

MINUTES OF THE SPECIAL TOWN COUNCIL MEETING HELD JANUARY 16, 1996

I. **CALL TO ORDER AND ROLL CALL:** The meeting was called to order by President Lesly Smith at 9:30 a.m. on January 16, 1996, in the Town Council chambers. On roll call, the following Elected Officials were found to be in attendance: Mayor Paul Ilyinsky, President Smith, President Pro-Tem Jack McDonald, Councilmen Samuel McLendon, Leslie Shaw, and Allen Wyett. Others attending for all or part of the meeting were: Town Manager Robert Doney, Town Attorney John Randolph, Assistant Town Manager Peter Elwell, Fire-Rescue Chief Ken Elmore, Director of Public Works Al Dusey, EMS Coordinator Chick Price, Project Engineer Bob DiFiore, and Town Clerk Mary Pollitt.

II. **INVOCATION AND PLEDGE OF ALLEGIANCE:** The invocation was given by Mrs. Pollitt, and President Smith led the Pledge of Allegiance.

III. **APPROVAL OF AGENDA:** A motion was made by Mr. Shaw and seconded by Mr. Wyett to approve the agenda. On roll call, the motion carried unanimously.

IV. **RESOLUTION NO. 5-96 - TO CALL THE ELECTION:**

V. **MAYOR'S PROCLAMATION TO CALL THE ELECTION:**

Mayor Ilyinsky read the following proclamation:

MAYOR'S PROCLAMATION

TO THE QUALIFIED VOTERS OF THE TOWN OF PALM BEACH, FLORIDA

WHEREAS, pursuant to the Charter of the Town of Palm Beach, Florida, and the General Laws pertaining thereto, there will be held in the Town of Palm Beach, Florida on February 6, 1996, a General Election for the purpose of electing three Council Members for a two year period, and

WHEREAS, the Town Council of the Town of Palm Beach, Florida, on January 16, 1996, at a regular, adjourned session assembled, duly adopted Resolution No. 5-96, calling said election on said date, authorizing the Town Clerk to arrange for Votomatic Machines and Absentee Ballots to be used in said election; and directing the Mayor of the Town to issue his Proclamation thereof.

NOW THEREFORE, I, Paul R. Ilyinsky, Mayor of the Town of Palm Beach, Florida, hereby give notice and make a Proclamation that there will be held in the Town of Palm Beach, Florida, on the 6th day of February, 1996, a General Election for the purpose of electing three Town Council members, each to serve for a two year period with the term ending upon the swearing in of the elected candidate at the first regular meeting of the Town Council after the first Tuesday after the first Monday in February, 1998.

At the Town Caucus held on January 2, 1996, the following candidates were nominated:

GROUP ONE.....Jack McDonald

GROUP TWO.....Leslie A. Shaw

Melvin D. Small

GROUP THREE.....Lesly S. Smith

Since the candidates in Group One and Group Three have no opposition, the official ballot to be used in said election is substantially as follows, to wit:

OFFICIAL BALLOT

GENERAL ELECTION OF THE TOWN OF PALM BEACH IN PALM BEACH COUNTY, FLORIDA HELD ON THE SIXTH DAY OF FEBRUARY, 1996.

GROUP TWO	VOTE FOR ONE	(TWO YEAR TERM)
	Leslie A. Shaw	
	Melvin D. Small	

There will be five polling places in said election as follows:

(1) Registered electors in Precinct 77 shall vote at St. Edward's Parish Hall, located at 165 North County

Road in the Town of Palm Beach.

(2) Registered electors in Precinct 77A shall vote at Bethesda-by-the-Sea Episcopal Church, located at 141 South County Road in the Town of Palm Beach.

(3) Registered electors in Precinct 90 shall vote at the Central Fire-Rescue Station, located at the Town Hall, 360 South County Road in the Town of Palm Beach.

(4) Registered electors in Precinct 111 shall vote at the South Fire-Rescue Station, located at 2185 South Ocean Boulevard in the Town of Palm Beach.

(5) Registered electors in Precinct 125 shall vote at the South Fire-Rescue Station, located at 2185 South Ocean Boulevard in the Town of Palm Beach.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the Town of Palm Beach this 16th day of January, 1996.

Mayor Paul R. Ilyinsky

ATTEST:

Mary A. Pollitt, Town Clerk

Publish: Palm Beach Daily News

January 22, 1996

Mr. Randolph read Resolution Number 5-96 by title:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, DECLARING THE RESULTS OF THE TOWN CAUCUS; DIRECTING THE TOWN CLERK OF SAID TOWN TO PLACE THE NAMES OF CERTAIN CANDIDATES ON THE OFFICIAL BALLOT FOR THE GENERAL ELECTION TO BE HELD IN SAID TOWN ON THE SIXTH DAY OF FEBRUARY, 1996; ADOPTING THE OFFICIAL BALLOT TO BE USED IN SAID ELECTION; AUTHORIZING THE TOWN CLERK TO ARRANGE FOR VOTOMATIC MACHINES AND ABSENTEE BALLOTS TO BE USED IN SAID ELECTION; AND DIRECTING THE MAYOR OF SAID TOWN TO ISSUE HIS PROCLAMATION OF SAID ELECTION, NAMING THEREIN THE CANDIDATES NOMINATED AND NAMED IN THIS RESOLUTION; DESIGNATING THE TOWN CLERK OF THE TOWN OF PALM BEACH AND THE SUPERVISOR OF ELECTIONS OF PALM BEACH COUNTY TO SERVE AS THE CANVASSING BOARD.

Motion made by Mr. McLendon to approve Resolution Number 5-96. The motion was seconded by Mr. Shaw. On roll call, the motion carried unanimously.

VI. DISCUSSION OF RESTORATION OF LAKE WORTH INLET SAND TRANSFER PLANT - DISCHARGE PIPING (DEFERRED FROM JANUARY 9, 1996, MEETING)

Mr. Dusey introduced Richard Duich from Counties Corporation, Tom Mullin from Dames and Moore, and an additional representative from Counties Corporation who would discuss the status of the dredge pipe at the Lake Worth Inlet.

Mr. Dusey reported he talked to the Corps of Engineers to determine the date for the start of the dredging at the north end of the island. Mr. Dusey said the Corps planned to award the contract on January 12, and the contract had a commencement date of the second week in February. Mr. Dusey added that based on historical dredging records, the Corps estimated a quantity of 90,000 cubic yards of sand would be dredged, and history has shown the Corps usually dredges more sand than anticipated.

