



TOWN OF PALM BEACH

Office of the Town Clerk

REPORT OF THE CHARTER REVIEW COMMISSION MEETING HELD ON 12/19/97

I. CALL TO ORDER

Chairman Doyle Rogers called the fourth meeting of the Charter Review Commission to order at 9:00 a.m. on Friday, December 19, 1997, in the Town Council Chambers.

II. ROLL CALL

Town Clerk Mary Pollitt called the roll, and the following Commission members were found to be in attendance: Chairman Doyle Rogers; Vice-Chairman James McC. Wearn; Rodney Fink, William Guttman, Jeanne Habicht, Tom Keresey, and Yvelyne deMarcellus Marix. Elected Officials attending were Councilmen Sam McLendon and Allen Wyett. Also attending the meeting were: Town Manager Robert Doney, Town Attorney John C. Randolph, and Town Clerk Mary Pollitt.

III. APPROVAL OF AGENDA

Mrs. Marix said she noticed that everyone of the agendas for the Charter Review Commission meetings listed Mr. Cassella and the request for his money on them. Mrs. Marix said she understood that the Committee had not made the decision and could not make a decision on whether or not to get anyone until the Committee decided 1) to change the Charter--if the Committee does wish to change it--in what direction would it be changed? If the Charter were changed, Mr. Cassella may or may not be the advisor to get. Mrs. Marix said it would be in order not to have Mr. Cassella on the agenda--ever--until the Committee decides if the Charter will be changed and, if so, in what direction?

Mr. Rogers replied those were the items that were actually deferred from the last meeting's agenda, and when the Committee comes to that item on the agenda, the Committee can then discuss it and determine what should be done, including deferral.

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(No motion was made to approve the agenda.)

Mr. Rogers said if there were no further comments on the agenda, the meeting would continue with Item IV.

IV. COMMENTS FROM FORMER ELECTED AND APPOINTED OFFICIALS OF THE TOWN CONCERNING AGENDA TOPICS FOR CHARTER REVIEW

Mr. Rogers said two former elected or appointed officials were present at this meeting, former Town Manager George Frost and former Town Councilman and President of the Town Council George Mathews. Mr. Rogers said that former Town Councilman Bob Grace was scheduled for 10:30 a.m. and former Town Councilperson and Town Council President, Hermine Wiener at 11:00 a.m.

Mr. Rogers said others have been contacted and a couple of them decided they did not care to appear before the Commission. Several others indicated they could not be here for this meeting but would attend the next meeting in January--scheduled for January 16th.

Mr. Rogers asked Mr. George Frost to step up to the podium.

Mr. George Frost said Mr. Rogers and he were in school together at the University of Florida over fifty years ago. Mr. Frost said Mr. Rogers' father was their congressman, and his brother later became congressman.

Mr. Frost greeted "Commissioner" Habicht and Mr. Keresey in addition to Mayor Marix.

Mr. Frost said he would like to talk about today's issues, review the agenda items as compiled by the Commission--giving short and positive answers on each item. Mr. Frost recalled that he spent thirty plus years as a public administrator--including fourteen years with the County as Assistant County Engineer and County Engineer. In those days, the role of the County Engineer was the role of today's Administrator. He said they ran the airport, Zoning, Building, Planning, Parks and Recreation, Waste Disposal and the whole gamut of things. The managerial theme had not come to County government at that time. After that, Claude Reese and Jim Sturrock came over and asked (Mr. Frost) to come to work for the Town of Palm Beach, which he did for another sixteen years.

Mr. Frost said his stay with the Town of Palm Beach was very colorful in his opinion. The Town had some mayors--unnamed--who were extremely powerful without having any Charter authority. Mr. Frost recalled that the Town had a Mayor who said, "Who's in charge of that work?" Mr. Frost replied, "The State Road Department." The Mayor, "Who do they

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work for?" Mr. Frost, "The Governor." The Mayor, "Well, let's go see the Governor." Mr. Frost, "I'll see if I can get an appointment." The Mayor, "We don't need an appointment. I'm the Mayor."

Mr. Frost said they took an airplane to Tallahassee, went to the Governor's office where the Governor's Secretary asked if she could help them. The Mayor said, "Yes, I want to see the Governor." The result was they got to see the Governor immediately.

Mr. Frost said he works with many communities, including South Bay, Jupiter, etc. He networks with the managers, because he likes to know what is going on. Mr. Frost said he does the same thing with the Municipal League of which he is a founding member--just to find out what is going on in local government--keep up if you will.

Mr. Frost said he has been a member of ICMA, an international association of city managers, and he is a registered lobbyist in Tallahassee.

Mr. Frost said the issue before the Town is "Do we need to change the Charter?" Mr. Frost said he asked himself "Why do we need to change the Charter? What's going wrong?" He drew the analogy of the Charter and the Town of Palm Beach and the Town Manager, the Town Councilmen and the Mayor, to actors in a play--directors if you will--and what the Town is trying to do is change the script. We are trying to change what is to be done. Mr. Frost said he was blunt enough to say so, there may be a problem with the directors and actors, but he could not see much of a problem with the script. There are a few minor changes which he agreed need to be done. The Charter has worked well for a long time. A few changes were made while he was Town Manager--good positive changes, like don't sell public land without a referendum.

Mr. Frost said there are some deficiencies in the Charter. Two departments of this Town are not very well run, and he knew that because he talked to all actors in the play. Mr. Frost said he knew who they are, and he knows what is going on, but it is not his place to say anything about it. Mr. Frost said he is a "has been" and is happy to be that way.

Mr. Frost said those things could be cured. He said that those people who knew him knew he was a very active town manager and was a manager by walking around. He spent more time out of the office than in the office, and he was blamed for that too. Mr. Frost said he felt that he should know what was going on in the Town. Mr. Frost said he did not see any serious things wrong with the Charter. A couple of places would be changed if he were "king".

Mr. Frost referred to a list of comments he had made on each of the items listed on the "Revised Synthesized Charter Agenda Proposals" and offered to comment on each listed

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item. Mr. Rogers read the items, one by one, and Mr. Frost replied to them.

KEY: GF = George Frost

1. Should Section 1.02 be amended?

GF Only if it is contrary to State law.

2. Should the Charter provision governing the sale of parks and other open green spaces be amended?

GF Not unless change results in further restriction of the disposal of public property.

3. Should the Mayor or the President of the Town Council preside over Town Council meetings?

GF My first answer is, "Why Change?" Further down, he would not object to a change in the structure of the Council as to who is the presiding officer. Mr. Frost said he is ambivalent about that, and most cities he is connected with have a Mayor who is either elected by the people or elected by the Council based on the majority vote in the last election--which puts the Mayor in a good, strong political position, if he were the highest vote getter.

4. Should the term of office for council members be lengthened from two- to three-year staggered terms?

GF No, sir. I say no. I think it is all right as it is. I personally was not in favor of changing the Mayor's term from one to two years when it happened. Claude Reese ran seventeen consecutive times for Mayor and got elected.

5. Should the Mayor's term of office be lengthened from two to three years?

GF No. The Mayor's term is fine, I think. This is a small town, and there has to be some linking with the voters.

6. Should the Mayor be given authority to nominate the deputy presiding officer?

GF No, that part should be elected by the Council membership.

7(a). Should the powers, duties, and functions (job description) of the Mayor be expanded,

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reduced or left intact?

GF My answer to that is it should be left intact. There is a conflict between the Manager's duties and the Mayor's duties (about halfway down the list of things where the Mayor is going to enforce the ordinances and laws and the Town Manager is responsible for adherence, etc.) in one place only that I see.

7(b). Should the presentation of an annual "State of the Town" message be added to the Mayor's list of Charter duties?

GF My answer is "No", it should be optional for the Mayor.

8. Is the Mayor's ceremonial role substantial?

GF No, it is not, but the Mayor's job depends an awfully lot on the personality of the person who is in the position--it can be strong or it can be non functional. I do not know how you can force the Mayor to be the kind of a man I described to you.

9. If the Mayor presides, should he also be entitled to vote?

GF No, not unless the number of voting members is reduced or enlarged. Let's don't have six members where we have a tie vote all of the time.

10. Should the Mayor's Charter-mandated duty to enforce Town laws be deleted?

GF Yes, that is part of the one where I talked about the conflict between the duties. (Section 4.04e.).

11. Is the Mayor's ombudsman role substantive?

GF Yes, sir. I say it is as big as it should be.

12. Should the Mayor be given the power to veto resolutions and motions in addition to ordinances?

GF Perhaps resolutions, but motions no.

13. Should the Mayor retain his power to veto ordinances (laws)?

GF Yes.

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14. Should the Mayor be given authority to delegate responsibility to represent the Town in intergovernmental affairs?

GF I say no opinion, but I will tell you the Mayors in the past--the five, six, or seven I served under--were very effective in intergovernmental affairs as long as they had someone with all of the details. Bill Cudahy did a wonderful job with Helen Wilkes when she was the Mayor (of West Palm Beach). He was shocked with her familiarity but he had a good time (she called him "honey"). I think that should be left as is. It seems a little ambivalent in the Code, as it is written, as to when he does it and who authorizes it. That might be cleaned up, but the Mayors have done, I think, an exceptional job of representing the Town.

15. Should the Charter provision dealing with the filing of vacancies on the Town Council be clarified?

GF I say in effect "No opinion". I don't see the problem.

16. Should voting on ordinances, motions, and resolutions be exclusively by roll call in all instances?

GF On ordinances and resolutions, yes. On motions, I don't see why you need it.

17. Should the Charter name the Town Manager the chief executive of the Town?

GF I would say "yes". The common term is not executive anymore in public management circles. It is Administrative Officer, but certainly, if that is not in the Charter now, it should be. (After reviewing the section of the Code referring to the Town Manager's duties, 4.04, Mr. Frost continued.)

What I recommend to be in the Charter is not in this Charter, and that is the Town Manager be named either Chief Administrative Officer or Chief Executive Officer at the will of the Council or the Charter Review Commission.

18. Should the Town Manager serve for an indefinite term of years in contrast to the one-year term now set out in the Charter?

GF No, absolutely not.

19. Does §4.02(b) need clarification or elaboration?

GF No, I think the Town Manager's removal process is sufficient as it stands.

