that the purpose for having a surcharge was to reimburse a municipality for extending its lines to individual customers in the nonincorporated area. That argument could have been made before now, but, as he understood it, the Town was no longer under a franchise agreement and chances of invalidating the surcharge were greatly reduced as a result of not having a franchise any longer. He felt that the Town should go to court.

Mr. Ned Barnes of the Palm Beach Civic Association addressed the Council, stating that the Civic Association stood behind the Town on the water issue and would urge the Town Council to be tough and strong. He offered services to the Town in a supporting role. In general, he urged the Council to participate in negotiations while continuing to pursue alternatives; to negotiate a contract with as many options as possible; to move toward independence in any contract negotiations.

Mr. McLendon asked what would be required to create a water department?

Mr. Randolph replied that a water department could be created by ordinance or resolution, with a separate and independent fund, and direction would have to be given to staff, along with goals, etc. Details would have to be worked out if conceptual approval was given. Today, a motion to conceptually approve the establishment of a water department with direction that the staff and Town Attorney come back with whatever direction would be needed in that regard.

Mr. Wyett stated that he was concerned that as a first signal the Council show its extreme interest demonstrated by a council Water Committee to participate in negotiations. He suggested that the Council start the process of appointing members to a Water Committee as the first major signal that the issue is serious to the Town of Palm Beach.

Mr. Randolph spoke to the issue of a Water Committee, stating that all council members could be on a water committee if they so desired. Dictates of the Sunshine Law would have to be followed.

Mr. Wyett suggested that a Water Committee, if appointed, meet directly with Mayor Graham to see if progress could be made.

Mrs. Smith said that she would like to know whether the surcharge was legal or not legal, as that would make a big difference. She said that the feelings of West Palm Beach regarding a friendly lawsuit would have to be considered.

Mr. Randolph said that if a friendly lawsuit was approved, then he would write a letter to Pat Brown with the suggestion that such a suit be entered into. The suit would then have to be filed, experts hired, with a decision possible within a year.

Mrs. Smith asked about costs for such a lawsuit.

Mr. Randolph replied that a ballpark figure would be approximately \$50,000.

Mrs. Smith remarked that the Town of Palm Beach had already spent almost \$750,000 on studies, etc. and now were no further along in answer to some of the same questions. She would not find a friendly lawsuit an unacceptable response.

Mr. McDonald added that he thought a Water Committee should be appointed, to include all five council persons.

Mr. Shaw asked if it would be feasible to have all future water payments go to an escrow account if a friendly lawsuit was entered into?

Mr. Randolph said that was possible if the City of West Palm Beach would agree to that.

Mr. McDonald remarked that the surcharge was only one issue of many. He urged that the Council gets things moving.

Mr. Shaw said that the major issue he saw with West Palm Beach was the surcharge issue.

Mr. Randolph commented that when they were informed that the surcharge was not opened for discussion, a statement had been made that the Town could get out of the surcharge by purchasing the system.

Mr. Wyett said that one of the major issues he saw in the contract and in the budget of West Palm Beach was that they had put aside 8% for repairs and maintenance. He felt that was an inadequate amount of money just to service Palm Beach. Mayor Graham had made a comment that she had millions of dollars ready to go to repair systems, but she did not mention that was for the entire system. With the infrastructure on the island of Palm Beach, megabucks would be needed, and that would be reflected in the rates sooner or later. He added that if push came to shove and the public was queried, the regular supply of good, clean water would be the primary concern, with the price being secondary. Part of his concern was that in ten years the system may be in such bad shape that residents will be up in arms because water pipes would be breaking everywhere.

Mr. Wyett felt that another inadequacy of the contract was that it had no provision for alternate sources of water. Twenty years into a thirty year contract there could be a severe water shortage. A provision should be put into the contract that should there be severe water shortages, West Palm Beach must do something about it.

Mrs. Smith remarked that West Palm Beach was choosing not to address these issues in the contract. The pipes had been leaking for years and was an ongoing concern of the Town, raised in the negotiations on the contract. It sounded terrific to say that ten years from now pipes would be leaking, but it was happening now. These were not new issues that were being brought up.