Mr. Dusey summarized that the Corps placed approximately 200,000 cubic yards on the south side of the south jetty in April, 1995. 184,000 cubic yards were dredged and placed on the beach in 1994. Mr. Dusey added that 87,000 cubic yards were placed on the beach in November, 1991, and in April, 1990, a month before the Sand Transfer Plant ceased operation, 75,000 cubic yards were placed on the beach.

Mr. Dusey said the north jetty has been filled with sand since the Sand Transfer Plant stopped operation, and the plant is sitting on dry sand as shown on recent aerial photographs. Most of the sand is presently spilling into the Inlet. Consequently, the Corps has had to dredge annually rather than every two or three years, as previously done in the past, to keep the Inlet navigable. Mr. Dusey said the 380,000 cubic yards of sand placed by the Corps during the last two years is greater than the sand moving to the south. The University of Florida monitored the placement of the 1994 fill and estimated that approximately 150,000 cubic yards of sand is moving south per year. Mr. Dusey said he anticipated an additional 100,000 cubic yards of sand will be deposited this year on the north end beach which will leave the beach in good shape for at least one more year.

Mr. McLendon said he understood that part of the Corps' Management Plan was to create a hole north of the jetty to minimize the sand coming into the jetty. Mr. McLendon suggested that Mr. Dusey should encourage the Corps to do that in next year's plan to reduce the amount of sand that goes into the Inlet and provide additional sand to the feeder beach.

Mr. Dusey responded that can be done, and last year Palm Beach County requested that the Corps do just that. Mr. Dusey suggested that a nudge from the Town, perhaps with a couple of governmental jurisdictions requesting the additional sand, may be effective.

Peter Wallace, Consulting Engineer with Hill International to Counties Corporation, addressed the Town Council, and stated he had prepared a status report regarding the problems that occurred on the project and the possible solutions or proposals to expedite completion of the work at the Sand Transfer Plant.

Mr. Wallace reported that the Town sent a letter to Counties Corporation, dated January 10, outlining several issues: the ultimate drilling location for accomplishing the directional drilling under the Inlet (which has been submitted to the Town for consideration); the recommendation of seismic testing to ensure that the new attempt to perform the directional drilling will be successful; a schedule for completion has been developed; and a number of actions that Counties has been doing to expedite a solution for this problem. Mr. Wallace noted that Counties Corporation has expended a great deal of research time talking to seismic experts to survey or profile the site, especially the jetty rocks. Considerable research has been done with the Corps of Engineers concerning the jetty in an attempt to determine the "as built" condition of the jetty. The jetty was built in 1925 and substantial work, including a substantial amount of rock placed on the jetty, has been done over the years.

Rick Duich, Project Engineer for Counties Corporation, addressed the town Council and reported that starting on December 5 (approximately), Counties attempted to find an answer to what caused the problems with the three failed attempts and the considerable financial loss. Mr. Duich said two seismic testing companies were contacted, and, at first, the companies were not sure they could perform tests that would provide results representing actually what was under the jetty. Both of the companies visited the site and submitted proposals to Mr. Duich which he received January 2, 1996. Mr. Duich contacted Town Engineer Bowser that day and submitted FAX proposals by both companies that same day. Mr. Duich noted that the two companies took some time to respond, although Counties had pushed for earlier responses.

Mr. Duich reported that during that delay, Counties contacted the Corps of Engineers in Jacksonville, Florida, and sent a representative to Jacksonville to discuss the jetty with Ms. Diane Bischer. Ms. Bischer provided complete files containing the history of all work done on the jetty since 1935 when the Corps actually assumed control of the jetties. Mr. Duich said that several tons of jetty rock were placed in the confines of the jetty over the years. Mr. Duich expressed the opinion that the jetty rock may have sunk over the years, and a greater depth of rock exists than was shown on the drawings. Mr. Duich said that in addition to the investigation done with the Corps of Engineers, information was obtained from Gee & Jensen, Consulting Engineers that was inconclusive--the jetty rock may be at 18, 22, or 23 feet at the bottom. Additional visits were made to the West Palm Beach Historical Society and library.

Mr. Duich reported that he submitted a proposal to Mr. Dusey and to Mr. Clinger's office that contained a request for an alternate drilling location, closer to the original site. Upon approval, a marine contractor and a boring contractor will drill the holes for the seismic testing and take another core bore on land to determine what the sub-surface conditions are. If that location is approved, Mr. Duich said he has a commitment from the marine contractor and the drilling contractor to be on-site within fourteen days. The seismic testing should take one day, and results should be available within two to three days. Depending upon those results, taking into consideration the constraints of property lines and the depth of the pipe and the channel, and if the job is "doable", Mr. Duich said his company was prepared to commence drilling on the February 26, 1996, and the anticipated completion date is April 5, 1996.

Mrs. Smith questioned Mr. Duich's comment, "if the job is doable" and asked him to explain.

Mr. Duich replied that this is a unique job, and his company is restricted by 100 feet of property behind the jetty to the McArthur Foundation property. Depending upon the depth at which the machine has to be positioned to drill under the jetty rock, the drilling angle, and the maximum depth allowed by the engineer (mandated by the size of the pumps at the Sand Transfer Plant), Mr. Duich said he believed the maximum negative elevation would be 80 feet to allow the slurry to properly flow through the pipe.

Mrs. Smith said that when Counties Corporation took the project, the company obviously felt they were capable of completing the project, and a completion date was set for November, 1995. Mrs. Smith noted that some of the people attending the meeting were not aware that this drilling started a year ago, and this is not a new project. Mrs. Smith asked Mr. Duich if the company did background research on this project before the job was started --the McArthur Foundation land, the location for the company's equipment--this could not be new knowledge?

Mr. Duich replied that based on the original drawings with the twelve degree entry angle and the assumed bottom elevation of the jetty, the job was "doable". Mr. Duich said his company feels confident they can do the job, depending upon the seismic information. Mr. Duich added that three drills are laying at the bottom of the Inlet now, and he did not want to drill again until the cause of the problem is located.