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20. Consider whether the Town Manager should be required to establish and administer an appeal process for the appeal of decisions of staff, to Department Heads, and then to the Town Manager (before coming to the Town Council).
- GF We have, or we had a process, that was working very good for employees' grievances, and it went very well. The final hearing and recommendations to the Town Council were made by the Personnel Committee, but there were about five or six opportunities for an aggrieved employee to be heard. So, I don't think (a) that it needs to be in the Charter. It should probably be in the Code, but it may need to be strengthened in the Code if the process that we had, and worked effectively with, is not in place or not working.
21. Should the powers, duties, and functions (job description) of the Town Manager be expanded, reduced, or left intact?
- GF It looks okay to me, but it may need some fine tuning, and I suggest that you look to either other city managers or the ICMA for some guidance, if you want to change the verbiage that is there. I was the fourth Town Manager, and we are now on six. I don't think that it has given a lot of problems.
- 22(a). Is the power to hire and fire central to the exercise of effective leadership by the Town Manager?
- GF The power to fire employees below the Department Head level should be with the Town Manager, subject to the appeal to Personnel Committee or whatever the Council establishes, to keep the Town Manager from going awry, so to speak. The decision to fire Department Heads should finally rest with the Town Council upon the Town Manager's recommendation. Those matters should be a matter for board room discussion with the Personnel Committee and a recommendation then made to the Town Council. In other words, I don't think the Town Council should occupy its time with trials and all that sort of thing where you take a lot of detail. I think the Personnel Committee or some wise people on the Council can figure out what to do.
- Mr. Rogers: But you say, earlier you said, you should be the top administrator or CEO, and if he's the CEO, what about that--not having that power?
- GF Well, the only reason I say that, Mr. Rogers, is that you can't have it both ways. The Department Heads are recommended by the Town Manager and approved by the Council. What you are suggesting is that they have to be approved by the Council when they are hired, but they can be fired by the Town Manager, and that's a little ambivalent.

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23(b). What role should the Town Council have in the appointment and removal of department heads?

GF I have almost told you that. The Town Council should hold the power to approve or disapprove the appointment of department heads. The department head removal should be on the recommendation of the Town Manager with adequate, written support, but please no intricate, long lasting observation by the Town Council.

23(c) Should the Town Manager have unrestricted authority to hire and remove all Town appointed personnel?

GF No. Employee appeal process should be used, and, as I said before, if you meant summarily dismissed--I say no.

24. Should the Charter require the Town Manager to provide the Town Council with a written annual budget message?

GF Yes, but the message itself should be short. The support budget does most of the talking for his idea of what ought to be collected and what ought to be spent and where. What I am saying to you is you don't need a "Clinton message"--budget message--that is that thick. You need one about three pages that says look on page so and so and you'll see the Police, etc. In other words--short.

25. In the appointment of the Town Manager and his department heads, should a preference be given, prospectively, to individuals who are, or undertake to become, residents of the Town?

GF Yes, consistent with economic factors. I'll put a number on it that may not be right. They brought this up, the media, when I came here, and they were paying me \$20,000. I couldn't buy a house in the Town of Palm Beach. If you want to run the salary up to \$200,000 per year, that's fine. The only reasonable thing that was ever said when I was here--Claude Reese said, "Why don't we buy you a house and you go live in it?" I said that was fine, but I don't think--I don't know what Mr. Doney is making now--but the Town Manager's salary, the Police Chief's salary, the Fire Chief's Salary have never been commensurate with property prices in the Town. If you want to overcome that hurdle, I would say yes. I am a firm believer that a policeman ought to live in the Town where he enforces law, but economics defeat that.

Mr. Rogers: Was that issue that you just mentioned seriously considered to buy a home--to have for a Town Manager?

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- GF Yes. They had helped the previous Town Manager, Mr. Arnold, to buy a house in the north end.
26. Should the Charter provision allowing the designation of the form of ballot by ordinance be expanded to allow prescription of the ballot form by resolution?
- GF My thought is that we do not want to use ordinances every time we turn around. I say, ordinance description for a ballot form is over kill. In other words, it ought to be by resolution.
27. How can the Charter be amended to reduce the Town Council's excessive focus on minutiae and involvement in administrative details?
- GF This matter should not be in the Charter. Common sense and strong, effective leadership should take care of that problem.
28. How far has the Town Council's business and operations strayed from the Charter's original intent?
- GF I don't know that it strayed at all. The Charter is just like the U.S. Constitution--it's a broad outline of what can and cannot be done and what rights and responsibilities people have. I don't think that it strayed very far. I tried to say earlier that it has a lot to do with the actors in the play.
- 29(a). Where does political leadership ordinarily dwell in the council-manager form of government?
- GF Earlier, we hit upon the duties of the Mayor. If it were my will to do, I would have a Town Council or a City Commission with an odd number of members, elected at large, where the Mayor was designated in the previously last election by the highest vote getter. I say that is what I would do. That doesn't sell everywhere. Sometimes they rotate it, but rotation of the Mayor's job renders a short term attitude. I know one of the things that the Charter Commission is going to wrestle with is how to make the Mayor's job more definitive and effective. I think that the voice of the people is the way to do that, but I don't know that the Town is ready for that. Tradition is a great thing in this Town.
- Mr. Rogers: What defect do you think there is in the Mayor running on his own--like they do now? There is a vote--either he gets a big vote or...
- GF That wouldn't solve all of the problems. The problem now is that the Mayor, if he

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is not a strong individual, can't get some of the things done that he would like to get done, because he doesn't have a vote, and he doesn't have sway power if you want to call it that. That's why I make that distinction--if the Mayor were not elected separate and apart from the Council--there you'd be.

29(b) And how does political leadership complement executive leadership in the council-manager system of government?

GF A wise Town Manager is going to recognize who the boss is. If the political leader, and I don't know exactly who that is under our form of government, but if the political leader is known to be popular and has the vote of the people and given a mandate to move in one direction or another, that is pretty clear to the chief administrative officer.

30. Should the Charter be amended to permit the adoption of the tentative and final budget by resolution instead of by ordinance as required by law?

GF Yes. Again, I say ordinance approval of an annual event is over kill. You should go to a resolution.

Mr. Guttman said he thought Mr. Frost said, at one point, that the Town Manager should serve "at will". He asked if that were correct.

Mr. Frost replied "at will" meant to him that the Town Manager could be terminated at any time the Council saw fit, but according to the Charter, he would have to be paid until the end of the year or the term for which he was appointed.

Mr. Guttman asked if Mr. Frost would recommend, as he understood his statement, that the Town Manager, consistent with ICMA, serve on an "at will" basis.

Mr. Frost replied affirmatively. He said that does not mean that a portion of the Charter is violated that states, once appointed, he is appointed for the period.

Mr. Guttman said the phrase, "indefinite term", as related to the term of the Town Manager is somewhat legalese and it was intended to mean that the Manager serves "at will". Mr. Guttman said he heard Mr. Frost say he was against changing that language, yet, substantively he seemed to be in favor of it.

Mr. Frost replied he misunderstood the question. He said the phrase, "indefinite term", was four, five, ten years or however long the Manager can hold on. The good functionality of the Council-Manager form of government allows the Council to replace a town manager when

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they consider the manager no longer effective. The term "indefinite" had different meaning for him.

Mr. Rogers said that the "indefinite term" now refers to the year, and asked Mr. Frost what he favored?

Mr. Frost replied he was in favor of the year term with a lot of evaluations. Mr. Frost said that it was almost universal that the town manager had evaluations, and he was not in favor of anything more than a one year term for any town manager.

Mr. Guttman asked if Mr. Frost would be in favor of saying, "the town manager serves at the will of the Town Council" with the understanding (in the community) that the Town Manager would be appraised or evaluated on a regular basis--presumably once a year which is the custom of ICMA.

Mr. Frost responded he thought the town manager should have a one year term, and the term should include an annual evaluation.

Mr. Guttman said ICMA's Council-Manager form of government states the town manager should have the right to hire and fire department heads, and if the manager does not have that power then presumably that is not a Council-Manager form of government under the ICMA definition. Mr. Guttman asked Mr. Frost if he disagreed with the ICMA's position and how that inter-related with what is going on in Palm Beach?

Mr. Frost replied he did not disagree with the ICMA's position in large towns or cities with diversified economics, etc. He did disagree with the ICMA regarding a town the size of Palm Beach, Juno Beach, etc., because the public employees who work in the Town of Palm Beach or any other small town become well know to the populace. In a small town, he thought it was wrong for every department head to be summarily fired by the town manager because some of them are well known to the populace in this Town--some of them are popular and some of them are not. Mr. Frost said there ought to be a break or a safety valve on the process.

Mr. Guttman said he thought he heard Mr. Frost say that he did not think the Town Council should sit as judge and jury in situations like that or try to avoid that type of situation popping up. He asked if there were another way to resolve an issue of that nature by perhaps creating a safety net or severance package that the department heads could rely on? Mr. Guttman said he feared that it would almost be inevitable that the Town Council would feel it was the court of last resort and that the department head is appealing to the Town Council. As important as the Marie Crozier event was, if something like that should happen again, Mr. Guttman did not see that it would work out much differently than it did last time around.

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Mr. Frost replied Mr. Guttman was probably right, but his thrust in how to handle those situations was not to have all of the Council involved. Mr. Frost said, during his tenure as Town Manager, a Finance Director and a Police Chief retired, but the whole Council was not involved. When a personnel matter first comes up, an employee who works for a public employer like the Town of Palm Beach, the employee should have every opportunity to plead his or her case. The process that was in existence and still exists has the first appeal to the supervisor, if the supervisor agrees with the dismissal, then it goes to the department head. If the department head agrees, then it goes to the Personnel Committee or the Town Council. At that period of time, the employee is represented by counsel. Two members of the Council who are the Personnel Committee hear arguments from both sides of the fence, and they make a recommendation to the full Council. If the Council wants to argue about it, that is fine. Most of the facts are on the table in an expeditious manner.

Mr. Guttman referred to the agenda item where the Mayor potentially nominates a deputy presiding officer, and asked Mr. Frost when he cited his reasons for being against it, it sounded as if he interpreted that proposal to mean the Mayor was going to appoint or designate the President Pro Tem or the Deputy Mayor or whomever. Mr. Guttman said the intent of the proposal was only one of nomination and the actual selection would be done much in the same way as suggested by Mr. Frost.

Mr. Frost said he would have no problem with the Mayor nominating someone.