Mr. Wyett said that if the pipes removed from two or three streets last summer were examined, they would be shown practically ready to disintegrate. Those pipes were probably very similar to other pipes in the Town and the need for new pipes was imminent.

Mrs. Smith noted that the long range capital improvement program had been going on for years. The sewer lines from the north end to the south had been dug up from the north end to the south end for the last 30 years.

Mr. McDonald said that if a lawsuit was filed, even if the City of West Palm Beach agreed with it, he felt there would be a tendency not to negotiate much. He saw that as counterproductive, and he thought the best thing to be done presently was to appoint the Water Committee to conduct negotiations.

Mr. Shaw felt that the first step should be to make the decision to go forward based on the results of the study. That was when the City of West Palm Beach would know that they had lost their guarantee of water revenue. Mr. Shaw felt very strongly that buying water in bulk should be looked into. In addition, he felt that no rebuilding or any reconstruction of streets in the Town be done without having a second water supply, a non-potable water line.

Mr. McLendon asked where Palm Beach stood with regard to back flow preventers? As he understood it, they were on all larger multi-family residences and businesses, but that all single family residences did not have them. In order to meet the State Health Department requirements, could the Town be ordered to do the rest of those single family homes?

Mr. Dusey replied that all the new homes had back flow preventers. West Palm Beach had selectively gone into other single family homes that had irrigation on their regular meter and asked for back flow prevention. All of the large condominiums, he believed, had back flow prevention. All town-owned systems had back flow prevention. He thought that the better half of the Town had back flow on it.

Mr. Wyett made a motion to form a Water Committee. Seconded by Mr. Shaw.

Mr. McDonald remarked that the size of the Water Committee should consist of three persons, with the third member as a rotating member, so that all council persons could participate at one time or another--three members of the Town Council; two of whom would be set with the third being whoever wanted to attend.

Mr. Wyett agreed that was an excellent idea.

Mr. Randolph said that he did not think that needed to be designated in the motion. The water committee could consist of two persons and whoever was available from the Council wanting to go the meetings could go. All five members could attend if they so desired.

Mr. Doney asked if it was intended that the Town Manager and the Public Works Director attend the meetings?

Mr. Wyett replied that it had not been intended to include the Town Manager and the Public Works Director in the meetings, but that they would be kept totally aware. One of his purposes was to relieve the two gentlemen of their overburden of work, as very heavy negotiations would be taking place, requiring many hours of time. He felt that their role was one of being supportive and informed.

Mr. Doney felt that special secretarial assistance may be required to record the minutes of these meetings.

Mrs. Smith replied that the meetings would have to be at times agreeable to everyone--logistics would have to be followed before the meetings were set up.

Mr. McDonald asked if the recorder had to be a court reporter, or could it be a secretary.

Mr. Randolph replied that it could be a secretary.

Mr. Doney added that what he did not want to happen was a technical/administrative problem. If the meetings were going to be intensive, he requested that Council authorization be made today to get special secretarial assistance. He added that he would like clarification about the intent of the 1:30 P.M. meeting next Wednesday, March 1, 1995 with the City of West Palm Beach, when Mr. Olson would speak about water.

Mr. Wyett said that meeting should still be held, as that was a general information meeting which the whole Council should hear. As far as the request for secretarial assistance, he thought the Council could authorize Mr. Doney to incur whatever expense was necessary to comply with the needs.

Mrs. Smith noted that there were not unlimited funds available for this and a cap would have to be made for secretarial services for this committee.

Mr. Shaw asked what a committee would do specifically, that was not being done right now.

Mr. Wyett replied that instead of going off on tangents, the committee would put together a comprehensive report to submit for Council comments.

Mr. Shaw inquired if a committee was needed, if the ideas were already formulated?

Mr. Wyett responded that he thought a committee was needed, as he thought input from more than one person was needed.