Mr. Duich, responding to a question from Mr. McLendon, said that three holes have been attempted under the jetty -- the first attempt, the machine was positioned at a twenty degree entry angle and not twelve degrees because of the land restriction. Mr. Duich said his company bid the job from the profile and did not check the geometry of the profile. When the company developed its own profile for the computer, the twelve degree angle was not correct, and the company decided to use twenty degrees which fit within the constraints of the property. On that first attempt (October 9), the drill was twenty-three feet below the top of the jetty and what was thought to be jetty rock was encountered; however, the power hole found its way through. On that attempt, some magnetic interference occurred, and the drill was off-line, headed in the wrong direction. When the drill was pulled back through the same hole to correct the approach, the drill stem broke. It was assumed that the jetty rock, originally encountered, came down on the drill stem and caused undo stress resulting in breakage. Mr. Duich explained the drill bit is 6 5/8 inches in diameter and actually drills a 10 to 11 inch hole. On that attempt, the depth below the channel was in the prescribed range. Further evidence of hitting the jetty rock was the appearance of a lubricating drilling

mud that allows the drill to go through rock.

Mr. Duich continued that the second attempt began on October 10 using the same confines with a 24 or 25 degree entry angle, and that attempt was approximately 35 feet under the jetty. Mr. Duich said that attempt was 140 feet under the channel, and corrections for the ½" wall steel pipe can be made for 1.5 degrees per 30 feet which is standard for the industry.

Mr. McLendon asked Mr. Duich if steel casing is being pulled across underneath the Inlet? Mr. Duich responded that a pilot hole is drilled first with a hollow pipe which the bentonite flows through, under pressure, to a drill motor which drives the drill bit independent of the rotation of the drill stem.

Mr. Duich said that in each of the three attempts, the drill stems broke underneath the north jetty when the reamers were being pulled back.

Mr. Wyett requested Mr. Duich address the plan for drilling and a day certain when the seismic studies would be finished. Mr. Duich replied February 1st would be a day certain. Mr. Wyett stated he was concerned that the drilling was not scheduled to start before February 26, and the Town was suffering from the lack of sand on the beaches. Mr. Wyett reminded Mr. Duich that the project was to be completed last November, and a date of April 5 was given as a new completion date. Mr. Wyett continued that every day, before April 5, is crucial, and the Town has invested \$6 million dollars to put sand on the central beach with the north beach being a feeder beach for that project. Mr. Wyett said damage is occurring to the north beaches as well as to the Town's investment. Mr. Wyett asked for an explanation to speed up the process as outlined by Mr. Duich.

Mr. Duich responded his company also would like to complete the project at a date before April 5. Mr. Duich added that his company moved the equipment from this project to another project which they are currently using at the other location. Mr. Duich said his intention is to be back on site at the Inlet as soon as possible.

Mrs. Smith ascertained that the reason for the lapse between February 1 and February 26 is another project where the equipment was moved to. Mrs. Smith said she realized the company had other projects lined up; however, one of the key words used in this discussion was "damages", and the Town is losing sand to the beaches because Counties Company has undertaken another project which explained the 26 day lapse in February. Mrs. Smith questioned the obligation of Counties Company to the Town of Palm Beach.

Mr. Wallace replied that Counties Company is diligently attempting to find a solution to the problem. From a mitigation standpoint, research had to be done and a technological determination had to be made concerning the depth of jetty rock which is not an easy solution. Mr. Wallace said the last thing Counties wants to do is start another drilling attempt and have it fail. Mr. Wallace said the company realizes a project has to be completed in the Town and that is its main mission. Mr. Wallace explained the equipment could not be left idle, on site, until a solution was found; therefore, the equipment was moved to another job site. Once the alternate location is chosen and the testing is finished, the equipment will be moved back, mobilized, and drilling will begin as soon as possible.

Mrs. Smith stated the project is six months behind schedule. The Town and Palm Beach County did their work, and the Sand Transfer Plant is ready to go. The only thing the Town is waiting for is Counties Corporation to finish the job that they signed a contract to do.

Mr. Wallace replied that was correct; however, the job Counties is attempting to do now is different from the original project, and those conditions are beyond Counties control.

Mr. Wyett stated he was hearing a lapse in responsibility, and he did not understand it. Mr. Wyett added that the McArthur Foundation is a charitable foundation and asked Mr. Wallace if the McArthur Foundation was asked if their land could be used for the mobilization?

Mr. Wallace responded that a letter has been drafted for the Town to obtain access to the property after telephone contact with the Foundation was made. Mr. Wallace said nothing could be done with the seismic testing until the access point was established.

Mr. Wyett stated the Town Council considers this project to be the utmost emergency facing the Town at this moment. The Town has spent \$800,000 on this particular project, and personnel are being paid to run a Sand Transfer Plant that is at a standstill. Mr. Wyett said he did not accept a drilling schedule of February 26 or a completion date of April 5, and Counties Corporation is on notice.

Mr. Wallace replied he understood the frustration, and Counties interests are to finish this project as soon as possible. If an approval is obtained for the alternate location, the seismic people will be in as soon as physically possible to do the testing, and assuming the seismic tests prove the location to be acceptable from an engineering standpoint, the project will go ahead as designed.

Mrs. Smith asked if Counties Corporation had a problem with the McArthur Foundation and offered to intercede if that was needed. Mr. Duich replied that was not a problem, and they were not holding up the job.

Mr. Shaw asked when the equipment was removed from the site and when was the Town notified? Mr. Duich replied the date was December 5, 1995. Mr. Shaw asked if the company thought they needed engineering studies after the second attempt failed? Mr. Duich replied other considerations were questioned at the time, and engineering studies should probably have been done then. Mr. Duich continued that the drill was down to 35 feet on an assumed bottom elevation of 18 feet. The third attempt was started on November 15, 1995, and the pipe broke on November 30.

Mr. Shaw questioned the possibility of drilling smaller holes. After discussion, Mr. Duich responded, at

one point, the Town agreed to the drilling of two holes, five feet apart. Mr. Duich added that distance was not possible--they would be too close together. Mr. Shaw asked if permission were obtained to drill two holes and one hole was drilled first, the second one later, how would completing one hole affect the time frame for the start up of the Sand Transfer Plant during the sand pumping season?

Mr. Wallace responded that the seismic testing is still an important part of the process and depending upon the outcome of those tests, the company will be able to tell the Town if it would work.