Mr. Wearn referred to number seventeen on the Synthesized Charter Agenda Proposal List and said he was not sure the question was clear except when Section 4.01 on the town manager was referred to which stated, "There shall be a town manager who shall be the chief administrative officer of the Town." Mr. Wearn said he understood Mr. Frost's answer to that question was there should either be a chief administrative officer or a chief executive officer as designated by the Town Council. Mr. Wearn said he was not sure that Section 4.01 did not already cover that.

Mr. Frost replied he thought it did and that verbiage should do it.

Mr. Wearn said he understood Mr. Frost's answer regarding question twenty concerning the appeal process was predominantly directed to staff for personnel matters. Mr. Wearn said his original statement was predominantly, not with personnel or human resource matters, but primarily with decisions--decisions that staff may make concerning inquiries or questions of Town residents. These inquiries or questions may concern Code provisions, other than the Zoning Code which has a process for that.

Mr. Frost said he understood that question was related to the appeal process for in-house personnel.

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Mr. Wearn said he was asking whether or not there should be an appeal process that goes through Town administration up to the Town Manager before matters come to the Town Council. The Town has appeals that are made on decisions concerning Code matters that come before the Town Council before they have run the process through department heads and through the Town Manager.

Mr. Frost said he originally misunderstood the question but answered there should be a review process. Mr. Frost cited an example of a commission he sits on that hears appeals.

Mr. Fink asked Mr. Frost to comment on item 7(a). on the list: Should the powers, duties, and functions of the Mayor be expanded, reduced, or left intact? Mr. Fink said Mr. Frost answered they should be left intact or clarified. Mr. Fink asked Mr. Frost to comment on what should be clarified.

Mr. Frost replied that selection of the Mayor independent of the Council with limited duties renders that individual, if he is not a particularly strong individual, in a weak position. Mr. Frost said he thought they should be left intact; however, if the Town goes to another form, give the Mayor some clout. Mr. Frost elaborated that the Mayor would have clout by being a voting member of the Council--hopefully being selected by the people and not by his fellow councilmen.

Mrs. Marix said if the Mayor had the power to vote, he would then lose the power to veto. Mrs. Marix said that the Mayor can offer comments throughout a meeting and has plenty of clout.

Mr. Frost replied that he did not mean to change the existing system; however, if the system were changed, his choice would be to go to the system he spoke about--the mayor would be elected by the people, and the mayor is the most powerful of those elected in the last election.

Mr. Frost said the ability to influence outside events has always been lacking in the Town of Palm Beach. As more and more people move into Palm Beach County, (the Town) becomes more and more politically weak. It is not a Charter matter, and a lot of the things that happen to the Town happen because the Town does not have the external influence it should have. Mr. Frost cited an example of a 35 year old naval officer who talked to the County Commission in a back room. Mr. Frost said he was identified as the Executive Director of the Civic Association of Palm Beach and was protesting against a potential action by the County Commission. Mr. Frost said the result was the Commission was influenced by his actions, and the Town needs a way, today, to have that kind of influence.

Mr. Rogers announced the next presentation would be made by George Matthews, a former

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President of the Council.

Mr. Matthews indicated he would not follow the same format as Mr. Frost did.

Mr. Matthews commended the Charter Review Commission for searching for solutions to non-existent problems. Mr. Matthews said many issues are generated, not only in Palm Beach, but everywhere by almost having too much time in Town Hall. The councilmen of the Town of Palm Beach were never meant to have full-time jobs, of course that could be said of Washington too, and we can see what they have done there.

Mr. Matthews said what particularly interested him was the idea of how the Council has been involved in extreme amounts of minutiae regarding the various issues that face it, and he did not know if that could be legislated. That was just part of a people skill. They elect people who do not do that. Consent agendas can shorten the agendas and meetings, but certainly that is not necessary on the Charter.

Mr. Matthews said he would address some of the issues but would not address most of them because Mr. Frost's comments echoed his comments and certainly are better said. Mr. Matthews said he sometimes disagreed with Mr. Frost, and possibly this was one time regarding the role of the Mayor. It should be pointed out Mr. Frost's comments included the role of the Mayor should be changed IF the Commission decided to change the operation--then...if then.

Mr. Matthews said he thought the Mayor could be as effective at the Town of Palm Beach as the Town elects an effective Mayor. Mr. Matthews said he survived a number of Mayoral candidates and Mayors and during his tenure on the Council found that some of the Mayors were extremely strong, were extremely vibrant, could get things done, could do like Mr. Frost said--walk up to the Governor's office--bang on the door and walk in. Some can't. Some haven't. Maybe some will. Mr. Matthews said, in his humble opinion, the job the Mayor does is determined by the Mayor. As the old adage goes, "clothes don't make the man" and certainly that is true of the Mayor's office.

Mr. Matthews said he was not entirely sure the Mayor's role was ceremonial. He believed it was the job of ombudsman for the Town of Palm Beach, and he viewed this as a serious, useful, and constructive role. It requires someone who can advocate the Town's position as Mr. Frost mentioned--going to Tallahassee, appearing before County boards, invoking the Town's interest wherever they may be. That takes a little time. As far as Mr. Matthews was concerned, the Mayor's job is as ceremonial as the Mayor wants it to be or as the citizens of the Town allow.

Mr. Matthews said he did not think the Mayor should serve for an indefinite term of years.

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The system has worked well the way it is. A small town like Palm Beach--one of the advantages of short terms is the Mayor gets to be looked at on a regular basis. It is hard to build up a political empire when you are being looked at on a regular basis, and that certainly applies to the Town Manager. Mr. Matthews said he fully believed that, each year, his contract should be renewed and should not run until they feel like changing it.

Mr. Matthews said he thought that the people who knew Mr. Frost knew the Town had a very strong Town Manager. Mr. Frost would qualify as the strongest manager Mr. Matthews had seen anywhere. By putting a lot of this into the Charter, for instance: "Should the Charter require the Town Manager to provide the Town Council with a written annual budget message?", is ridiculous. Why do you have to anything except ask him? Mr. Matthews said he did not think it was necessary to clutter up the Town Charter. In general, most of the proposals he read could be done by ordinance if they were serious enough. They should not be included in the Charter and clutter up a document that has managed the Town for many, many years...and managed the Town well.

Mr. Matthews said he has heard the phrase, "This Town isn't run like any other town, or West Palm Beach, or whatever. When I lived in Cook County we used to do it this way." Mr. Matthews said his thinking was if you liked it better in Cook County why are you down here? The Town of Palm Beach is one of the most unique towns on the face of the earth, and a lot of things make it so...maybe its political system is one of those things.

Mr. Matthews said every Commission member would have a different answer to the question, Why is Palm Beach unique?

Mr. Matthews said he would have to use a very old trite adage, "If it ain't broke, don't fix it". Or do just the minimum amount to fix it. He thought that applied to the Town.

Mr. Guttman said he assumed Mr. Matthews placed a great deal of importance on the performance of the Town Manager regardless if it were or were not in the Charter and actually having a budget message. That was implicit in Mr. Matthew's comments.

Mr. Matthews said absolutely. In his opinion, each year when the Town Manager's contract is renewed or he is reappointed, prior to that an evaluation should be done on the Town Manager by whomever--the Personnel Committee, the Mayor. Somebody should do it and perhaps not as a Charter amendment.

Mr. Matthews said he was concerned about item 25 relating to the appointment of the Town Manager and department heads. Mr. Matthews said, in his opinion, if the Town ever needed another Town Manager, the Town should go to the finest head hunters on the face of the earth and offer to pay "x" number of dollars for them to scalp this world for a fine town

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manager for probably the finest town on the face of the earth. Mr. Mathews related his recent experience with the Flagler Museum and the hiring of a new director. He said he did not believe the Town had to hire in-house for a chief administrative officer.

Mr. Fink asked Mr. Matthews to comment on item number twenty-one: Should the powers, duties, and functions of the Town Manager be expanded, reduced, or left in tact?

Mr. Matthews responded he thought the job description of the Town Manager was certainly not an issue for the Charter. He said he did not know what this Town Manager was doing as far as his functions, duties, etc.-- he assumed it was much similar to any other town manager the Town has had. Mr. Matthews said those duties and functions should be left in tact, in general. He said he was not saying that some fine tuning should not be done, but he did not think it was a matter for the Charter.

Mr. Fink said he really meant to point out 22 (a)--The Power to hire and fire effective to the leadership of the Town Manager and asked Mr. Matthews to address that issue.

Mr. Matthews replied, that in his opinion, the Town Manager has the authority to hire and fire anybody that is employed in the Town of Palm Beach. They have to go through an appellate role, or should have an appeal process, but they are working for him--he is the boss. If he is the Chief Officer of the Town of Palm Beach, he ought to be able to hire and fire whomever he wants. When it comes to department heads, he should find them, recommend them to the Town Council, and if the Town Council says, "What a lousy idea that is!", maybe the Town Manager, and a good one, would say, "Right, you don't like my opinions, I'll see you around."

Mr. Rogers said that right now, the Town Council hires department heads.

Mr. Matthews responded that he wondered if they were really hired--it is a part of a recommendation by the Town Manager.

Mr. Doney clarified it was a recommendation to the Town Council by the Town Manager. Mr. Doney noted the changes that occurred involving the Town Manager and the Council in the years prior to his appointment in 1987 and the changing conditions since Mr. Frost was appointed Town Manager in 1968 or 1969.

Mr. Matthews said he appreciated appearing before the Charter Review Commission, and it should be advise and consent, not seek and destroy.

Mr. Wearn asked for clarification between what is written into the Charter, existing now, and what is an operational problem with applying the Charter. Mr. Wearn said he concurred that

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what is written into the Charter currently is for the Town Council, concerning department heads, to receive a recommendation and then to advise and consent on it. As far as dealing with the day to day operations of the department and the department heads, he found in the Charter at Section 3.10 which deals with interference with administration, a very clear prohibition on Town Council members getting involved in the day to day operation. Mr. Wearn said he heard Mr. Doney talking about compliance with that section.

Mr. Matthews said that has been going on since time immemorial, and it is cured by the Town Manager saying, "Hey, you can't do that."

Mr. Wearn replied that answered his question.

Mr. Doney said that if the appeal process is largely aimed at personnel issues--that is fine. He cited the Town's Building Board of Adjustments and Appeals and examples of issues that are appealed to the Town.