Mr. Doney noted that he needed a clear expectation of what was expected from staff. He wanted to be sure that accommodations could be made staff-wise.

Mrs. Smith asked Mr. Wyett if he anticipated negotiations taking place during the next two weeks?

Mr. Wyett replied negatively. He saw the reason for having a secretary present at the meeting as a requirement of the Sunshine Law. Whoever was on the committee would be putting together a proposal that would not be terribly complicated. The Council would then receive it and discuss it. Then, when negotiations with West Palm Beach took place there probably would be need for additional secretarial work, but he did not feel that it was a serious problem. He suggested that Council authorize so many dollars for the first month.

On roll call, the first motion, which had been made and seconded, to formulate a Water Committee with two members, was passed unanimously.

Mr. Wyett made a motion that \$500 be authorized for special secretarial services. Seconded by Mr. McLendon. On roll call the motion carried unanimously.

Mrs. Smith asked if the Council wanted to discuss a time for the first meeting and discuss who would be on the Water Committee.

Mr. Shaw made a motion that, as president, Mrs. Smith appoint all committee members. Seconded by Mr. Wyett. The motion was approved.

Mrs. Smith asked about a meeting date.

Mr. Doney said that all staff needed to do was to make sure that the room would be available.

Mr. Shaw suggested discussing a date for the first meeting during the upcoming meeting of March 1, 1995.

Mrs. Smith asked if the members of the Council would be available to stay after the Eric Olson meeting of March 1, 1995 for a meeting of the water committee. All council members agreed that there would be a water committee meeting after the Eric Olson meeting on March 1, 1995.

#### X. ANY OTHER MATTERS

Mr. Wyett suggested the following motion be considered: Inasmuch as Mar-A-Lago had become a much more complicated situation and had time extensions, he would like to have Mr. Moore and Mr. Randolph report to the Council that they were ready to issue all of the permits and that the Council immediately meet so as not to hold up the approval process. Secondly, he was concerned with the

audit of membership and would like to have the audit reported to the Council, broken down into how many town residents were members, as well as how many people who work in the Town were members.

Mr. Randolph responded that a report could be given to the Council on the status of conditions of the agreement being met, as they had been doing. If Council wished to have that information and review it at a public meeting that was entirely possible. The application had been approved and Mr. Randolph cautioned against bringing the matter up again for discussion of approval. Through written communication to Council, all information relating to what needs to be done could be transmitted, as well as opinions as to whether or not those things had been accomplished. That would be an informational item, rather than an item upon which Council would act, unless Council disagreed with staff as to whether or not conditions had been met.

Mr. Moore remarked that he would be willing to answer any questions in this regard, and that he totally concurred with Mr. Randolph's opinion. The permits had been issued; there were multitudinous permits issued for construction purposes in order to meet the conditions of the Special Exception Approval Development Agreement and work was ongoing. The estimated time was at least three to five weeks before completion.

Mrs. Smith asked if that was the estimated time for the completion of the work for the Certificate of Occupancy.

Mr. Moore replied that was correct. Mr. Randolph would be reviewing documents supplied to him by Mr. Trump's representatives.

Mrs. Smith remarked that there had been some confusion among people about the difference between the Certificate of Occupancy and the Occupational License.

Mr. Moore replied that the Certificate of Occupancy would be for the construction-related items. However, in the agreement with Mr. Trump, both of them were tied together. In other words the Certificate of Occupancy for the construction work would not be issued prior to the Occupational License for the club. It would be a combination. There were many items that must be completed and satisfactory completion shown--some legal and some physical.

Mrs. Smith asked if the Preservation Easements would be covered before the issuance of an Occupational License?

Mr. Moore responded that it had been represented by the owner of the property and his representatives that those would be in place prior to the request for Certificate of Occupancy and Occupational License.

Mr. Adrian Winterfield addressed the Council, stating that he would like to inquire as to whether anyone on staff or on behalf of the Town authorized the program that took place at Mar-A-Lago on Wednesday evening? He expressed concern because in his perception the function that took place Wednesday evening was no different from any function that would take place as a club, and the Agreement explicitly stated that there should be no club function prior to issuance of a Certificate of Occupancy.