Mr. Wyett requested that Mr. Duich and Mr. Wallace attend a Special Meeting of the Town Council to be held on January 23, 1996, at 10:00 a.m. with an update.

Motion made by Mr. Wyett to ask Mr. Duich and Mr. Wallace to attend the January 23, 1996, Town Council meeting. The motion was seconded by Mr. Shaw.

Mrs. Smith asked Mr. Wallace and Mr. Duich when was it realistic for the Town Council to consider the money issue, specifically, the \$1,000 per day as stated in the contract if the job was not completed by November. Mrs. Smith asked how much latitude should be given to Counties Corporation because of all of the unknown problems encountered by the company.

Mr. Wallace stated the main objective of Counties Corporation was to complete the work. At some point, the project can be reviewed to see what happened, comparing the original design drawings and the changes that occurred that were completely beyond control of the contractor. Mr. Wallace clarified that on January 23, the seismic study will provide the information on the depth of the rock underneath the jetty, and he was not sure the information would be available to prepare a report in 7 days. Mr. Wallace suggested the report should be delayed for one week.

Mr. McLendon offered to delay the report from the 23rd meeting if Mr. Wallace finds that the information will not be available and notifies the Town Council before January 23rd.

Mr. Wallace replied he was unable to assure the Town Council of a date at this time; however, the marine contractor committed to having a crew on site within two weeks. Mr. Wallace stated if the date could be moved up, he will do so.

Mr. Wyett suggested that Mr. Wallace provide the Town Council with a report on January 23. Mr. Wyett said this Council is prepared to do anything required to move the project along, including calling a special meeting, if necessary. Mr. Wyett continued that the Town Council is totally focused on this project, and the residents of the Town are entitled to receive a final report stating when, where, and how their money was spent.

Mr. George M. Moffett II, Vice-Chairman of the Shore Protection Board, read the following statement:

TO: THE TOWN COUNCIL, TOWN OF PALM BEACH

The Shore Protection Board at its meeting held on January 11, 1996, authorized Mr. Moffett, Vice Chairman of the Shore Protection Board, to appear at the Special Town Council Meeting scheduled for January 16, 1996, to offer the following statement:

THE SHORE PROTECTION BOARD OFFERS THIS STATEMENT IN AN EFFORT TO HEIGHTEN THE COMMUNITY'S AWARENESS OF THE HIGH LEVEL OF IMPORTANCE OF THE SAND TRANSFER PLANT IN ADDRESSING THE DIRE NEED FOR CONTINUED MAINTENANCE OF THE TOWN'S BEACHES. THE BOARD STRONGLY SUPPORTS THE TOWN COUNCIL'S EFFORTS TO RESTORE THE SAND TRANSFER PLANT AT THE LAKE WORTH INLET. FROM EVERYTHING THE BOARD HAS HEARD AT ITS FIRST THREE MEETINGS, WE BELIEVE IT IS NOT JUST DESIRABLE, BUT CRITICAL, TO RESTORE SAND BY-PASSING TO HELP OFFSET THE SAND-STARVING INFLUENCE TO OUR BEACHES OF THE LAKE WORTH INLET.

IF THE SAND TRANSFER PLANT WILL NOT BE OPERATIONAL BY MAY, 1996, A CONTINGENCY OR ALTERNATIVE PLAN SHOULD BE DEVELOPED TO ASSURE THAT SAND TRANSFER OCCURS AS SOON AS HUMANLY POSSIBLE. THE BOARD ALSO RECOMMENDS THE SAND THAT WILL BE PLACED ON THE BEACH BY THE CORPS OF ENGINEERS, BE PLACED AS FAR SOUTH AS POSSIBLE SO THAT IT WILL NOT MOVE BACK INTO THE INLET AND WILL NOURISH THE BEACHES FROM THE NORTH TO THE SOUTH.

(Signed) SHORE PROTECTION BOARD
By: Garrison D. Lickle, Chairman

Mrs. Smith called the question regarding the appearance of Counties, Corporation at the Town Council meeting scheduled for January 23.

On roll call, the motion carried unanimously.

Dr. Sanford Kuvin, resident of E. Inlet Drive, addressed the Town Council. Dr. Kuvin requested that Mr. Duich repeat his comments concerning the certainty of the seismic studies that may or may not provide the finite information required by the Town Council. Dr. Kuvin said he also heard Mr. Duich say as soon as the seismic studies are finished, Counties Corporation would move forward. Dr. Kuvin questioned the scientific exactness of the seismic studies.

Dr. Kuvin said that no equipment is currently on site, and that equipment has to come from somewhere. Dr. Kuvin asked Mr. Duich how much time would be required to return the equipment, physically, to the site?

Dr. Kuvin also questioned Mr. Duich regarding the entry into the channel of the old pipe. Dr. Kuvin asked if the engineers followed the old pipe to ascertain where the ingress would be possible in an easier fashion?

Jim Koontz, 232 La Puerta Way, addressed the Town Council and stated he did not think anyone could determine if the current pipeline company was giving the Town a "ring around the rosy" or if they really were the victims of circumstances. Mr. Koontz questioned the \$1,000 a day penalty that was currently not being assessed to Counties Corporation. Mr. Koontz questioned the bond which the Town could collect if the drilling company was fired and a new company hired. Mr. Koontz suggested someone independent could be hired to evaluate the job Counties is doing or Counties could be fired and someone else hired. Mr. Koontz said Counties Corporation has used an indeterminable amount of time to do nothing, and the Town has only received excuses. Mr. Koontz continued that the old pipe could handle the output capacity of the Sand Transfer Plant, and the quantity of sand that will be allowed to be pumped by the Sand Transfer Plant is not yet known. Mr. Koontz concluded the Sand Transfer Plant will not be of any use unless the pipeline is working, and the feeder beaches have to be re-nourished. The Town has to be sure that the dredged sand by the Corps goes on the north beach--otherwise the feeder beaches will never be resupplied.

Mr. McLendon asked Mr. Koontz if he stated the capacity of the old Sand Transfer Plant was 130,000 cubic yards per year? Mr. Koontz responded the average yearly supply of sand from the Sand Transfer Plant during the prior ten years before the plant shutdown and the Inlet dredging was 130,000 cubic yards of sand per year. Mr. Koontz added during one year, the Sand Transfer pumped 130,000 cubic yards. This was the maximum pumped.