Mr. Rogers introduced Mrs. Hermine Wiener who served seven years on the Town Council was and is involved in many community affairs.

Mrs. Wiener said that up to now, the only thing she knew about the Charter review were from early conversations with Mrs. Habicht and Mr. Guttman, because they were kind enough to call and ask for opinions on some issues. Other than that, Mrs. Wiener said she had read the newspapers reports regarding the Charter review.

Based on what Mrs. Wiener read in the newspaper, she said history was being made in the Town of Palm Beach. She said it was an open secret in Town that Madame Mayor (Marix) and she disagreed almost on everything that existed under the sun, moon, and stars and that they probably came to their opinions from different areas. Mrs. Wiener said from what she has read about Mrs. Marix's comments, she could not agree with her more. She said she felt very strongly that the Town has an excellent, excellent Charter. As she told Mrs. Habicht and Mr. Guttman at the time, it is a matter of personalities.

Mrs. Wiener cited the passage in the Charter brought up by Mr. Wearn that referred to interference by administration. Mrs. Wiener said that was one of her problems for her many years on the Council. She believed that the Council is the policy making board of the Town, and that is the way it is stated in the Charter, if one reads it and is a strict constructionist. She also believed there was a problem not understanding the difference between what a chief administrator is and what a chief executive is. Mr. Doney, as is stated in the Charter, is the chief administrator, and what does he administrate? He administrates the running of the Town in an orderly fashion, and he administrates the carrying out of the policies of the Town Council--it is as simple as all of that.

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Mrs. Wiener talked about the Mayor's role. She agreed with the two previous speakers (Mr. Frost and Mr. Matthews) that it is more than ceremonial. It also takes up a great deal of time. She noticed that the present, past, and previous councils, because of time constraints, sometimes people just were not prepared--that is an open secret. She said, to her, it was an absolute disgrace that anyone would sit at the table and deal with \$35 million a year and what will be the best for the residents and based on political alliances or based on a room full of people making a lot of noise.....Mrs. Wiener cited a conversation with Bob Grace right after she had taken office. Mr. Grace told her that if the whole room were filled up--it might be 500 people but 8,000 people were not present. He said that (the 500 people) were organized and the man in the street was not organized, and she was elected to do what she thought was right and not what 500 people were yelling and screaming about. Mrs. Wiener said you cannot write that into the Charter. Mrs. Wiener said if the Mayor is going to do the things that he is required to do under the Charter, he cannot be fully prepared to vote on every issue, and the Mayor should not be put in a position like that. Mrs. Wiener said that was a major item.

Mrs. Wiener referred to item 12--Should he (the Mayor) be given the power to veto resolutions and motions in addition to ordinances? If the Mayor can veto motions then there cannot be any discussion on the part of the Council. She said she did not think it was terribly important if the Mayor vetoes resolutions or not. She said she thought that the resolutions that have come out of the Council through the years are things that have always been unanimous. She asked Mr. Randolph if he remembered any resolutions?

Mr. Randolph replied there were resolutions including the adopting of the budget by resolution. He did not remember arguments over resolutions.

Mrs. Wiener said she did not think that was very important.

Mrs. Wiener referred to item 2, the Charter provision governing the sale of parks and other open green spaces--should it be amended? Mrs. Wiener questioned if the Commission was considering changing the dates? The Charter says between April 1 and December 15, you cannot have a vote on purchase or change of any of these properties. Is that what the Commission had in mind...or something else?

Mr. Wearn replied when the Commission initially set forth the areas for discussion, these were only raised as areas of discussion, and he was not making a proposal for a change. Mr. Wearn said he previously expressed the opinion that the question format is not a good format for the addressing of the matter of consideration. The matter of consideration he was raising was to make this portion of the Charter tighter to ensure and better protect those areas that are protected and that is the thrust of the question.

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Mrs. Wiener said she thought that anything more that needs to be done to thoroughly protect that, if that could be tightened, there is probably not disagreement on anyone's part. That is the kind of thing that would be very helpful. What this ought to be about is minor readjustments not overhauling our whole system of government.

Mrs. Wiener said one of the things that has come up in the conversations she listened to but not everyone seemed to be concerned with is the manner of hiring and firing department heads. Mrs. Wiener said she thought a lot of time was spent over something that happened once. She did not know that changing the Charter in and of itself should be done for something that happened one time. Mrs. Wiener said the role of the Council should be talking to the Town Manager about someone who is not doing a good job throughout the year. Then the administrator can say if the person is or is not doing a good job and the reasons to back that up.

As far as the Town Manager's review, Mrs. Wiener said unless she was hallucinating, a review system was in place, but it is not in the Charter. The Council would talk to Bob--she knew she did it yearly on an independent basis.

Mrs. Wiener said the people who are elected barely know anything about the Town. They never had any involvement in the Town, and they spend years making idiotic decisions because they do not know anything about the Town. They are not prepared, and they don't read the Charter. Politics being what they are, that's what it is. Mrs. Wiener said she thought what needed to be done was to institute--when a new person is elected--there ought to be a very clean, non-political process where they go over the Charter..with Personnel, with the Town Manager or with someone who is assigned to them...and where they are given basic explanation about what the Town government form is. Mrs. Wiener said she fears that some of the things that she sees today--we are giving the whole Town over to all of the restaurants--part of that is because people do not understand what the form of government, under which we are operating today, is all about. Otherwise, they would not be discussing these things, unless they just like sitting here until eleven o'clock at night.

As far as a written, annual budget message--more paper. The fact is each department head does, indeed, present a folder which is a budget message, and there is an overall heading to all of this which is prepared by the Town Manager. Maybe you want to call it something else, but it is semantics. He does and the department heads do deliver to the Town Council very detailed and intricate messages and those messages have already been gone over many, many times by the Finance Department and by the Town Manager to make sure that it is not a wish list. By the time it gets to the Council, it has been fully compiled and toned down to almost "if we don't have this, we may have problems". So, I think we do have that message.

How far has the Town Council's business and operations strayed from the Charter's original

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intent? Mrs. Wiener replied it depends on the individual officials. If there is someone who has a lot of other things to do, they are going to want to do their business. They are going to be concerned with policy matters which is all they are supposed to be doing, and they want to get out. If, however, they enjoy these surroundings more than they enjoy their own homes, then they are going to be here for all kinds of hours. She said she initiated placing a little bet on what time the meetings would end and she always picked an early time and made every effort to do that. There is no reason to be here twelve hours. There is absolutely nothing we have--no general day to day emergencies in this Town. This is a well run Town, and the people who sit on the Council should be aware of that--should know it--not only that, but if they have questions before Council meeting, they can ask those questions. If there is something in all of that reading material--that can be asked of the Town Manager or department head, and it can be cleared up within two minutes, if you go to the trouble of preparing and you are not grandstanding to the crowd.

Where does political leadership ordinarily dwell in the Council-Manager form of government? Mrs. Wiener said the word "political" troubled her in this particular question. Maybe we mean where does "policy" lie? Policy is the sole area of the Town Council. Policy can be recommended and should be recommended sometimes by the Town Manager, but there is no question that policy rests with the Town Council. It was never meant to be any differently in the Council-Manager form of government.

Mrs. Wiener said she was going to mention the one thing that no one talked about that she thought should be considered. One of the reasons she read for some of the changes was that times have changed, and we should change. The one thing that has changed is that the Town has more people on fixed incomes and more young professional families with children attending private schools. The Town's population mix has changed, and for that reason, please consider a small stipend for the members of the Town Council. There is no question, that there are costs involved and very often for a young, professional person, they are losing money by not being in their offices. It should not be an amount that causes someone to run for the office, obviously, but something like \$100 per week or less. It should enable them to make things a little bit easier. Very often, there are members of Town Council who think they should attend certain things and sometimes they are not in a financial position to do that. Sometimes they are given free tickets. Perhaps no one every thinks of that as a gift after they have gone to an event, but it is indeed. That is something that she thought could really make a difference.

Mrs. Wiener said she and Mr. Randolph disagreed on this Charter text:

No member of Council may receive anything of value for their service.

Mrs. Wiener said a number of people on the Council had health insurance at the time she was

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elected to Council. When she was given an application to fill out, Mrs. Wiener said she was not entitled to health insurance as the Charter does not permit it. Mrs. Wiener said she and the Town Attorney had a few go rounds but she eventually lost as most of the Council wanted it. That kind of thing could come up again in the future and she thought if someone is paying for the policy or gave her the money to pay for the policy, she had received something of value. Mrs. Wiener thought the Town needed to address just a little something for the members of the Town Council--even if it is only to pay for that policy. That needs to be looked at.

Mr. Keresy said one of the things Mrs. Wiener indicated was the focus of the Town management is so involved and so active in various areas that there is really very little time for the Town Manager irrespective of his title to do much on the outside and yet with the changes that have happened in the Town, both the heterogeneous changes, the population changes in terms of average age, etc., it seemed that Palm Beach is being overlooked in terms of the State activities, lobby activities, participation with nearby communities, and he asked if Mrs. Wiener felt this could be put on the back of the Town Manager or if that were a function of some other person employed by the Town.

Mrs. Wiener said we have to understand some very basic things. If the (Palm Beach residents) are 8,000 of 350,000, that isn't much, but it is doable. If (the residents) are 8,000 out of one million, that is another thing; however, the Town has always had in Tallahassee a firm that lobbies on behalf of the Town; that works together with other towns of similar size or of similar interests. The idea that one person, unless the man was Earl E. T. Smith, a man of world renown--there are not a lot of people with those kinds of connections who are willing to be the mayor of the Town of Palm Beach. Let's be realistic. The fact of the matter is because he had that, he was able to do things that other people couldn't do, and that is very simple. If someone is in high places and has friends who also achieve high places, that system works, but that is the only time that the system does work that way.

Mrs. Wiener said she thought the lobbying firms that the Town has used both in Washington and in Tallahassee have done a reasonably good job. There are times when money was decided upon when (Mrs. Wiener) couldn't believe the Town would get results as good as they did. That is where it is really at with the professionals, and putting a person on Town staff isn't going to mean anything in her opinion.

Mr. Fink asked a question relating to number 27. He asked Mrs. Wiener how she felt about the Town Council's excessive focus on minutiae and involvement in administrative details could be reduced?