Mr. Wyett then clarified his motion that the Town Attorney and the Building Department shall notify the Council they are ready to issue the necessary licenses and permission for the Club Mar-A-Lago to open. Upon notification, this Council would immediately meet to hear the opinion. There would be a request to the Town Attorney to have certification that the residents rule be broken down into actual people who live here, people who work here, and if there was any other category that Mr. Trump was prepared to say qualifies him he should so declare it.

Mr. Randolph commented that in regard to the second part of the motion, that could certainly be asked for. The only thing that was required was the way in which it was addressed within the Declaration of Use Agreement. So, what was intended was to make sure that the certification was in compliance with the Declaration of Use Agreement.

Mr. Wyett replied that he would have to be more specific--there was concern in Town that under a town serving rule that could be interpreted as someone staying at a hotel being qualified to join this club and becoming a town resident for that purpose.

Mrs. Smith remarked that town serving had never been covered by hotel residents, and the commercial institutions in Town had never been able to use hotel residents as part of their town serving function. She added that asking for names of members was not public information and could not be asked for, however, Mr. Randolph could answer to that. Also, she had a concern about asking Mr. Moore to come before the Council for every building permit. She asked if the Certificate of Occupancy actually covered the construction changes?

Mr. Moore responded that it did.

Mr. Randolph said that what he would like to do in regard to the town serving item would be to request the certification that was needed as he saw it interpreted under the Declaration of Use Agreement from Mr. Rampell. He would copy council members with such a letter and await any advice from them. He could certainly ask for additional information above and beyond that, however there would be a question as to whether or not they would be required to do anything more than was stated in the Declaration of Use Agreement. He did not feel that a long discussion was necessary at this meeting, as to what the Declaration of Use Agreement required and how it was interpreted.

Mrs. Smith replied that she did not feel that it was entirely appropriate to have a long discussion without Mr. Rampell present to represent the owner, as this had not been advertised as an agenda item. She thought that it had come to the attention of the Council and could be put on the agenda for March 14, 1995, so that sufficient notice could be given to the property owner.

Mr. Wyett replied that Mr. Trump could open the Club before the 14th, and he was concerned with the rules were being lived up to by everyone.

Mrs. Smith noted that it was her understanding, in discussions with staff, that previous council members had decided that there would be no Occupational License issued unless the Town Council was informed and she did not believe that the situation had changed.

Mr. Randolph commented that the Town Council would be kept informed of the status of the project, and he would keep council members copied with all information received. With that information in hand, if council members saw the need to call a meeting, they could do so.

Mr. Wyett then amended his motion as follows: "the Town Attorney shall notify the council he is ready to issue an Occupational License and that this Council meet before that Occupational License be issued".

Mr. Randolph noted that from a procedural standpoint he would not be issuing it, but he would inform the Council as to the status of compliance with the Declaration of Use Agreement.

Mr. Wyett was concerned that Mr. Trump would go beyond the definition that was stated in the Contract.

Mr. Randolph responded that he would have some conversation with Mr. Trump's representatives as to what was expected, and then Council would be advised as to the response given.

Mayor Ilyinsky remarked that he was uncomfortable with the discussion taking place without Mr. Rampell being present.

Mrs. Smith agreed with the Mayor and remarked that the motion would not be appropriate at this meeting, as it was not related to an advertised item. Concerns had been brought out in the open, but as part of the democratic process, due notice had to be given. A Special Town Council Meeting could be called at any time, given proper notice.

Mr. Wyett said that he would withdraw the motion and request Mr. Randolph to notify the Council when he found everything in compliance.

#### XI. ADJOURNMENT

Mr. McDonald moved the meeting be adjourned. Seconded by Mr. Shaw. The meeting was adjourned at 4:30 P.M.

Mary A. Pollitt  
Town Clerk

Prepared by:  
Sue Eichhorn