Dr. Melvin Small, 2770 South Ocean Boulevard, addressed the Town Council, and said he was surprised the company was doing research ex post facto after three failures. Dr. Small said the research should have been done before three attempts were made.

Mr. Wallace concluded Counties Corporation will contact the Town as soon as the seismic studies are finished.

Mr. Shaw requested Counties Corporation attend the January 23 meeting regardless of the finality of the seismic testing with alternative suggestions. Mr. Shaw said he was not sure if the Town could continue with the time delays and suggested other companies could provide scenarios to allow the Town Council to evaluate the situation.

Dr. Kuvin requested his three previously stated questions be answered by Mr. Wallace.

Mr. Wallace responded to Dr. Kuvin's question regarding the information to be provided by the seismic studies. Mr. Wallace said that Counties Corporation believes the seismic studies will provide the needed information to continue.

Mr. Wallace continued that he could not provide details for the length of time it will take to move the equipment back on site, and that issue will be addressed at the next meeting.

Mr. Wallace said the question of looking at the old pipe to find an easier route; however, the old pipe went over the top of the jetty rock, and the current problem is going under the jetty rock. This is a different alignment, and Counties Corporation has to follow the design that was prepared by Dames & Moore. Dames & Moore provided the alignment and the contract states very specific tolerances as to how the pipe will be installed. Counties Corporation is not the engineer, but is the contractor. The company has to follow what is provided to them in the design drawings.

Mr. Wallace did not know where the equipment will be coming from.

Mr. McLendon questioned the problem caused by the severe angle of entry and asked if that would only affect the north jetty? Mr. Wallace replied that was correct. Mr. McLendon asked the depth of the drilling under the south jetty and was that a potential problem? Mr. Duich replied the south jetty did not appear to be a problem, and the drill came out of a rock condition. Mr. Duich said nine feet of sand existed on that side and posed no problem whatsoever. Mr. Duich reported that the south jetty was injected with cement approximately ten years ago which should hold the jetty rock in a better position than the rock on the north side.

Mr. McLendon requested timely action from Counties Corporation from this day forward. Mr. Wallace replied that Counties Corporation understood that.

Mr. Doney verified that Counties Corporation would appear at the January 23, 1996 Town Council meeting as item I on the agenda, regardless of the amount of information available to them by that date. Mrs. Smith responded that Counties Corporation will appear at that meeting as others involved in this project did previously.

VII.

CONSIDERATION OF STUDY ON POTENTIAL CHARGES FOR EMERGENCY MEDICAL TRANSPORTS BY THE TOWN'S FIRE-RESCUE DEPARTMENT (DEFERRED FROM DECEMBER 12, 1995, MEETING)

Mr. Doney directed the Town Council's attention to the backup memorandum, dated January 5, 1996, from Chief Elmore describing the history of the issue and considerations currently being considered.

Chief Elmore addressed the Town Council and provided a background on the issue. Chief Elmore said that prior to 1972 and for a number of decades prior to that, the Palm Beach Fire Department provided first aid and rescue services mainly to accident and injury victims using the old style Red Cross training. Private ambulance services provided by local hospitals, funeral homes or private companies were used to

transport the ill and injured patients to local hospitals. In the late 60's or early 70's , the para-medical services began to flourish in many communities, and the Town of Palm Beach started a para-medical program, run by the Fire Department, in 1972. The Town's initial para-medical program was established by the para-medics responding to all medical calls and transported only advanced life support calls or life threatening emergencies. Private ambulances were called to transport patients if the situation was not life threatening. That service was in effect from 1972 until 1994. In February of 1994, the Town Council authorized the Fire-Rescue units to transport everyone.

Chief Elmore reported this community has more life threatening calls than non-life threatening calls. The department was able to handle the 350 additional calls without any increase in costs except for costs associated with fuel used for transportation.

Chief Elmore stated the reason he requested the department transport the additional calls was because changes were taking place in the County. Many other municipalities began to transport all patients resulting in the reduction of private ambulance services, and the ability to call a private ambulance diminished resulting in time delays transporting patients to hospitals. Additionally, complaints were received regarding the attitudes of private ambulance companies. Chief Elmore reported no problems have been encountered since February, 1994, when the department began the program of transporting everyone.

Chief Elmore said the Town has a history of never charging for any of the EMS transports made by the Town. Under the old system when the Town transported ALS and the private companies transported BLS, the private companies charged for those services; however, the Town did not charge. Chief Elmore stated the issue is not a new one, and he has studies dating back eight to ten years.

Chief Elmore, referred to an illustration in his memorandum that showed the fee charges from various agencies throughout Palm Beach County providing details of the number of transfers and collection rates. Chief Elmore referred to another illustration in the report that projected the Town's revenues if charges were made for the services. Additionally, possible expenditures were also listed as well as anticipated advantages and disadvantages of both sides of the issue.

Mrs. Smith said her initial concern was with the possibility that one person could die because the person was worried about the cost of the 911 call. If that happened, the Town Council would make a fatal mistake by approving the charges.

Rodney Fink, 3170 South Ocean Boulevard, Co-Chairman of the Citizens Association South of Sloan's Curve, addressed the Town Council. Mr. Fink reported the Citizens Association recently polled its members and found that the members were overwhelmingly opposed to making any changes in the current system of Fire-Rescue ambulance transport. Mr. Fink referred to a report from a Palm Beach Training and Safety Officer provided a breakdown of the medical calls and documented the ages of the patients. In one year, 1,620 cases were transported and 960 patients (60% of the total) were between the ages of 61 years to 100 years. Mr. Fink continued that those figures were very important because so many of the Palm Beach residents were in that age category and are fearful of the inherent disadvantages in the proposed system as quoted by Chief Elmore in the Town Report as follows:

1. Complaints could develop over high ambulance charges;
2. Insurance companies might refuse to pay because the paper work is incomplete;
3. Concern that the para-medics might be more involved obtaining billing information than caring for patients needs;
4. Patients, particularly elderly, may refuse transportation because of potential financial charges;
5. Much confusion can occur because of the complexity of the system--insurance deductions, co-payments, etc. in cases where no insurance coverage exists.