Mrs. Wiener replied it can't be. It can only be reduced by people who attend to policy, and that is not what the Town's elections are about, unfortunately. The minutiae--if Mr. Doney

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were to say to them: "This is not your domain. My department head will handle this." They would be off with his head. That is what (the Town) has come to, to be very honest with you. It was a creeping disease, and now it is just full blown. That is one of the things we need to look at. What are these people talking about? What are they commenting about? What are they involving themselves with? The man in the street does not understand our Charter. We are lucky if the officials understand the Charter, but there is no way that the Charter can be written to include that. It is not the Charter--it is the way that it is applied, and each person who sits there just as you sit here and are applying yourself to this particular situation or challenge--they do the same thing. If they have an interest in how many signs go up on Worth Avenue, then that is what they are going to talk about, and unless the Town Manager is ready to defy them and they are in fact the ones who hire and fire him, it is a vicious cycle. How to find that proper balance of being able to say to a couple of elected officials which is already two out of the five? (The Town Manager) is going down a wrong track, and he shouldn't be doing this.

Mrs. Wiener said she understood there is an elected official who actually goes to staff meetings. It is mass insanity. It is not according to the Charter, and perhaps the biggest thing that can come out of your Commission is to let people know what the Charter is and underline for the public what the proper role for elected officials is and what the role of the manager is. Let the chips fall where they may, but that is why we have gotten to where we have gotten. How do you tell someone who can hire you or fire you? You can't do this. There is no comeback from this. That is a problem.

Mrs. Habicht said she appreciated Mrs. Wiener's comments. Mrs. Habicht asked Mrs. Wiener to clarify once more if she said the Town Manager was the Chief Administrator?

Mrs. Wiener said that was correct.

Mrs. Habicht asked if in that role he had the power to hire and fire?

Mrs. Wiener replied he has that role. He administrates the personnel. The department heads are different from everybody else, because they are executives, and so, as you know, in every corporation, there is a difference between the hourly wage employee or the salaried employee. Those people who are expected to work all kinds of hours, receive no overtime--there are a whole number of things that differentiate the two groups. Perhaps this is an extra layer of protection for department heads; however, the salaried employees and the hourly wage people have the same situation in that they came to the Personnel Department. Frankly, under the Charter, the way it is now, the whole Crozier situation could have just been done without all of that. It could have been done quietly in the background, and it would have worked out. Things have a way---people getting themselves involved perhaps when they should not be involved. The next thing--everybody's reading about it, and it

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becomes a three ring circus.

Mrs. Marix said what Mrs. Wiener brought up about how little people know about the Town is an exceedingly valid point, and although this particular commission was asked to look at how to change the Charter. Mrs. Marix said she wished the Commission had looked at "if" or "why", and as far as she was concerned, it was "if".

Mrs. Marix said she was going to address Mrs. Wiener's comment, since the Civic Association was the original one who brought up the subject. Mrs. Marix said it would be marvelous if the Civic Association would give classes on the Charter and how the Town works. When the Civic Association had the lunches, they could service the Town well by teaching people about how the Town works. Maybe the Town would be better as a result rather than trying to change the Charter.

Mrs. Wiener replied as long as Mrs. Marix did not mean the elected officials would be put through the ropes by the Civic Association she would agree with her.

Mrs. Marix said she was not referring to them.

Mrs. Wiener said she thought that would be excellent and probably would refresh a lot of minds in the Civic Association. Mrs. Wiener thanked the Commission for the opportunity to appear before them and hoped something will come out of it--only if it is \$100 per week for the members of the Town Council.

Mr. Rogers thanked Mrs. Wiener for her time, effort, and comments.

Mr. Rogers asked Mr. Robert Grace to address the Commission. Mr. Rogers said that Mr. Grace served 10-12 years on the Town Council. He was the father of the Town's Zoning Code and served under approximate six mayors.

Mr. Grace said it was probably five mayors. Mr. Grace said he had made his views known by letter and really hated to waste the time of the Commission by going over the same things that were put on paper. He said he thought it might be most useful if he would try to answer questions rather than making another presentation which would recapitulate the things he had already said.

While it was still fresh in his mind, he asked to comment on Mrs. Marix's suggestion about the Civic Association. He said he did not think anyone would come to those classes. People in this Town really do not want--they are not really here to be bothered about how the Town government operates. They would rather be on the golf course or whatever other activities. He thought it was a great idea, but the Civic Association would have to send people out with

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whips to drive people to come to those lessons, in his opinion.

Mrs. Marix said they would get a free lunch.

Mr. Grace responded they already get free lunches.

Mr. Rogers said the Civic Association meetings have been extremely well attended, and if that were a topic, that would not run people away.

Mr. Keresey said Mr. Grace's reputation preceded his appearance at the meeting, particularly as it pertains to the Codes that he was very instrumental, not only in guiding through the Council, but also in its creation. Partly because of the activities Mr. Grace pursued and showed such great interest in trying to save Palm Beach as he knew it and where the Codes needed to be changed or improved raised the question that if people (like Mr. Grace) were on the Council who were charged with major responsibilities and had the energy to pursue it as he did, would that not eliminate the great deal of minutiae that keeps coming up and up? That minutiae keeps Council members here until 8:00 or 10:00 o'clock at night, and asked if Mr. Grace had a recommendation to try to shorten the Council agenda and the desire by certain members of the Council to talk forever or over analyze?

Mr. Grace responded that was a tough question, and he didn't want to comment on the kind of Council the Town has presently or the kind of Mayor. He heard Mayor Smith's name mentioned, and the kind of Mayor is a very delicate (issue) and, in his opinion, has to do with the fact that people like the late Mayor Smith don't run any more. He said he thought one of the reasons they don't run is that those people would be attacked if they did run, and that is an unfortunate situation. He did not want to be more specific about what they would be attacked on but believed they would be attacked. It would be a mistake to make further comments. Mr. Grace said he, unfortunately, did not know of a solution or had an answer to it. A great deal of what the Charter Review Commission is dealing with might be called minutiae. He thought the major problem of the (existing) Town government has to do with the personalities of the people serving in office and possibly in administration also, but he said he did not know the solution to that either.

Mr. Grace said the Commission talks an awfully lot about the role of the Mayor. The Mayor is a fantastically powerful individual according to the Charter. The Charter says under the Mayor's Powers:

"The Mayor shall have the responsibility to see to the faithful enforcement and execution of all Town ordinances and laws."

Mr. Grace said that would be a twenty-four hour per day for almost anyone to just do that. Mr. Grace said he sees many examples, as he drives around Town, of many ordinances that are not being properly enforced, but that is just one of the many jobs of the Mayor.

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"The Mayor shall represent the Town in meetings of or hearings before elected officials of other government bodies and before cabinet levels...and so on."

Mr. Grace said he would have to be two people just to do that in addition to the twenty-four hour per day on the part of two different people to do all of that, and yet the Commission seems to feel that the Mayor does not have enough power because he can't vote at council meetings.

Mr. Grace said he thought the Charter tried, in some way, to follow the Federal government in dividing things into three parts--the administrative or executive, the legislative, and the judiciary. They thought they would leave the administrative or executive to the Mayor the way the President has it in our Country--the legislative to the Council, the way Congress is in the federal government, and the judiciary to the Town Attorney and his people whomever they may be. Mr. Grace said he did not think that was too bad of a thing to follow. It would be just the same as saying the President should vote in Congress as it is to say the Mayor should vote at the Council. The Mayor has bigger and better things to do, frankly, than the things the Council has to vote on, and if the Mayor were given that vote, and people talked about it as the right to vote, it is not a right, he has to vote whether he wants to or not, and to vote and not be an idiot, he has to know what he is voting about. To know what he is voting about, to know all that stuff that the Council spends its time working on which he spends his time working on, that in itself is also a tremendous job, and the Mayor's role would be so time consuming that maybe he couldn't do it all. Mr. Grace said those were his feelings about the one issue he heard more about than any other issue--if the Mayor should have the right to vote, and that he somehow is diminished in stance because he doesn't have the right to vote. That is ridiculous! The Mayor is up there where he should be and the Town presently has the opposite (of Mr. Grace) in the role of Mayor, because he sees the bright side of life. His letters say how wonderful everyone is doing his job in the Town, and the Town Council is made up of the greatest people on earth serving on the Town Council. Therefore, he takes that point of view. We need, more than we need Charter revision, we need someone who says when he gets up in the morning, "Here are ten things that are wrong in this Town and I am going to try to do those today. I've got another hundred I'll start doing in the next few days." Reorganization has to have a top sergeant to work properly. Mr. Grace said he thought it was the lack of a top sergeant which is causing the idea that if the Charter is amended somehow the Town will get one. Mr. Grace said the Town is dealing with personalities more than with the things in the Charter.

Mr. Rogers said the Commission had not expressed the view point regarding the Mayor having a vote--it is just a consideration.

Mrs. Habicht said she respected Mr. Grace's opinions. She asked Mr. Grace to speak to the role of the Town Manager?

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Mr. Grace replied that he is the administrative -- head of the government. The Charter says that and that is what he is.

His powers--Mrs. Habicht said she was mostly looking for hire and fire.

Mr. Grace said there was some mention about the fact that the Council people could get involved in the things the Town Manager did and not have any way to tell them "to get the h... out", but the Charter does say in Section 3.10, "Except for the purpose of investigation, neither the Mayor nor the Town Council nor its members shall deal with Town offices or employees who are subject to the direction or supervision of the Town Manager." Mr. Grace said it is stated that clearly.

Mr. Grace said he never did understand "Town officers or employees who are subject to the direction or supervision of the Town Manager." He questioned if there were any Town officers or employees who were not subject to the Town Manager for direction and supervision.

Mr. Doney said that officers (as identified in the Town Charter) were officers that were appointed by the Town Council upon recommendation of the Town Manager.

Mr. Grace said the Town Manager is in charge of all people who receive remuneration from the Town and that would include everyone that one normally thinks of as being employees of the Town. Mr. Grace said he did not think that a Town Manager had a problem telling the Mayor or the Town Council to keep their noses out of affairs--at least if they involve any employees of the Town. The Town Manager is what the title says--the Town Manager.

Mr. Wearn said in consideration of Mr. Grace's question about whether there are any Town officers who are subject to the direction and supervision of the Town Manager, one who is designated as an official for purposes of State statute for a response to financial disclosure would be the Town Attorney who is an officer or official of the Town, and he is probably subject to the Town Council but not to the Town Manager. Mr. Wearn said there could be others--he was not sure.