Since the Town of Palm Beach assumed the transportation of patients several years ago, a wonderful relationship developed between the Town residents and the Fire-Rescue Department. Mr. Fink recalled many incidents that were reported by residents who commented on the efficiency and caring of the Fire-Rescue personnel. Each year, many condominium buildings contribute to the Fire-Rescue Department. Additionally, the Citizens Association has so valued this relationship, and funds were raised to purchase a new Fire-Rescue ambulance to the Town. In 1995, the Citizens Association raised approximately \$96,000 to provide life saving equipment for the Town.

Mr. Fink said that Palm Beach may be the only town in Palm Beach County that does not charge for ambulance service; however, Palm Beach is unique. The Town has a workable program and the residents are happy with it.

Dr. Melvin Small, 2770 South Ocean Boulevard, addressed the Town Council and stated the Town's ambulance service is excellent and the best he encountered any other place, including European countries. Dr. Small said that 60% of the patients transported were in the age group covered by Medicare Insurance, paid for by them, either through taxes or the part B, paid by the Medicare recipients. Additionally, 99% of the residents in that age group, on an average in a town like Palm Beach, have Medi-gap insurance. If the Town would charge for transportation, based on Medicare assignments, 99% of the patients would be covered fully (100%). Dr. Small said that no charge should be made directly to them and no effort to collect from them should be made. The patients should be transported to where they have to go, and no charge would be made until after data was collected.

Dr. Small recommended that:

1. Medicare assignments be accepted as payment in full. This does not exclude the 20% co-payment

that Medicare demands. Medicare requires that the Town make a request for the money with due diligence or a good faith attempt to collect. If the decision was made by the Town to bill the patients one time after the billing, that is a good faith attempt.

2. A good billing service will handle the issue of possible double payments from Medicare or patients. A total of five billing services were contacted.
3. A signed release should be signed by either the patient or a person responsible for the patient. The hospitals have adequate information regarding the patient, and it should not be necessary to contact the patient directly. A group of volunteers could pick up the information at the three hospitals once a week to pick up the front sheet for the billing information. The billing information would be submitted to the billing service on a weekly basis. Three of the billing services contacted would not charge a startup fee and up to \$5.45 per patient for sending out the Medicare form, either electronically or on paper. All of the accounting would be handled by the billing company, and they would notify the Finance Department of the amount of money collected.
4. The patients injured in vehicular accidents do cause billing problems; however, most of the patients will have insurance, and billing can be submitted to the appropriate insurance companies. If attorneys are involved, the appropriate insurance company can be reimbursed after settlement has been made. The Town will have to pass a medical service ordinance fee to establish a provider service, and the Town will have to obtain a Medicare part B provider number.

Dr. Small continued that most areas in South Florida charge outlandish fees and none of them accept Medicare assignment as payment in full. Most charge an average of \$100-\$200 more than Medicare. Dr. Small said the minimum collected would be approximately \$240,000 which would make up between 1/5 and 1/4 of the service cost. Dr. Small said if, for some reason, the service would suffer from fees being billed by the billing services, then the service should be disbanded. Dr. Small did not think the service would be any different.

Dr. Sanford Kuvin recalled that in 1966 when Medicare was initiated, he was making house calls routinely. Initially, Palm Beach residents did not bother filling out the Medicare forms. Later, some residents would donate any monies received from Medicare to charities. Dr. Kuvin said that within approximately 7-8 years, the residents wanted Medicare to pay, since they paid taxes into it.

Dr. Kuvin said the concern that patients would not call 911 if they knew they would have to pay for the transport, should be laid to rest, since everyone over the age of 65 is covered by Medicare. If Palm Beach is so affluent that the residents want to give the federal government a donation of almost \$1 million per year that should be stated; however, everyone who uses the services can obtain them at no cost. Dr. Kuvin noted that the cost of each pick up is approximately \$300, and the Town of Palm Beach has provided excellent service in the past. Dr. Kuvin said that he has seen a transitional phase in medicine go from "Mom and Pop" medicine to highly bureaucratic, excellent medicine.

Dr. Kuvin questioned the practice by the Fire-Rescue Department to dispatch a pumper truck, a medical intensive care unit vehicle, and a police car for every 911 call. Dr. Kuvin said he supported the concept that the Town could use the \$300,000 which covered approximately 1/3 or 1/4 of the costs and would not interfere with the excellent medical services.

Dr. Kuvin stated he supported charging for medical services that the tax payers had already paid for.

Chief Elmore responded to Dr. Kuvin's questions, and reported that the Fire-Rescue Department's activities are regulated by the State, Federal, and local County governments ranging from the purchasing of the correct units to requirements for hiring personnel. Chief Elmore said that when police cars arrive on the scene, initiated by the 911 call, they often are closer to the scene than any Fire-Rescue Unit. The Police may be able to lend immediate assistance and can save lives.

Chief Elmore reported that the Department sends five to six people out on every call. At the North Fire-Rescue Station, the only vehicle that is assigned to that station is a pumper with three people. No mobile intensive care or transport vehicle is assigned to the North Station, and the closest mobile intensive care unit is located at the Central Fire-Rescue Station. A 911 call in the far north end of the island may take seven to nine minutes response time depending on the time of day or conditions. The response time would be lengthened if the units come from the Central Fire-Rescue Station which is a critical time period for patients in serious conditions or who have had cardiac arrests. Paramedics staff the fully supplied two mobile intensive care transport units, and the three fire pumpers have the same medical equipment. Chief Elmore added that the number of units responding to a 911 call is sometimes embarrassing when the call does not warrant that many vehicles; however, his Department responds to medical emergencies with the idea they are all serious.

Dr. Kuvin suggested some mechanism, within the 911 system, to identify the type of medical emergency. Dr. Kuvin asked why all calls were treated alike--all life threatening emergencies.

Chief Elmore responded the dispatch system is computer aided which lists approximately 30 - 40 classifications of medical emergencies. An assignment of the number of vehicles goes with each classification. Not all three types of vehicles respond to every call, and the dispatcher has to select the correct table to go with the 911 call.

Dr. Kuvin stated the Town has to choose what is affordable. If the Town cannot be all things to all people, thinking has to be adjusted to more pragmatic but safe within medical bounds.