Mr. Grace said he would like to see this in some way rewritten to give the Mayor a little more leeway than the Council members in terms of dealing with giving orders publicly or privately. He thought the Mayor had more of a right to get involved with (for instance) the Public Works Department than any Council member did or does, because of the fact the Mayor is charged as he stated before with this problem of seeing that all ordinances are enforced. He thought the Mayor should have a little bit more right to speak, particularly to department heads, than the Town Council does because of the fact that he is called the Chief Executive.

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Mrs. Marix said when she had a particular occasion that did not arise that often, because she could talk to Bob Doney whenever she wanted. If there was something--a couple of times on finance matters, a couple of times on personnel matters--she met with Bob Doney and they would bring in the department heads, if necessary, and whatever it was could be discussed. Mrs. Marix said she did not think that the way it is set up now is a particular handicap. Mrs. Marix said when something came up, it wasn't dealt with through Bob Doney but dealt with --with Bob Doney. It depends on the personality of the next elected Mayor.

Mr. Grace agreed with Mrs. Marix on the issue of the personality of the Mayor. Mr. Grace said Mrs. Marix was disagreeing with his suggestion, and he was agreeing with her to disagree with his suggestion.

Mrs. Marix said Mr. Matthews said the Commission was attempting to try and find something to solve a problem the Town does not have. She said that is what the Commission is doing--trying to solve problems the Town doesn't have.

Mr. Rogers said it was pointed out these proceedings are a review of the Town Charter, and it has been reviewed twice in the past. There is no command or challenge that the Commission must change the Charter. Everyone should understand that. The Commission is to study the Charter. There is no reason why any document that governs a town should not be reviewed--periodically. That should be understood.

Mr. Grace responded that he certainly understood that, and if it appeared he didn't, he apologized.

Mr. Grace said he thought the best operating system the Town had was before he was on the Council. In some respects it continued after, and that was the relationship between B. Arnold and Mayor Reese. They had breakfast together every morning to discuss the things that needed to be done in Town.

Mr. Doney asked Mr. Grace about Section 3.10, Interference with Administration. Mr. Doney read, "Except for the purpose of inquiries and investigations, neither the Mayor, nor the Town Council, nor its members shall deal with the Town officers or employees who are subject to the direction and supervision of the Town Manager except through the Town Manager, and neither the Mayor or individual Town Council members shall give orders to any such officer or employee either publically or privately." Mr. Doney said that in practical application that is what a lot of what is going on today should lead back to. Mr. Grace knows this, and he (Mr. Doney) knew this. The Town Manager is not always available for a question, comment, or an inquiry, and the Mayor or a Council member sometimes will contact the appropriate department head. If the department head fails to answer the inquiry,

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the Town Manager will be contacted.

Mr. Doney said each of the persons who served as Mayor brought certain personal, professional great attributes to the job. Mr. Doney recognized the amount of details that Mr. Grace brought to the office concerning zoning. At that time, zoning was a crucial issue, and the development south of Sloan's Curve was implemented due to Mr. Grace's input at the time.

Mr. Doney asked Mr. Grace if he thought it necessary for the Town Manager to be present with the department head to answer questions and comments?

Mr. Grace responded Mr. Doney was accurate in his characterization of the situation.

Mr. Doney said he felt it was permissible under the Sunshine Law for any Mayor or department head to meet with an individual department head.

Mr. Grace said he did not think many town managers would appreciate anyone who interfered as much as he did.

Mr. Doney referred to a previous comment made earlier in the meeting regarding a Council member attending staff meetings, and that was not true. A Council member does not attend staff meetings. The only meeting where Development Reviews are reviewed in advance of monthly Council meeting by staff has a Council member attending who has a special interest in those items and it was determined to be more expeditious, because of the volume of questions relating to Development Reviews, to have that Council member attend those meetings. Mr. Doney said he made the decision that only one Council member could attend and it was most expeditious for the Town's operations.

Mrs. Marix noted that the difference was interfering with department heads and is quite different from asking a simple question. Mrs. Marix cited the example of a specific question related to zoning issues that the Town Manager would not be expected to know where the department head could answer the question. Interfering is a different matter, and it is important to understand the difference.

Mr. Grace referred to the report of the Charter Review Commission held on October 31, 1997. Mr. Grace said the bottom of page one and continuing on page two cited the example of the Town's Zoning Commission in the early 70's and actually that Committee was in existence in 1968 and 1969 and was not in existence at any time in the early 70's because it was finished by the start of 1970.

Mr. Grace read, "Mr. Randolph said the plan was to have this committee meet with a

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consultant (which was absolutely correct). He recalled that the group met informally at residences.” Mr. Grace said the group met in the Town conference room behind the Town Council chambers, and he had no knowledge that it ever meant in any residences. Members of that Commission were never told anything about the Sunshine Law because the Sunshine Law was a new thing, and no one knew what it meant at that time. The Commission was never informed about the Sunshine Law and would certainly not try in any way to escape the Sunshine Law. Mr. Grace said he just wanted to set the record straight.

Mr. Rogers said he thought it was important that clarification be made in the minutes and the minutes will be modified to reflect that accuracy.

Mr. Grace said he thought the Charter Review Commission was doing a great job in tough circumstances, because every time something is talked about to be done, people think the Commission is trying to change the Town, and he knew the Commission was not trying to change the Town. Mr. Grace said it was a great Town, and he wanted to keep it that way.

Mr. Rogers said Mr. Grace’s letter was part of the record and his time and effort were appreciated appearing before the Commission.

Mr. Rogers noted that Gerald Goldsmith was present and requested Mr. Goldsmith’s comments.

Mr. Goldsmith thanked the Commission for the opportunity to appear before them.

Mr. Goldsmith said he read all of the materials and thought the Commission was doing a great job. He was delighted that the Charter review was being done. He had limited experience on the Council but did have experience on the Zoning Commission and some other things around Town.

All of the comments he heard at the meeting or read in the past indicate an important thing (to him), if the Town had the quality of people serving the Town and they had the interest purely of the Town, we would have a lot less time to sit and probably discuss the things the Council--would meet for a lot shorter period of time. We might save a lot more. (Mr. Goldsmith’s) experience in business told him that if the Town were run as he thought the Charter said it should be run, and that is like a corporation where a chairman who administers, sets the policy, and chief executive officer who is the Town Manager, and it was adhered to, we would have a more efficient way to run the system. Unfortunately, we have a political system attached to it and over playing it. People have individual choices, and everybody feels they can appeal to the Council and get their own point of view heard. Mr. Goldsmith said he did not, under any circumstance, know how to solve the problem, because (you) are dealing with human beings--where they live and how they behave. Mr. Goldsmith

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said the other thing he found--the suggestions he heard before and Mrs. Wiener's comment about educating the Council persons would be very good, but he did not know how the Council persons would be educated on the Council background, the history, and how Palm Beach evolved and to preserve the quality of life here that is enjoyed by all. Those of the residents who were not in Palm Beach all of their lives, although he has been in Palm Beach most of his, have a different point of view perhaps than someone coming in in recent years. We all have exactly the same rights, but if we were more educated and the people who served the Town were more educated on the background, perhaps they would make different decisions and more judicious ones. He did not think the nature of the Town Manager should be changed because the Town has many fine employees, and he administers them very well. If the Town had a stronger Mayor, it might help. He did not know how the Chief Executive Officer could function if he himself could not get these things done, and in a political system he could.

Mr. Goldsmith agreed with Mr. Grace that if we did not have the Sunshine Law, we would be more efficient. We do have it and have to live with it.

Mr. Goldsmith said his thoughts included having the people, as they are elected, have more of a history of the Town and understand what the Charter says and how it functions. Leave the Town Manager or the Mayor, or whomever the Charter Commission decides is the stronger official and how the functions are divided to administer without too much interference. When the Town receives a complaint, then and only then is it brought to the Council. Hopefully, people will be elected who will read the books (backup material) that are prepared for them every month. Most of the information they get and most of the decisions they make can almost be approved by check list prior to the major portion of the meeting occurring just as the last minutes of a board are reviewed, many of the things can be reviewed ahead of time and can be a matter of public record. Let everybody read them, and you would know what the Council's opinion was before you had them, and all of the waiting around of lawyers and such and the waste of time, perhaps, could be eliminated. That would be a more efficient way of handling it.

Mr. Goldsmith said that was just his somewhat brief experience on the Council and his somewhat longer experience on the Zoning Commission. If it ain't broke, don't fix it. It's only broke, because people have allowed it to be broken. He said he did not know how (the Town) should get the individuals, but don't tinker too much unless you decide who you want to be your elected officials, and you are going to have better elected officials if you use all of the talent we have in this Town and want them to serve and don't take the time necessary. Let them be policy deciders, as Mrs. Wiener said, hopefully they would not be re-elected if they don't educate themselves before they get on the Council, and they spend all of this time. Get them a new shot of the Council.

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Mr. Wearn said he thought many of Mr. Goldsmith's suggestions regarding background and education of the Town should be requirements to even be a candidate for Town office. Mr. Wearn asked Mr. Goldsmith if he had any thoughts or ideas on how to accomplish that?

Mr. Goldsmith said he would like to have the officials take a test. Fortunately he was an appointed official and had a month to find out. He got the books and spent two or three weeks educating himself on the very subjects. He did read the Town Charter. He spent time with the Town Manager and asked questions. He took the time to go around to the department heads and ask some questions. He did not know if you could force people to do that? He did not know; however, a sufficient amount of time could be available to have department heads spend time either with the candidates or those when they are elected.

Mr. Rogers thanked Mr. Goldsmith for appearing before the Commission.

Mr. Rogers said that concluded remarks by former Council persons and Town Managers. Mr. Rogers recognized Councilmen Allen Wyett and Sam McLendon who attended the meeting.

V. CONSIDERATION OF "REVISED SYNTHESIZED CHARTER AGENDA PROPOSALS" PER THE COMMISSION MEMBERS' DISCUSSION AT THEIR MEETING ON DECEMBER 5, 1997

Mr. Rogers commented that this list had been discussed throughout the meeting.

Mr. Wearn said he suggested the deferral of the list until as long as it takes to go through all of the presentations by people who wish to be heard and only at that time, consider the direction the Commission will take after hearing the questions and presentations.