Chick Price, EMS Coordinator, explained most of the calls received are identified as Advanced Life Support, approximately 900 calls out of the 1,600 calls. Mr. Price said the residents of Palm Beach do not

abuse the system, and he was not familiar with any other municipality who has the number of ALS cases that Palm Beach has. If the Fire-Rescue Department could be sure that the information reported is accurate, the number of vehicles dispatched could be controlled; however, many calls are more complex than originally reported.

Mr. Wyett asked Chief Elmore if the Town needed additional equipment to service the two extreme ends of Town? Chief Elmore responded that any community needed to centralize their services. Chief Elmore said the coverage, in his opinion, was adequate, and the Central Fire-Rescue Station is only 1.5 miles from the North Fire-Rescue Station. Chief Elmore stated the vehicle is not the main cost, but the personnel to maintain that vehicle is a very costly item.

Mr. Wyett suggested a report be written about the response times to the north and south extremes of the island with suggestions for improvement.

Chief Elmore stated that response times can vary for all Palm Beach residents because of the daily routines of the personnel and equipment. Many years ago, the Town determined the best locations for the three fire stations that would provide the most efficient over-all response times. Additional equipment and personnel can always be added to a system depending on the costs of the additions and the acceptable risk to the community. Chief Elmore said he had not received many complaints over the years regarding the response times.

Mr. Wyett said the growth of the Town during the last ten to fifteen years may require a review of this matter.

Chief Elmore said locations of additional fire stations in the Town would cause great concern for residents who do not appreciate a fire station in their back yards.

Mr. Wyett said if more facilities were added to increase capacity, the money would be well spent since a price cannot be put on one life.

Mr. Doney said that during the budget process, the Town Council and Mayor discuss the levels of service, the responsiveness, and the acceptable levels. When the work week was changed eight or nine years ago because the Town had a longer work week than any other County department. At that time, the entire issue of the location of the on island locations was visited as well as the staffing of each location in detail. Mr. Doney said the off island implications, the area hospitals, were discussed at great length. At that time, the Town Council determined, after weighing all the information available at the time and the costs of adding three shifts of personnel for a mobile intensive care unit to be located at the North Station, the level of service was acceptable.

Mr. Wyett responded that nothing is acceptable except saving a life, and the faster a patient is transported to a hospital, the better the chance of survival. Mr. Wyett said his family has used EMS service twice in the past two months, and both services were excellent. Mr. Wyett reported the transport in November was delayed because another call had been received in the neighborhood and was responded to first. Another unit was called from a farther location. The additional time delay could have resulted in a loss of life. Mr. Wyett said the \$200,000 or \$250,000 the Town could receive for transporting patients could pay for the additional capacity. If the transport charge is not approved, the Town could still afford to add capacity.

Jean Habicht, 209 Sanford, Chairman of the Public Safety Committee of the Palm Beach Civic Association, addressed the Town Council. Ms. Habicht said her experiences working with the Palm Beach Police and Fire-Rescue Departments for past years, was extremely rewarding. Ms. Habicht said the issue of the medical transport fees was considered at the Civic Association. After a great amount of discussion, the Civic Association voted unanimously to recommend that fees be charged for the transportation.

Ms. Habicht reported that Dr. Melvin Small, before becoming a Town Council candidate, spoke at the December Palm Beach Forum meeting, and the issue was discussed at some length. The Civic Association, after considering the issue, voted unanimously to issue the following statement:

"The Palm Beach Civic Association has always been interested in ways to save money without reducing the quality of services in our Town. We believe that charging a fee for ambulance, medical transports is an idea that merits consideration for the following reasons:

- "1. It saves money. Approximately \$200,000 could be saved annually from the Town budget if users paid fees for this service. Currently, Palm Beach residents are paying for medical transports through their tax dollars, and we also support Medicare with our taxes. 80% of medical transport fees can be underwritten for those covered by Medicare if the Town of Palm Beach becomes a qualified provider. This shows that we are now, in effect, paying twice for the service. It is not free. In addition, Palm Beach is the only municipality in Palm Beach County that does not charge for medical transports. Billing those who use this type of service seems to be the norm.
- "2. The quality of care will not be affected. While some additional paper would be required, professional billing services exist to handle the job. Contracting for this service would free Town employees from the task. It would make hiring of additional Town employees unnecessary and allow our medical technicians to stay focused on providing medical care, their primary task which they handle with great skill. Except for a small minority of residents who are not covered by Medicare, Medi-gap, or private insurance, charging for medical transports will not cost most individual users any more money. 80% of the medical transport fees are underwritten by those covered by Medicare. Medi-gap and private insurance often cover the difference. For the minority without adequate medical coverage, paying a small percentage of the average cost of \$300 per transport seems insignificant when compared to the cost of medical treatment and hospital stay. We realize that some Palm Beachers prefer the current system where expenses are

covered by our Town taxes. It seems to us, however, that the advantages of charging for services outweigh the disadvantages. Therefore, we recommend that the Town of Palm Beach implement charges for medical transports on a trial basis, and that the benefits and draw backs of these new procedures be evaluated after one year, at which time, new decisions could be made if necessary.

"In closing, we wish to compliment and commend our Fire Chief, Ken Elmore, and the outstanding medical team that serves our community. Their excellent work, remarkable skills, and their high level of personal care are exemplary. We support their fine efforts, and we fully endorse any policy or procedure that will enhance their effectiveness and efficiency. Thank you."

Mrs. Rose Horowitz, 2295 South Ocean Boulevard, addressed the Town Council and stated she was amazed at the speakers who proposed a change. Mrs. Horowitz described the growth of the EMS system over the last twenty-three years. Mrs. Horowitz stated that public safety is the primary issue, and a single life cannot be at risk. Mrs. Horowitz said she opposed charging for EMS transportation.

Mrs. Smith questioned how the transported patients who do not have Medicare would be billed or charged? Mrs. Smith understood no one would be billed for the 20% Medicare did not cover, and no one under the Medicare age would be billed as well as visitors or children. Mrs. Smith asked Mr. Randolph how this issue would be legally addressed?