Mr. Rogers said the next scheduled meeting on January 16th was to give the public and former Councilpersons who had not come before the Commission but would like to do so.

Mr. Wearn said that was correct and perhaps after that meeting would be an appropriate time to agenda the matter.

Mr. Rogers asked Mr. Wearn if he would like to make that in the form of a motion?

Mr. Wearn said that Mrs. Marix had a question or comment on that first.

Mrs. Marix commented that she agreed completely and if that were going to be a motion she

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would second it. However, she pointed that until the Commission knows what it is trying to do, if the Commission is going to do anything, no decision can be made on who would be helping the Commission.

Mr. Guttman said he thought the Synthesized Agenda that the Commission had was the agreed upon agenda up to this point for which the Commission members served as the foundation. He heard two additional agenda thoughts at this meeting--one was Mrs. Wiener's that the Commission consider a small stipend for Council members. He was not quite sure how to articulate the second idea which was brought up by Mr. Grace dealing with Section 3.10 of the Charter and the possibility of dropping the subject--the supervision of the Town Manager's clause in the non-interference provision of that Charter provision. Those were the two possible addition items heard from former Elected and Administrative Officials. Mr. Guttman said, unless he was mistaken, he thought the Commission agreed to the concept the Commission was trying to create an all inclusive agenda--to consider. That said, he pointed out something that he thought was quite remarkable, because the Commission heard some discussion about the desirability of the Palm Beach Civic Association holding forums or sessions in which the form of government in the Town of Palm Beach might be discussed. He said he also heard Mr. Grace characterize the Town's form of government as being similar to the one at the national level with separation of powers. In fact, if (the Town) thinks this is the council-manager form of government, that is the wrong analogy. There are two basic forms of government--local government in the United States--one is the council-manager form of government without any separation of powers. Mr. Guttman said he always thought that was Palm Beach's form of government--in fact--Florida League of Cities for many years used to list the Town of Palm Beach as being a council-manager form of government until they heard about the Marie Crozier affair and inability of the Town Manager to hire and fire. Since that is a requirement of the ICMA to be a council-manager form of government, they have now put the Town of Palm Beach in a single classification, since they don't know precisely what kind of government the Town has. He thought there is the real likelihood there is rampant confusion among former Elected and Administrative Officials, current officials, possibly even members of this Commission. Mr. Guttman said he could not think of anyone more suited to come to Palm Beach and try to explain what is going than Mr. Casella who is probably the foremost national expert in that area.

Mr. Wearn said he would follow up and make two comments. The first one concerning Mr. Grace's comment on the analogy to federal government was limited to very specific items--consideration of the Charter and how the government was organized in Town. He did not think Mr. Grace intended to convey that the Town's government is patterned upon the federal government.

Mr. Wearn said the second comment was that he thought there were more than merely two

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items that were raised that would be appropriate for the commission to agenda for consideration on the final list of items. Mr. Wearn said he, for one, would like to be able to reflect on his notes and the minutes of the presentations in order to identify other areas instead of trying to identify them piecemeal immediately after having heard them. That was the concept that he thought the Commission developed to further add to the list after all of the comments from the public had been received and had a chance to develop them in (the Commission members') minds.

Mrs. Marix said it might be helpful when the Commission has the items added, to show on each new one what could be done by ordinance. She said she understood that even Mr. Randolph thought it would be a good idea to keep the Charter as simple as possible. If anyone looks at the list, there is no way of knowing which item could be addressed by ordinance. Mrs. Marix said she was concerned that what could be--should be--at least the Commission should be able to know.

Mr. Guttman said he thought that was done when the Commission went through-item by item.

Mrs. Marix said she thought it should be decided so anyone reading the list could say that this item could be done by ordinance. Logically, if it could be done by ordinance, it should be eliminated. The Council are the elected people, and they should be the ones to make the decisions which should come in an ordinance more than the Charter Commission saying "put it into the Charter". The Council is not on the Commission, and they do not have all of the input, so they may not be able to identify what should be as easily as the Charter Review Commission could.

Mr. Rogers said that Mr. Wearn suggested that before additional items are listed to be considered for review, that the Commission wait until it has been able to digest the comments of all of the officials who have appeared before the Commission. Mr. Rogers said that would be comfortable for him.

Mr. Rogers asked how long it would be before the Commission received a copy of the minutes, because pretty much verbatim would be helpful when the Commission starts getting comments from the officials.

Mr. Doney asked Mrs. Pollitt when she would have them considering the number of meetings she has to cover.

Mrs. Pollitt replied she normally used a report format for this type of meeting, but she was trying to be more specific with the Charter Review Commission. She said she realized this Commission needed more information and would stick to a more verbatim type of format.

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to at least have the members get the feel of the meeting and not try to paraphrase much of the dialogue.

Mrs. Pollitt said she was hoping to have the December 5th meeting minutes completed sometime during the following week. This meeting will require at least a week to produce and the goal would be to have them by the January meeting. She hoped that was possible.

Mr. Rogers suggested the minutes should be completed done by January 12th.

Mrs. Pollitt said she would work towards that date.

Mr. Rogers said that on January 12th the Commission would have comments from the remainder of the former Town Councilmen who have not been heard from.

Mr. Wearn said the date would be January 16th.

Mr. Rogers agreed with that.

Mr. Wearn said the Commission would probably have most of the comments it should have and that it be subsequent to that--instead of doing it at the meeting of January 16th--but it be subsequent to that, that the Commission specifically add to the list.

Mr. Rogers said the Commission is not limited in the number of meetings it can hold. The Commission has plenty of opportunities to go over the items and establish all of the items for review--to discuss them thoroughly.

Mr. Rogers asked Mr. Wearn if he would like to make a motion to that effect and asked if it affected item VII. also?

Mr. Wearn replied he thought it did. His motion was that items V, VI, VIIA and C be deferred until after the January 16th meeting so that those items could be put on the agenda following the January 16th meeting. The motion was seconded by Mr. Keresey. Mr. Rogers asked for discussion, and there was none. The motion carried unanimously by voice vote.

Mr. Rogers said he was not sure that item V was taken care of.

Mr. Wearn responded he included items V, VI, VII A and C--so the Commission can receive today, again, comments from residents concerning the agenda topics.

VI. CONSIDER REQUESTING WILLIAM N. CASSELLA, JR. TO SERVE AS A NON-

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PAID ADVISER TO THE COMMISSION (*Deferred from December 5, 1997*)

This item was deferred under item V.

VII. ESTABLISH A TENTATIVE TIME FRAME FOR THE COMMISSION TO COMPLETE ITS WORK AND IDENTIFY A TENTATIVE AND FLEXIBLE SCHEDULE OF COMMISSION MEETINGS TO INCLUDE THE FOLLOWING:

A. APPEARANCE AND ADVICE FROM WILLIAM N. CASSELLA, JR. AND/OR OTHER OFFICIALS IDENTIFIED BY THE COMMISSION (*Deferred from December 5, 1997*)

This item was deferred under item V.

B. RECEIVE COMMENTS FROM RESIDENTS CONCERNING AGENDA TOPICS FOR CHARTER REVIEW (*Deferred from December 5, 1997*)

Mr. Rogers asked if any residents who have not had an opportunity to speak would speak at this time.?

Mr. Charles Hickman, resident of the north end, said he had only one comment that follows on some of the comments by the Commission members, and it goes back to a comment or a question he had at the first meeting which is: Would your role include looking at changes to ordinances if, in looking at changes to the Charter, you determined that probably it didn't fit within the parameters of changing the Charter? Mr. Hickman said it would be his feeling that after having considered all of the things the Commission had considered, that if you come to the conclusion that no change is recommended to the Charter, that some form of report be given to the Town Council regarding possible ordinance changes as opposed to a conclusion that you're really just going to simply say no Charter change is appropriate as a result of this issue and simply drop it.

Mr. Rogers replied the Commission did not know what is going to come out of the discussion, but the Commission has not been charged with the responsibility but perhaps, after discussion, the Commission may choose to do that, since the Commission is only recommending anyhow.

Mr. Hickman said it would only be in the form of a recommendation, and he would

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not like to lose the corporate knowledge that has been gained in visiting the issue, simply on the possible technicality that it's not in the league of importance as Charter changes.

Mr. Rogers asked Mr. Hickman if he were suggesting that the Commission might have some pearls of wisdom after all?

Mr. Hickman replied affirmatively.

Mr. Wearn said--to address Mr. Hickman's question--the Commission minutes do go specifically to the Mayor and to the Town Council and are reviewed by them, to his knowledge, so that they are fully cognizant of the dialogue that went on in addition to the substance of the dialogue. The comments are not lost. They do, in fact, have those and should they choose to act on any of those, of course, they have the prerogative to do so.

Mr. Hickman responded that he was comfortable that the knowledge was not wasted, but it maybe for the Commission's consideration even if the conclusion of what the Commission agrees to do or proposals that the Commission agreed to make--that some consideration should be given to recommend--either you do or you don't--these changes to the Charter or that you recommend that the Town Council look at the other issues although the Commission does not conclude a Charter change is appropriate. By way of a summary report, to represent your collective wisdom, a lot of what you do is illuminating but it doesn't come to a vote on what your collective wisdom is on that particular matter. It's just a suggestion, and I'm not sure...

Mr. Rogers said the Commission appreciated Mr. Hickman's comments and perhaps the Commission will do that depending on whatever comes out of the Commission's discussions after all of the presentations of the various people.

Mr. Rogers asked if any other members of the public would like to make a presentation or ask any question?

Mr. Fink asked if the Commission was to conclude that the public is complacent about this whole thing--completely complacent--or possibly a lack of enough information going out to engender some interest or what can the Commission conclude from this? Standard operating that they just don't care?

Mr. Rogers responded that he thought that some of them are just not motivated to attend meetings, and they expect more to come out of the meetings in the future.

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Mrs. Marix said she had two comments to make about that.

Mr. Fink continued that the information has not been publicized enough to give them the opportunity to do that. He thought that should be considered.

Mrs. Marix said she thought there was one obvious thing--the residents are in the height of the Christmas-pre New Year's season and it is extremely difficult for a great many people to come to the meetings. Mrs. Marix said she was pleased to see that the Daily News carried the fact that the Commission was going to meet today, and she also realized that people have to have this mentioned to them extremely often and possibly some of the items to be discussed might tempt people to come in, but she thought not over Christmas. If it said, among other things to be discussed, will be the Mayor's role and input is being asked, she thought that would help people.