Mr. Randolph responded that everyone would be billed. Mr. Randolph said he did not understand what the exact proposal was, and a legal problem exists, in his opinion, where only payments from Medicare would be accepted. Mr. Randolph stated his office wrote an opinion as far back as 1990 that indicated all persons receiving fire rescue service had to be billed in a uniform manner without regard to the availability of Medicare, private insurance, or other third party payer. Mr. Randolph said if the patient is not obligated to pay the bill, the insurance company is not obligated to pay the bill on his behalf. To bill an insurance company in such an instance may be considered fraud. The Medicare guide contains a special fraud alert which indicates routine waiver of co-payments or deductible, under Medicare, could be considered to be Medicare fraud. Mr. Randolph stated he was concerned with the legality of entering into a system whereby the Town would only accept Medicare payments and would not charge those who do not have such benefits. Mr. Randolph continued that the billing practice should either be an all or nothing situation--the people are either responsible or not responsible for payment.

Mr. Wyett responded that he thought the proposal did not preclude charging people under 65, but most people carry medical insurance, and most insurance policies cover ambulances. Mr. Wyett said Medi-Gap insurance is supplemental to Medicare and covers the portion that Medicare does not cover. Under the proposal, Mr. Wyett understood that only the people who have Medicare could be billed for the 20%; those who have Medi-Gap would be covered for the 20%; and those who are under 65, their insurance companies would be billed. If people did not have any medical insurance, they would be responsible for the approximately \$300 transport charge as established by the Town Council. Mr. Wyett suggested the transport charge should be established to coincide with the approved Medicare charge.

Mayor Ilyinsky stated he agreed with many of the comments made at the meeting including the changes during the years. Mayor Ilyinsky said many Palm Beach residents want to keep things the way they are, and let the rest of the world pass Palm Beach by just a little bit, since this is Palm Beach -- still the most desirable place to live. Mayor Ilyinsky said he was more interested in saving lives rather than money. Mayor Ilyinsky believed most of the Palm Beach residents would prefer the status quo, and as long as he is mayor of Palm Beach, he believed in keeping the status quo as it is. Mayor Ilyinsky complimented Chief Elmore and his staff. The Mayor said, "Some things in life reach farther down the line than dollar bills, and as long as the Town can afford to do what is being done now, let us do it until the Town cannot afford it, and then change the system."

Motion was made by Mr. McDonald to deny the request to commence charging for EMS services. The motion was seconded by Mr. Shaw.

Responding to Mr. McLendon's question concerning the signing of a release of liability form, Chief Elmore replied that the form is not signed initially and if the patient is not transported, then a release of liability is received by the department. The effort is to respond to the patient and transport the patient to the hospital. The release of liability mentioned earlier would be needed if the patient were charged for the EMS service.

Mr. McLendon asked if any reduction in monthly Medicare premiums paid by Town of Palm Beach residents would be possible by continuing the free transport? Chief Elmore said he was not aware of any conditions that would cover that request.

Adrian Winterfield, resident, addressed the Town Council and respectfully challenged the Mayor's statements since the transport service has only been provided for the past three years. Mr. Winterfield said there is no reason in the world that gifts should be made to insurance companies. Mr. Winterfield added that ways exists to establish an equitable system whereby individuals who do not have insurance coverage for the co-payment could contribute to a fund (whatever the name) and those who had no insurance coverage would pay four times as much as the individual who had 80% coverage. Mr. Winterfield said non-Town residents, including construction workers, may not have any insurance, and suggested an applicant could state at the time an occupational license was applied for if he or she would like to contribute to the program.

On roll call, the motion carried 4-1 with Mr. McLendon casting a negative vote.

Eric Gilbertson, 151 Chilian, addressed the Town Council and questioned if the plan could be voluntary.

Ms. Jean Habitch stated the Palm Beach Civic Association has always been interested in ways to save money without the reducing the quality of services in the Town.

Mrs. Smith said the issue is not dead and although the proposal seemed to come from one direction, the issue could be reviewed and considered at a later time with additional specifics. Mrs. Smith said the issues raised by Mr. Winterfield concerning the construction workers, the non-residents, the guests, and the people driving through Town and those people without insurance were not addressed in the proposal. Mrs. Smith said the next proposal should include additional specifics, and this is part of the reason the health care system is such a mess in the country today. Mrs. Smith continued that the Town provides a level of service to the residents, but if someone thinks it can be accomplished in a better way, provide more specifics and not generalities. Mrs. Smith said she would rather have one life instead of one dollar.

Mr. Wyett requested Chief Elmore and the responsible Town employees review the Emergency Medical Services regarding the comments about the two extremes of Town.

Mrs. Smith concurred with Mr. Wyett's request, and the question raised at this meeting was whether or not a MICU unit located closer in the north end should be purchased, and whether or not the Town should find the money to put on another team of paramedics. Mrs. Smith said these items can be looked at during the Finance & Tax Committee hearings.

Dr. Melvin Small addressed the Town Council and stated when the EMS issue was initiated, 40% of the patients picked up were not members of this community. Dr. Small added that he mentioned that all patients should be billed; however, no Draconian measures should be used to collect. Dr. Small continued that he mentioned the existence of private insurance in addition to Medicare. Dr. Small concluded that since the matter should generate at least \$1 million every four years, information could be provided and a poll should be taken of more than a handful of residents. Dr. Small said a lot of emotion was exhibited at the meeting and not many facts.

Mrs. Smith responded the issue could be put on the ballot in February, 1997.

Elaine Hines, Medical Claims Processor Group, stated that a possible misconception existed regarding the billing of people and the collection process. Ms. Hines said her experience suggested that 99% of the patients who are Medicare beneficiaries have a Medi-Gap policy which covers not only the 80% that Medicare pays but the additional 20%. Ms. Hines said the commercial companies, according to her experience, pay 100% of the ALS claim submitted to them. Ms. Hines said, in other municipalities, her company makes no collection attempt to any patient, but the signature on file release allows the insurance company to pay the provider all of the insurance benefits.

Mrs. Smith said the Civic Association may want to see a copy of Ms. Hines letter concerning filing and collection of fees.

VIII. ANY OTHER MATTERS

Mr. McDonald scheduled an Ordinances, Rules & Standards Committee meeting for February 9, 1996, at 10:30 a.m. to review the ordinance that deals with which animals are allowed in Town, and to review the procedure for collection of fines and fees due to the Town.

Mr. Doney reported a memorandum was received from Chief Terlizzese regarding the fishing issue along Lake Trail, and this item should be added to the ORS agenda if it is the Town Council's desire to do so.

IX. ADJOURNMENT: There being no additional business, the meeting was adjourned at 12:40 p.m.

Mary A. Pollitt
Town Clerk