Mrs. Marix said she wanted to correct a piece of understanding--the idea that the Civic Association could educate people--was not to discuss it or to ask for suggestions. It was to explain to them how the Town works, not to tie up their thinking and change how it works. It is to explain how it works so they know. That is the kind of education she thought would be very helpful--not to discuss--as Mr. Matthews was saying, Cook County--nothing like that--just simply how does this place work? Who do you go to when you need something? Why is the Charter done this way or whatever?

Mr. Keresey suggested that in lieu of the recommendation about education via the Civic Association, that currently the Civic Association sends out flyers announcing a great number of events that they are going to hold at which there will be a discussion of various Town topics of general public interest. If the Charter Commission is a form of public interest and the public is invited on January 16th, it seemed to him that one of the best communication vehicles the Commission has other than the newspaper, is to ask the Civic Association to advise its 1200 - 1500 members that they are invited to come and comment if they have comments.

Mr. Rogers said that was good, but some of them don't know what to comment on. That was (Mrs. Marix's) point.

Mr. Keresey said that is why, perhaps, the Town Council is so tied up for twelve hours at a time.

Mrs. Marix said she thought it was two different things--what was brought up here was the fact that people don't--well, they either get elected or run for election or don't vote because they don't know what the subject matter is. So, to understand

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how the Town works is one issue. To get them to see what the Commission is trying to do here is another issue. She thought the idea of getting it into the bulletin is very good.

Mr. Louis Pryor said he would like to address what Mr. Fink said as far as the Civic Association is concerned and the interest of the citizenry at large. The Civic Association has the fifteen member executive committee, and those fifteen people are intensely interested in the Commission's deliberations. The Civic Association normally plans, in the Civic Association, they have sixty plus members of the board and they plan early in January to have three separate sessions with members of the board where most of the topics to be discussed will be the deliberations of the Charter Review Commission. It has been a conscious decision of the Executive Committee of the Civic Association to not interfere in any way or to express an opinion at this state of the deliberations. Mr. Pryor said he was intensely pleased at the Commission's discussion--the Commission has very open minds and a long series of items that are to be considered--if a Charter change is a valid answer to a problem or a potential problem or whether it should be addressed by some other way. He agreed with the previous speaker that the Commission should consider making recommendations in the final report, in certain instances whether or not if they are important enough to be considered in the Charter, they might be considered for an ordinance.

Mr. Pryor said he would repeat that the Civic Association has taken a conscious decision not to interfere with the Commission's deliberations until the Commission starts to bring up individual items in which the Civic Association might wish to express an opinion at that time--not at this time. (To Mr. Fink) Mr. Pryor said he was as sorry as Mr. Fink was that there aren't more members of the public present, but he assured him that at least from what he perceived within the Civic Association, that there is a great deal of interest in the Commission's activities. He applauded the way in which the Commission is beginning to address each of these issues and have a very complete agenda which then will be discussed in detail.

Mr. Guttman said he noticed only one officer from the Civic Association was present at the meeting, and he wasn't sure he would look forward to this question. Mr. Guttman asked if Dr. Schwartz could indicate the level of interest in this topic at the Citizens' Association?

Dr. Leon G. Schwartz responded his group had an intense interest, and the Citizens' Association is certainly, not only deeply interested, but following exactly what is going on. The Citizens' Association is having a board meeting Tuesday, and he would make it a point to express Mr. Fink's feelings and (the Commission's) feelings

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about demonstration of more interest in this--not only from the Executive Board but certainly from the membership.

Mrs. Wiener said there was an old story about sometimes you have to be careful what you wish for because it might come true. She said she could absolutely assure Mr. Fink that once the decisions of what should be on that ballot, because, of course, the people in the Town will vote for it, you will have more people applauding or the reverse and there will be lots of people all over the Chamber. There will be lots of people button-holing you in the street as soon as your deliberations are complete. The main reason they are not here, as she said earlier and everyone agreed, is that most of the people are not terribly aware of what is in the Charter and how it operated. You'll get plenty of participation--remember what she said!

Mr. Rogers asked if any Commission member would like to make a comment?

Mr. Adrian Winterfield, a Town resident, said he had a number of substantive questions, but he understood this was not the appropriate time. He said he would like to make two comments on statements that were made:

The distinction between ordinance and Charter is important; however, when one reaches a conclusion that an item can be or could be done by ordinance, one should also consider the fact that it has not been done by ordinance and perhaps the item in question should be submitted to the electorate for determination.

The question of a label--he was not certain how concerned one should be as to what label is attached to the Town form of government. If it works, that is the primary thing. Certainly, there may be things that don't work, but they have very little to do with the label.

Mr. Rogers asked if there were any further comments from members of the public or members of the Commission?

Mr. Guttman said he would like to ask Mr. Randolph a question. Mr. Guttman said he thought he understood the difference between an ordinance and a resolution, but what he didn't understand was where a motion fits into the mix. He thought he agreed with Mrs. Wiener that a motion is just a predicate to a resolution, but he said he may be missing something.

Mr. Rogers said that time is the main thing.

Mr. Randolph responded that they were two different things. A motion is something

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that is moved from the floor at a particular meeting that does not need to be reflected formally in the form of a resolution. In fact, a resolution needs to be read in title and is a document that would be filed with records, as are motions, but motions are just made parts of minutes. There is no separate document evidencing a motion other than the minutes themselves; whereas resolutions and ordinances take a separate form unto themselves. A resolution is usually just a statement of intent of more of a temporary nature, and an ordinance has the force of law and has a more than temporary nature.

Mr. Guttman replied he was still a little confused, only because he knew that the statute defines what an ordinance is; the statute defines what a resolution is; and then when you go to Robert's Rules of Order and they talk about what a motion is, it's always the predicate to some sort of action taken by a deliberative body. He said he didn't know what the end result of a motion is if it is not either a resolution or an ordinance.

Mr. Randolph said he thought we were talking semantics. You may, by motion, resolve to do something. It is not the same as a resolution or an ordinance.

Mr. Wearn said he would like to see some clarification on the difference between an ordinance and a resolution. Florida Statutes, Chapter 166, section 166.041, defines an ordinance and it defines a resolution. Ordinance is defined to mean, "an official legislative action of a governing body which action is a regulation of a general and permanent nature and enforceable as a local law." Resolution is defined to mean "an expression of a governing body concerning matters of administration and expression of temporary character for a provision for the disposition of a particular item of administrative business of a governing body." Is the definition of ordinance and resolution that is being talked about today--in answer to Mr. Guttman's question--any different from those?

Mr. Randolph replied, "No."

Mr. Guttman said it seemed to him that parts one and three of the definition of resolution included what Mr. Randolph loosely talked about as something else--a temporary law so to speak. The only reason he said he was raising the question was as a proposal to expand the Mayor's veto power from just ordinances to resolutions. He said he understood that but when the Commission is talking about the Mayor having the potential power to veto a motion, he did not know if he fully understood that.

Mr. Randolph said that it sounded that Mr. Guttman was attempting to incorporate

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within the meaning of resolution, the term “motion”. He saw them as something totally separate and independent. There is specific definition given to ordinance and resolution as read by Mr. Wearn from the Florida State Statutes. They have to be in writing and presented, in writing, in order to be considered by the governing body. A motion does not. It is just the passage of an item of business that comes up before the municipal body at that particular time.

Mr. Guttman asked if the definition of resolution included just the sort of action that Mr. Randolph described?

Mr. Randolph replied that it said, “or a provision for the disposition of a particular item of the administrative business of the governing body.” He said if he were to interpret that to mean “motion”, that would mean that everything that this Town Council does by motion would have to come before it in a written resolution and be read by title, and that is not what the State intended by its definition of resolution.

Mrs. Marix said that, in other words, when a motion is made to adjourn, it is not written ahead of time and discussed. A motion is really like an agreement.

Mr. Rogers said it would be very repressive to the body if the Mayor could veto a motion. That would stop the business of the Commission, the Council, or whatever immediately.

Mr. Keresey asked Mrs. Marix if that were a motion to adjourn?

Mrs. Marix asked if she had a second? (It was seconded.)

C. DISCUSS THE COMMISSION’S FINANCIAL NEEDS AND SEEK TOWN COUNCIL AUTHORIZATION TO COVER COSTS (*Deferred from December 5, 1997*)

This item was deferred under item V.

VIII. DATE AND TIME FOR THE NEXT MEETING OF THE CHARTER REVIEW COMMISSION: FRIDAY, JANUARY 16, 1998, AT 9:00 A.M.

Mr. Doney said the package would be sent out for the Friday, January 16, 1998, 9:00 a.m. meeting of the Charter Review Commission.

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Mr. Doney said he wanted to clarify for the record the handout he passed out regarding the update of the long and short range plans for the Town. Two items were left out of the list--one of them was the Long Range Public Works Plan that was approved in 1977 was in effect and used by Public Works daily. The other plan was the Information Systems Management Plan that addressed the computer operations included a disaster recovery plan. Mr. Doney requested any other items the Charter Review Commission members would like before the next meeting be given to him.

Mr. Rogers suggested a meeting should be scheduled for January 30, 1998, which would allow time for the following minutes.

Mr. Wearn said the question was if that would leave enough time.

Mr. Rogers asked Mrs. Pollitt if the minutes from the January 16, 1998, meeting would be ready by January 30th if a meeting were scheduled for that day?

Mrs. Pollitt responded it depended on other meetings as well as the possibility of an election.

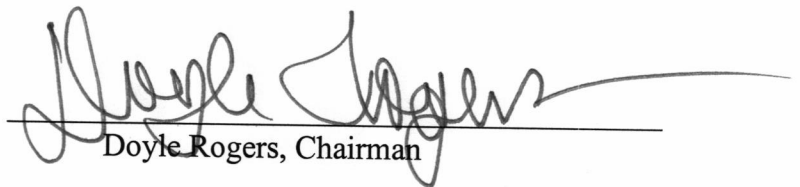
Mr. Rogers said that should be a tentative date and would be confirmed at the January 16th meeting.

IX. ANY OTHER MATTERS

There were none.

X. ADJOURNMENT

The meeting was adjourned at 12 noon.



Doyle Rogers, Chairman

Prepared by:
Mary A. Pollitt
Town Clerk